Agenda Item No 6

Planning and Development Board

**6 October 2025** 

**Planning Applications** 

Report of the Head of Development Control

# 1 Subject

1.1 Town and Country Planning Act 1990 – applications presented for determination.

# 2 **Purpose of Report**

- 2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.
- 2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.
- 2.3 The proposals presented for decision are set out in the index at the front of the attached report.
- 2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications.

### 3 **Implications**

3.1 Should there be any implications in respect of:

Finance; Crime and Disorder; Sustainability; Human Rights Act; or other relevant legislation, associated with a particular application then that issue will be covered either in the body of the report, or if raised at the meeting, in discussion.

#### 4 Site Visits

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.
- 4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

# 5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 3 November 2025 at 6.30pm in the Council Chamber

# 6 **Public Speaking**

and questions at meetings/3.

6.1 Information relating to public speaking at Planning and Development Board meetings can be found at: https://www.northwarks.gov.uk/info/20117/meetings and minutes/1275/speaking

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			PAP/2023/0421 – Engineering Operations to facilitate the construction of new industrial unit comprising ground reprofiling, installation of storm and foul water drainage provision, demolition of existing buildings and structures.	
			PAP/2023/0422 – Demolition of existing buildings and structures to facilitate the erection of a new industrial unit (Use Class B2) associated with battery technology for the production of electrically powered vehicles; canopy, ancillary storage and office use, re-profiling of site levels, erection of two silos, water sprinkler tanks, pump house, provision of photo-voltaic roof panels, service yard including security barriers, associated parking including cycle shelters and landscaping	
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			erection of a single two storey dwellinghouse	
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### (6/a) Application No: CON/2025/0019

Warton Nethersole C Of E Primary School, Maypole Road, Warton, Tamworth, B79 0HP

# Temporary siting of a modular classroom building, for

# **Warwickshire County Council**

### 1. Introduction

1.1 This application will be determined by the Warwickshire County Council and it has invited this Council to make any representations so as to inform that decision.

#### 2. The Site

2.1 The present school is in the centre of Warton on the north-east side of Maypole Road within a residential area as illustrated at Appendix A.

# 3. The Proposal

- 3.1 As indicated in the header, this is for a temporary classroom to be site at the front of the school, between it and the road, again as illustrated on Appendix A.
- 3.2 As Members are aware, there were proposals for a permanent extension to the School. These have been amended, such that they now constitute "permitted development", thus not requiring the submission of an application or the determination of any outstanding application. As a consequence, work is already underway and is due for completion before the end of 2025. This current applicant is to provide space for 15 pupils, in advance of the completion of this development.

### 4. Development Plan

The North Warwickshire Local Plan 2021 – LP2 (Settlement Hierarchy); LP29 (Development Considerations) and LP30 (Built Form)
Polesworth Neighbourhood Plan 2025 – PN3 (Design and Construction)

#### 5. Other Material Planning Considerations

The National Planning Policy Framework 2024

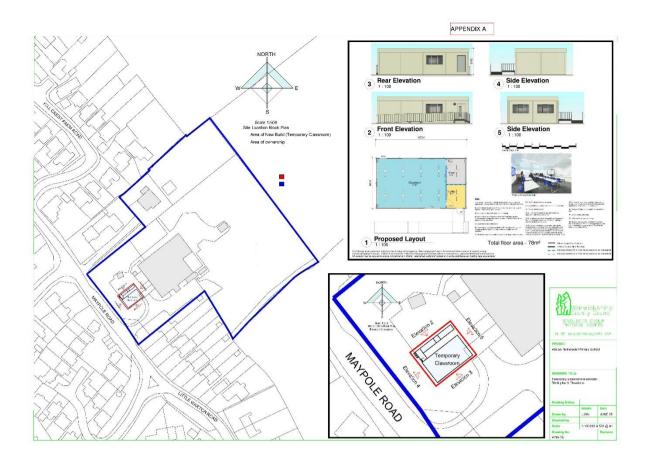
### 6. Observations

6.1 The proposal is sited within the settlement boundary defined for Warton by Local Plan policy LP2 where new development is supported in principle.

6.2 Given the circumstances set out above, it is considered that this "temporary" arrangement is reasonable provided that any permission is limited to twelve months

# Recommendation

That the Council does not object to the proposal.



(6/b) Application No: PAP/2025/0315

Hatters Garden, Meadow Street, Atherstone, CV9 1DG

Works to trees protected by TPO (Populus nigra T1 to T6 inclusive - re-pollard to previous pollard points), for

# Warwickshire County Council (Forestry)

#### Introduction

The application for works to these trees brought to Board because the site is in the ownership of North Warwickshire Borough Council.

#### The Site

The site is located south of The Grove Sports and Social Club, in the Atherstone Conservation Area on public open space that is accessed off Meadow Street, and a public footpath that connects the site to Long Street via Cooks Close – see the plans below.



Site Location Plan

### The Proposal

This is to undertake re-pollarding works to six Populus Nigra (Black Polar) trees, back to the points where they were last carried out in 2018. The trees are protected by a Tree Preservation Order (TPO) confirmed in 1972.

# **Development Plan**

North Warwickshire Local Plan 2021 - LP14(Landscape) and LP16 (Natural Environment)

### **Relevant Material Considerations**

National Planning Policy Framework 2023 (NPPF).

#### Consultations

Atherstone Town Council – No objection

Warwickshire County Council (Forestry) - No objection

### **Observations**

Following the receipt of the Notification the Arboriculturist from Warwickshire County Council has considered this application for works to trees and has advised that the there are no arboricultural objections with the proposal.

The proposal is compared with Planning Policy as follows:

**Local Plan Policy LP14** indicates that development should, as far as possible retain existing trees, hedgerows and nature conservation features such as water bodies with appropriate protection from construction where necessary and strengthen visual amenity and biodiversity through further hard and soft landscaping. The Council will seek replacement or enhancement to such natural features where their loss results from proposed development.

The tree works are not associated with any proposed construction on the site. The works are required for the long-term benefit of the trees and are considered maintenance works that are beneficial to the health of the trees. The Warwickshire County Council Arboriculturist has been consulted and has no objection to the proposed works to the Populus Nigra (Black Poplar) trees, located on the above plans.

**Local Plan Policy LP16** - Planning permission will be refused if development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss. Given the natural heritage of the Borough, the Council expects such circumstances to be wholly exceptional and for there to be a suitable compensation strategy in place where any loss or deterioration would occur.

As the trees are not proposed to be felled there should be no resultant loss of biodiversity, however, care is required not to disturb nesting birds and other protected species.

**NPPF Paragraph 136.** Trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

The Arboriculturalist at Warwickshire County Council has been consulted for this application and has no concerns for the revised proposal. This proposal meets the requirements of paragraph 136 of the NPPF.

**NPPF Paragraph 187**. Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

There will be a temporary loss to the natural environment with the works to the tree, however the tree will recover and the work will improve the long-term health and longevity of the tree, this will improve the local diversity.

**NPPF Paragraph 193**. When determining planning applications, local planning authorities should apply the following principles:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

As previously mentioned, the works will result in a temporary reduction in habitats, but the tree will recover relatively quickly, such that it is not considered that irreplaceable habitats are significantly impacted.

#### Overall

It is considered that the works are reasonably necessary in the interests of prudent management of the trees within the Notification given its assured protection by way of the TPO and the Conservation Area and that the works to the trees will not be harmful to the character of the area. The proposal is thus in line with policy LP14, LP16, of the North Warwickshire Local Plan, and the relevant paragraphs of the NPPF, therefore, it is recommended that the proposal be accepted.

#### Recommendation

That Consent be grated subject to the following conditions:

1. The approved works must be begun not later than the expiration of two years from the date of this permission.

#### **REASON**

To comply with Section 211 of the Town and Country Planning Act 1990, as amended.

2. For the avoidance of doubt, this permission is only in relation to the trees mentioned within the Notification (PAP/2025/0315) and located upon Hatters Garden, Meadow Street, Atherstone and as detailed within the Application form and indicated on the location plan, drawing of tree sites and tree information received 09 July 2025. The works shall be confined to the re-pollard to previous pollard points of the Populus Nigra trees identified on the plan as T1 to T6 inclusive. No works to any other tree afforded protection by a Tree Preservatioon Order shall be undertaken without full Notification to North Warwickshire Borough Council.

#### **REASON**

To ensure that works not permitted are not undertaken without prior approval.

3. The work shall be carried out by a competent Tree Surgeon.

#### REASON

To ensure the work is carried out to accepted arboricultural practices to the long term well being of the tree.

#### **Notes**

- 1. With the exception of the trees noted within this notification, no tree shall be lopped, topped or felled without the prior approval of the Local Planning authority, in writing.
- 2. No works relating to the trees hereby approved, including works felling or preparation prior to operations, should take place before the hours of 0700 nor after 1900 Monday to Friday; before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.
- 3. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).
- 4. The Wildlife and Countryside Act 1981 Birds. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act in respect of a single bird, nest or egg is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February until August.

- 5. The developer is reminded that the Control of Pollution Act 1974 restricts the carrying out of construction activities that are likely to cause nuisance or disturbance to others to be limited to the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with no working of this type permitted on Sundays or Bank Holidays. The Control of Pollution Act 1974 is enforced by Environmental Health.
- 6. If it is necessary for works to be carried out within the limits of the public highway. Before commencing such works the applicant must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team. This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant. The Area Team at Coleshill may be contacted by telephone: (01926) 412515.

In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required.

7. In dealing with this Notification, the Local Planning Authority has worked with the applicant in a positive and proactive manner by positively determining the Notification. As such it is considered that the Council has implemented the requirement set out in paragraphs 38 of the National Planning Policy Framework.

(6/c) Application No: PAP/2025/0296

Spinney Cottage, Common Lane, Polesworth, Tamworth, Warwickshire, B78 1LP

Change of use from Class C3, 5 Bedroom house to Class C2, Children's care home with 4 Bedrooms, for

# Mr Fox

### 1. Introduction

1.1 This application is referred to the Board at the request of local Members concerned about the potential impacts of the proposal.

#### 2. The Site

- 2.1 The application site is a two storey, five-bedroom, detached residential property at the rear of residential property in Potters Lane between those houses and the canal. Access is via the Grendon Road to the east where there is also a residential frontage.
- 2.2 The site is illustrated at Appendix A.

# 3. The Proposal

- 3.1 It is proposed to change the use of this property from a dwelling within Use Class C3, to a Class C2, children's care home with with four bedrooms. It would not involve any further development to the existing building or external alterations, as it is only seeking to change the layout internally to accommodate the needs of the children who will live there.
- 3.2 The applicant has indicated that residential care for up to four children aged between 8 and 17 years would be provided here together with provision for one additional child in complex care cases. Staff will operate on a shift basis: early (08:00–16:00), late (16:00–22:00), and a sleep-in shift (22:00–08:00), ensuring 24-hour supervision. The children will follow structured daily routines, attending local schools during weekdays and engaging in supervised activities outside school hours. Visitor numbers will be limited and arranged by appointment, while professional visits (social workers, health specialists) will be managed in line with care needs. Traffic movements will primarily relate to staff changeovers, estimated at no more than 8 vehicle movements per day, which is comparable to a typical family dwelling. The home will operate under Ofsted registration and inspection, with staff required to hold or work towards the Level 3 Diploma in Residential Childcare, while the Registered Manager will hold a Level 5 qualification in Leadership and Management.
- 3.3 The elevations of the property are shown at Appendix B.

# 4. Development Plan

The North Warwickshire Local Plan 2021 - LP1(Sustainable Development); LP2 (Settlement Hierarchy), LP7 (Housing Development), LP29 (Development Considerations), LP30 (Built Form) and LP34 (Parking)

Polesworth Neighbourhood Plan - Policy PNP3 (Sustainable Design and Construction)

#### 5. Other Relevant Material Considerations

National Planning Policy Framework 2024 – (the "NPPF")

#### 6. Consultations

Environmental Health Officer – No objection.

# 7. Representations

Polesworth Parish Council – No comments received.

Four letters of objection and two of support have been received from local residents.

The objectors refer to:

- Noise.
- Concern for children climbing trees to the adjoining property.
- Loss of privacy.
- Concern for boundaries, unsafe access to the canal and potentially to other neighbouring properties.
- Concern for the pool on site.
- Elderly residents nearby, concern for impact to daily living routine.
- Behavioural issues and the needs of the children.
- Environmental impacts.
- Not in keeping with the character of the area.

The supportive comments refer to:

- A much-needed facility
- A good location and opportunity to help those in need

#### 8. Observations

### a) The Principle of Development

- 8.1 Local Plan policy LP2 provides five categories of settlements areas within North Warwickshire. The first four all state that if a new development is within one of the areas listed and is also within a Development Boundary, then the proposal should be supported in principle. Polesworth is listed within category 1 of LP2, and the site itself is within the Polesworth Development Boundary, therefore the proposal is supported in principle. Other detailed Local Plan policies will also need to be assessed to establish if there are unacceptable harms caused under these policies.
- 8.2 There are no specific policies contained within the Local Plan which expressly relate to the provision of a children's care home. However, the supporting text for Local Plan Policy LP7 says that North Warwickshire needs to, 'identify and support the need for development to provide an element of special needs housing and that the size, and suitability of that housing should be adaptable to also reflect the care implications and any potential carer accommodation needs that may arise'. Additionally, para 61 of the NPPF says that "it is important that the needs of groups with specific housing requirements are addressed". As such, this proposal would provide a children's care home facility with specialist housing for children in need in accordance with LP7 and para 61. This adds weight to the in-principle support identified above.

# b) Character and Appearance

- 8.3 Local Plan Policy LP30 states that, 'All development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting. Local design detail and characteristics should be reflected within the development.'
- 8.4 The proposal here does not involve any alteration to the external character or appearance of the dwelling. The changes relate only to internal modifications necessary for compliance. Concerns have been raised by objectors that such a use would not be in keeping with the area. However, this policy deals with an assessment of any physical change to the building concerned. In this respect there will be no change, and the building will still therefore retain its detached residential character with no change to the street scene.
- 8.5 Local Plan Policy LP29 requires that proposals harmonise with their immediate setting and wider surroundings. In this instance, the site continues to present as a dwelling within a residential context and integrates satisfactorily with its setting. Any difference in use does not result in a detrimental impact on local character or amenity, and the property would be indistinguishable from a larger family home in terms of appearance and activity.
- 8.6 Accordingly, there is no conflict with either of these two policies.

# c) Highway Matters

- 8.7 Local Plan Policies LP29(6) and LP34 require development proposals to have particular regard to highway safety, service requirements and the capacity of the local road network and the adopted parking standards set out of the Local Plan. The present use would require two spaces. Here there is sufficient space on-site for more than two spaces.
- 8.8 The site has its own access route located off the Grendon Road and there is significant space for parking. Additionally, the estimated traffic movements would not be materially different to the present property being occupied by a large or extended family, with similar travel times.
- 8.9 It is not considered that there is conflict with these policies.

# d) Noise Impacts

- 8.10 Local Plan Policy LP29(9) states that developments should '...avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution".
- 8.11 The policy generally covers residential amenity, but noise has been raised as a concern in nearly every objection that has been received for this application and thus will be dealt with separately. The Environmental Health Officer has thus been involved, and a Noise Management Plan has been submitted by the applicant.
- 8.12 This Plan sets out measures to ensure the operation of the children's home remains comparable to that of a family dwelling. The Plan includes a Quiet Hours Policy restricting outdoor play after 21:00; staff supervision of all external activities, and physical measures such as double glazing, acoustic treatments, and solid boundary fencing. Staff will be trained in behaviour management and deescalation techniques to minimise disturbance, while shift changeovers and vehicle movements are limited and scheduled outside peak hours. Ongoing monitoring and a clear complaints procedure are proposed to maintain noise at or below typical residential levels, thereby protecting neighbouring amenity.
- 8.13 This is acceptable to the Environmental Health Officer. It is important to note that, were the property to remain in use as a private dwelling, it could lawfully accommodate a family with up to four children, without any requirement for the restrictions or controls now proposed. It would therefore be unreasonable to assume that, simply because the residents will be children in care, the level of noise generated would be substantially greater or more harmful than that associated with an ordinary family household. In fact, the Noise Management Plan provides additional safeguards that would not ordinarily apply to a family home, including specific mitigation measures, supervision of outdoor activity, and a formal complaints procedure to ensure any concerns are promptly investigated and addressed. On this basis, the proposal would not result in unacceptable noise impacts and adequate measures are in place to manage any issues should they arise.
- 8.14 As such there is no conflict with this element of this Policy.

# e) Residential Amenity

- 8.15 The above policy also applies to the general amenity issue.
- 8.16 The objections to this application have raised the following concerns: a lack of privacy, concern for the elderly residents nearby, the noise and the security of the boundaries at the site. The noise aspect has already been covered above. In terms of lack of privacy, the main comments involved the children climbing the trees and looking into neighbouring properties. The applicants have already stated that the children will be monitored during outside activity and as part of this the safety for the children would most likely mean that the supervisor would stop this from happening. However, as Members are aware there is nothing stopping this property continuing as residential dwelling, and with a family with children doing the same thing without the same mitigation in place. No external changes are proposed to the property and therefore there is no difference in the level of overlooking than as at present. Finally, the applicant has already stated that all boundaries will be secured following approval of planning permission to ensure the privacy of the neighbouring properties and the safety of the children.
- 8.19 To conclude, there may well be some impact to the neighbouring property, but this is likely to be less than substantial, and the applicants have provided a detailed solution that includes mitigation and supervision to ensure the daily lives of the neighbours is impacted as little as possible.
- 8.20 As such there is no conflict with this policy.

#### f) Conclusions

- 8.21 It is not considered that the above assessments show that any harms that might arise are of sufficient weight, even taken cumulatively, to outweigh the support in principle already identified.
- 8.22 A number of other matters add weight to the support for the proposal.
- 8.23 Members are aware that the lawful use of the property is as a dwelling-house and that would enable a large family or extended family to occupy the premises without reference to the Council. It is not considered that the full impact of such occupation would be materially different to that now proposed.
- 8.24 The site is currently a vacant property, and its' continuing non-occupation could well lead to dis-repair and the potential for other alternative uses. The current proposal would enable use of the property as an opportunity to provide accommodation for children in need.

- 8.25 Children are among the most vulnerable members of the community, and the planning system also has a role in safeguarding their welfare. The proposed change of use from a residential dwelling (Use Class C3) to a children's care home (typically Use Class C2) must be assessed not only for other material planning impacts, such as character, parking, and amenity, but also on how it supports the child's right to reside in safe, stable and locally integrated accommodation. The NPPF (paragraphs 61 and 63) emphasises delivering a sufficient supply and variety of homes to meet the needs of different groups, including families with looked-after children, and requires that the size, type, and tenure of housing reflect those needs. The Local Plan for North Warwickshire prioritises sustainable development that enhances community well-being and protects neighbourhood character. Therefore, in balancing material considerations, particular weight should be given to a child's right to a home that contributes positively to their development, social integration and overall well-being, aligning with both national sustainable development objectives and the local planning framework.
- 8.26 It is thus in all of the circumstances outlined in this report that the recommendation below is made.

#### Recommendation

That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the plans:

V2.1 - Annexe B - NMP Objective Policies
Version\_2.1-Noise\_Management\_Plan\_Spinney\_Cottage
Location Plan
PL02-Existing and Proposed Elevations
PL03- Proposed Floor Plans
PL04- Block Plan Rev A
PL05-Site Block Plan Rev A
Spinney Cottage Planning Statement - annotated

Received by the Local Planning Authority on 30/06/2025 and 14/08/2025.

### **REASON**

To ensure that the development is carried out strictly in accordance with the approved plans.

2. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

#### **REASON**

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

### **Prior to Occupation:**

3. Prior to occupation of the C2 Children's Care Home use, all required boundary works shall be carried out before the site is to be occupied by any of the children.

#### REASON

To ensure the safety of the site for the children who will reside at the property and to ensure the neighbouring amenities are protected from activity at the site.

#### Other Conditions:

4. Throughout the duration of the site being used as a Class C2 Children's Care Home the following Noise Management Plan will be adhered to and updated when necessary:

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V2.1 - Annexe B - NMP Objective Policies
Version_2.1-Noise_Management_Plan_Spinney_Cottage
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Received by the Local Planning Authority 14/08/2025

#### **REASON**

To ensure the noise pollution levels are kept to an acceptable level and ensure that the neighbouring amenities are not substantially harmed due to the noise levels.

### <u>Notes</u>

- 1. The submitted plans indicate that the proposal comes close to, or abut neighbouring properties. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the site boundary. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
- 2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242.

Further information is also available on the Mining Remediation Authority website at: Mining Remediation Authority - GOV.UK

3. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at http://shop.bgs.ac.uk/georeports/, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.

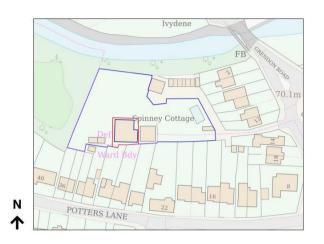
For further information and advice on radon please contact the Health Protection Agency at www.hpa.org.uk. Also, if a property is found to be affected you may wish to contact the Central Building Control Partnership on 0300 111 8035 for further advice on radon protective measures.

4. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner. As such it is considered that the Council has implemented the requirement set out in paragraph 39 of the National Planning Policy Framework.





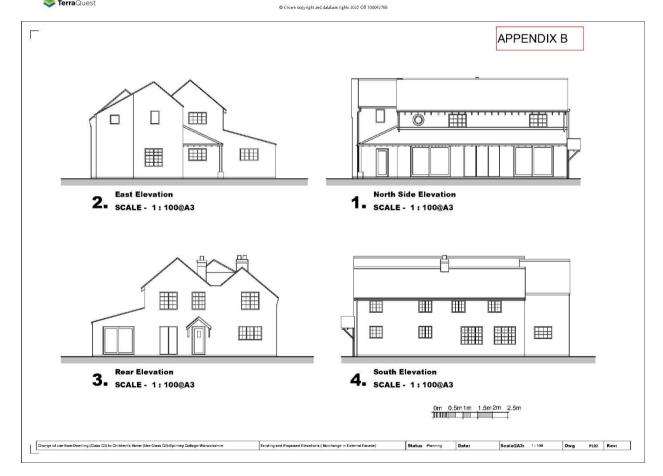
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Planning Portal Reference: PP-14118167v1

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(6/d) Application No: PAP/2025/0415

Butchers Shop, Glenside, Ansley Lane, Arley, Coventry, CV7 8FU

Proposed outline application for demolition of existing buildings and erection of 6 houses, 1 bungalow and new bell mouth to road with Landscaping reserved, for

# **Architecture and Interior Design**

#### 1. Introduction

1.1. This application has recently been submitted and is being reported to the Planning and Development Board for information purposes only at this time. A full determination report will follow in due course.

#### 2. The Site

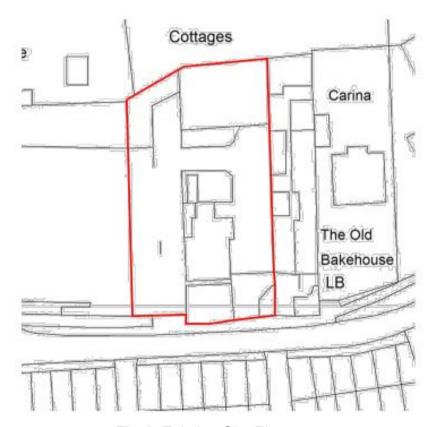


Fig 1. Existing Site Plan

2.1. The application site comprises land and buildings at 'Glenside', a commercial premises situated on the northern side of Ansley Lane within the village of Old Arley. The site consists of a two-storey building addressing the frontage to Ansley Lane, the ground floor of which was lastly in use as a butchers' shop, bakehouse and cutting rooms, with the first floor housing a residential flat. The site contains an abattoir which stretches across the northern boundary of the site. An 'in and

- out' access arrangement exists onto Ansley Lane, formed on either side of the twostorey building.
- 2.2. The Wagon Load of Lime Public House abuts the site to the east, with residential properties present to the west and to the south on the opposing side of Ansley Lane. Open land extends beyond the site to the north, and Gay Hill Farm is found c.100m to the north-west. The site falls within the development boundary for Old Arley, as detailed within the 2021 North Warwickshire Local Plan.

# 3. Background

- 3.1. The site has a long-standing, lawful use as an abattoir and butchers' shop with planning permissions for alterations/extensions to the premises granted in the 1960s, 1970s and 1990s. Anecdotal evidence indicates that the site opened around 1913.
- 3.2. Last year, following a change of ownership, a planning application was submitted, seeking consent for a range of building and engineering operations at the site to be used in connection with the abattoir (PAP/2024/0127). The application was refused in June 2025.
- 3.3. The Food Safety Agency (FSA) granted full approval for the new ownership to operate as a slaughterhouse in June 2024. This approval was revoked (effective from 1<sup>st</sup> May 2025) on animal welfare grounds, and the site is not currently known to be operational.

# 4. The Proposals

- 4.1. Outline planning permission is sought for the demolition of all existing buildings onsite and its redevelopment for residential purposes - seven dwellings are proposed under this application. Whilst this is an outline application, matters of access, appearance, layout and scale have been submitted for approval here: landscaping is the only matter which remains reserved for determination at a later date.
- 4.2. The submitted details illustrate that three dwellings would be erected along the frontage to Ansley Lane (a semi-detached pair and a detached unit), with a further four located at the rear. Vehicular access would be obtained from a 5m wide access to Ansley Lane located in the south-eastern corner of the site. Parking for the frontage units would be provided at the rear of the plots, off the access road, with frontage parking laid out for the rearmost dwellings. Two parking spaces are dedicated to each property.
- 4.3. With regards to scale, all units would be two-storey, four-bedroom dwellings (with accommodation in the roof-space) except for the north-eastern unit (a detached bungalow). Three housing types are proposed under this submission: Type 1 is a 7.9m tall semi-detached pair, Type 2 is the detached two-storey units also 7.9m high and type 3 is the bungalow, which measures 3.85m to the ridge. The two-storey units along the frontage are comparable in height to the neighbouring dwelling to the east (as shown within the submitted Street Scene Elevation Appendix A).

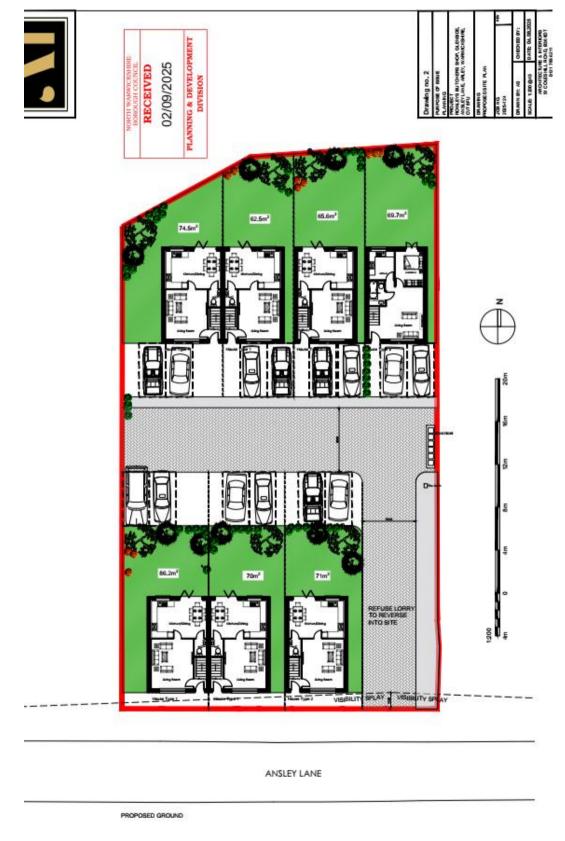


Fig 2. Proposed Site Plan

6d/20

- 4.4. In respect of appearance, the dwellings appear to be faced in brick under tiled roofs (an exact specification is not available at this time). All roofs are 'half-hipped' with properties featuring common architectural detailing, such as lintels, brick cills, and low-level string courses.
- 4.5. The floor plans and elevations are provided at Appendix B.

# 5. Development Plan

The North Warwickshire Local Plan (Adopted September 2021) – LP1 (Sustainable Development); LP2 (Settlement Hierarchy); LP5 (Amount of Development); LP7 (Housing Development); LP8 (Windfall); LP9 (Affordable Housing Provision); LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP21 (Services and Facilities); LP27 (Walking and Cycling); LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood Risk Management); LP34 (Parking); LP35 (Renewable Energy and Energy Efficiency) and LP36 (Information and Communications Technologies)

The Arley Neighbourhood Plan (Adopted December 2016) – ANP1 (Maintain rural character); ANP3 (Maintain the balance between the natural and built environment); ANP4 (Strong and vibrant community); ANP5 (Built environment standards) and ANP7 (Community Assets and facilities)

### 6. Other Relevant Material Considerations

The National Planning Policy Framework 2024 – (the "NPPF")

National Planning Practice Guidance - (the "NPPG")

MHCLG National Design Guide

The Town and Country Planning Act 1990

Natural Environment and Rural Communities Act 2006

**Environment Act 2021** 

Levelling-up and Regeneration Act 2023

North Warwickshire Landscape Character Assessment (2010)

Air Quality SPD (2019)

Provision of facilities for waste and recycling for new developments and property conversions SPD (2023)

Car Parking Standards (Local Plan 2021)

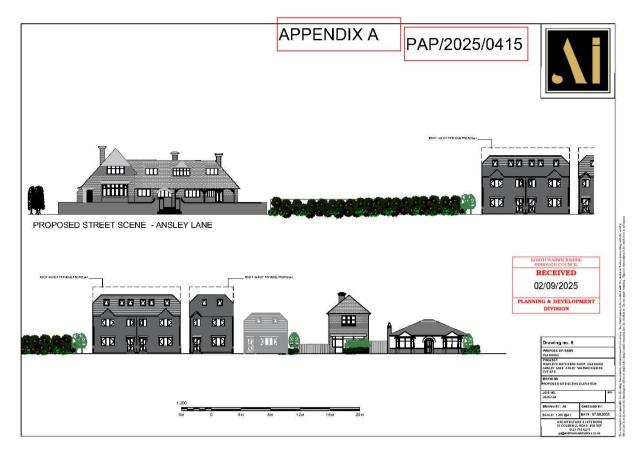
The Annual Monitoring Report

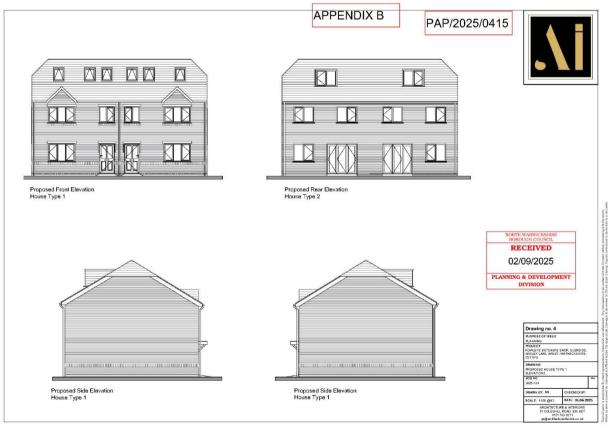
### 7. Observations

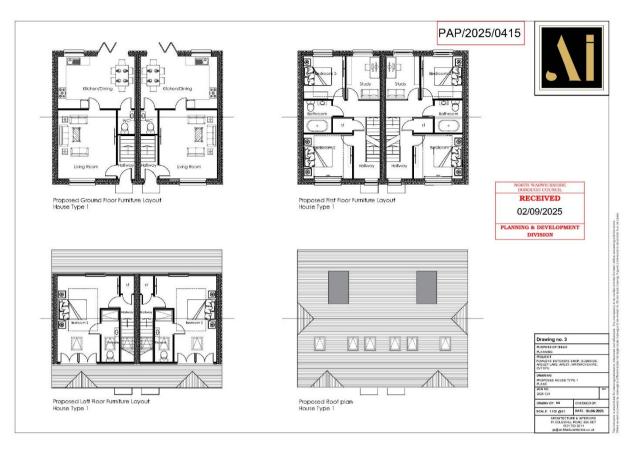
- 7.1. It is not proposed that a recommendation be provided to members of the Board at this time: the application has recently been received, and consultation is yet to be concluded.
- 7.2. As with all applications for planning permission, Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that such applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. Any subsequent decision, therefore, must have regard to the content of the North Warwickshire Local Plan (2021), as well as the Arley Neighbourhood Plan.
- 7.3. Consideration will initially need to be afforded to whether the principle of residential development on this site is policy-compliant with particular regard to policy LP2 of the North Warwickshire Local Plan as well as any relevant Neighbourhood Plan policies followed by assessments of the details of the scheme, such as, but not exclusively, its layout, scale, overall design, implications for residential amenity/highway safety, etc.

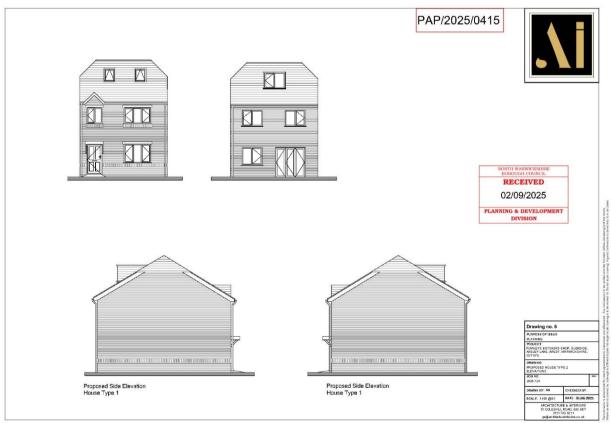
#### 8. Recommendation

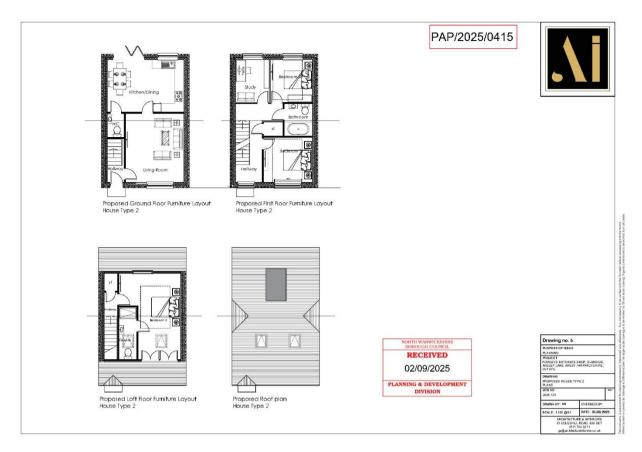
8.1. As with similar proposals, the receipt of the application should be noted at this time, and a site visit carried out before a determination is made.

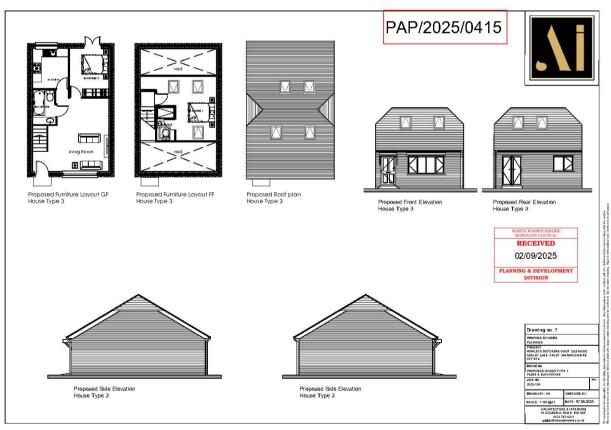












(6/e) Application No: PAP/2025/0390

Land Adjacent, 1 Convent Lane, Atherstone,

Works to tree protected by a Tree Preservation Order for

**Warwickshire County Council (Forestry)** 

#### 1. Introduction

This Item is referred to the Board as the land is owned by the North Warwickshire Borough Council.

# 2. The Site

This application relates to 1 No. Taxus Baccata (Common Yew). The tree is located near the boundary of 1 Convent Lane and overhangs its driveway and partially the pavement.

The wider site comprises an area of green space which adjoins Witherley Road to the north and is opposite the Queen Elizabeth Academy.

The tree is protected by TPO Ref: 713.004/3. A plan showing the location of this tree is attached at Appendix A.

### 3. The Proposal

This application seeks consent to lift the crown of the Yew Tree to 4m, so that it does not impede access to 1 Covent Lane.

#### 4. Consultations

Warwickshire County Council Forestry – No Objection

"The proposal seeks to undertake remedial pruning works (crown lift to 4.0m over access) to 1x Yew tree, this would enable safe entry/exit passage to the adjacent properties driveway.

I have no Arboricultural objections to the proposed works."

### 5. Observations

Section 16 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out that anyone proposing to cut down or carry out works to a tree protected by a TPO must make an application to the Local Planning Authority. The LPA can deal with the application in one of three ways:

Grant consent unconditionally.

- Grant consent subject to any condition or conditions specified in the act. These conditions are as follows:
  - Conditions requiring trees to be planted.
  - Conditions about how, where or when planting is to be done.
  - Conditions requiring things to be done, or installed, for the protection of any trees planted pursuance to the above conditions.
  - Conditions requiring approvals to be obtained from the person giving the consent.
  - Conditions specifying the standard to which the works must be carried out;
     and
  - Conditions specifying a time period for works.
- Refuse consent.

The proposed works are considered general maintenance to the tree to ensure it is clear of vehicles and pedestrians.

Given the modest scope of works and safety benefits from lifting the crown, officers consider the proposed works are acceptable and should be granted consent.

#### Recommendation

That consent be GRANTED subject to the following conditions:

1. The works to which this consent relates must be begun not later than the expiration of two years from the date of this consent.

#### **REASON**

To comply with the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

2. For the avoidance of doubt, this consent only relates to the Taxus Baccata located at the land adjacent to 1 Convent Lane, Atherstone, as detailed within the application form and tree location plan received by the LPA on 18/08/2025.

#### REASON

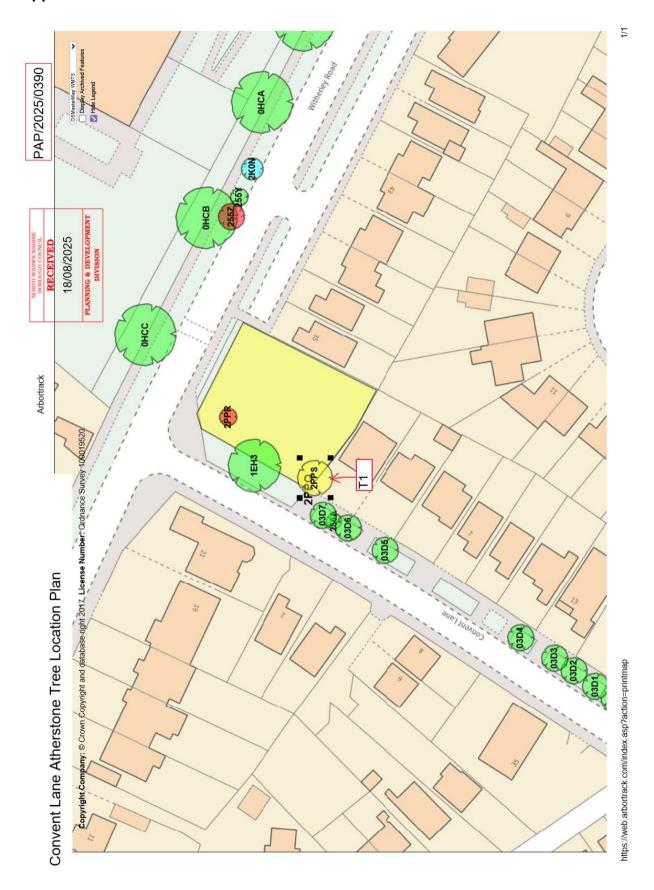
To ensure the consented work is limited to the specified tree.

### **Notes**

- 1. Except for the tree noted within this notification, no tree shall be lopped, topped or felled without the prior approval of the Local Planning authority, in writing.
- 2. No works relating to the tree hereby approved should take place before the hours of 0700 nor after 1900 Monday to Friday; before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

- 3. You are advised that bats are deemed to be European Protected species. Should bats be found while carrying out the approved works, you should stop work immediately and seek further advice from Warwickshire County Council Ecological Services.
- 4. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law, and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage, or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act in respect of a single bird, nest or egg is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February to August.
- 5. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner by quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraph 39 of the National Planning Policy Framework.

# Appendix A - Tree Location Plan



(6/f) Application No: PAP/2025/0404

Trajan Hill Spinney, Trajan Hill, Coleshill,

Works to tree protected by Tree Preservation Order, for

Warwickshire County Council (Forestry)

#### 1. Introduction

This Item is referred to the Board as the land is owned by the North Warwickshire Borough Council.

# 2. The Site

This application relates to a group of mixed broadleaf trees (G1) located at The Spinney, Trajan Hill. The trees are significant and overhang the properties surrounding the site.

The group is protected by TPO Ref: 713.019/5. A plan showing the location of the group is attached at Appendix A.

# 3. The Proposal

This application seeks consent to prune/tip the trees back from the carriageway by 1.0m and prune/tip back the trees from neighbouring properties by 2.0m.

#### 4. Consultations

Warwickshire County Council Forestry – No Objection

"Consent is sought to carry out pruning from adjacent property by 2.0m, prune/tip back from the public highway by 1.0m.

The works would have no impact upon the public amenity, though would provide significant local relief whilst meeting compliance to highway users.

I therefore have no Arboricultural objections to the proposal."

#### 5. Observations

Section 16 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out that anyone proposing to cut down or carry out works to a tree protected by a TPO must make an application to the Local Planning Authority. The LPA can deal with the application in one of three ways:

- Grant consent unconditionally.
- Grant consent subject to any condition or conditions specified in the act. These conditions are as follows:

- Conditions requiring trees to be planted.
- Conditions about how, where or when planting is to be done.
- Conditions requiring things to be done, or installed, for the protection of any trees planted pursuance to the above conditions.
- Conditions requiring approvals to be obtained from the person giving the consent.
- Conditions specifying the standard to which the works must be carried out;
   and
- Conditions specifying a time period for works.
- Refuse consent.

The trees are significant and located within close proximity to several properties that surrounding the site and the highway. The proposed works ensure the trees are managed in accordance with the highways legislation and ensure they do not damage any neighbouring property.

Given the modest scope of works, officers consider the proposed works are acceptable and should be granted consent.

#### 6. Recommendation

That the application be GRANTED subject to the following conditions:

1. The works to which this consent relates must be begun not later than the expiration of two years from the date of this consent.

#### **REASON**

To comply with the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

2. For the avoidance of doubt, this consent only relates to the Group G1 located at The Spinney, Trajan Hill as detailed within the application form and tree location plan received by the LPA on 01/09/2025.

#### **REASON**

To ensure the consented work is limited to the specified group of trees.

#### **Notes**

- 1. Except for the tree noted within this notification, no tree shall be lopped, topped or felled without the prior approval of the Local Planning authority, in writing.
- 2. No works relating to the tree hereby approved should take place before the hours of 0700 nor after 1900 Monday to Friday; before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

- 3. You are advised that bats are deemed to be European Protected species. Should bats be found while carrying out the approved works, you should stop work immediately and seek further advice from Warwickshire County Council Ecological Services.
- 4. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law, and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage, or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act in respect of a single bird, nest or egg is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February to August.
- 5. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner by quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraph 39 of the National Planning Policy Framework.

# Appendix A – Tree Location Plan



# **General Development Applications**

# (6/g) Application No: PAP/2025/0091

Land between Rush Lane, and Tamworth Road, Cliff, Kingsbury,

Application to remove conditions 25 (8no. HGV movements between 2300 and 0700) and 26 (non-audible HGV warnings between 2300 and 0700) of Planning Application PAP/2023/0188 dated 4/10/2024, for

# - Summix RLT Developments Ltd

# 1. Introduction

- 1.1 The receipt of this application was referred to the Board's April meeting. This described the background to the application and outlined the proposal as set out above. A copy of that report is at Appendix A.
- 1.2 Members have visited the area on two occasions when dealing with the 2023 application and are thus familiar with the general setting of the site.
- 1.3 A copy of the 2024 Planning Permission is at Appendix B.
- 1.4 The two approved Plans are the Parameters Plan and the Green Infrastructure Plan at Appendices C and D.

# 2. The Proposal

- 2.1 As indicated in the header above and as described in more detail in Appendix A, the application is to remove two conditions from the planning permission dated October 2024. The reason for the inclusion of the conditions in that Notice was the same for both namely, "in the interests of avoiding disturbance due to noise".
- 2.2 The applicant's reasons for their removal are set out in Appendix E.
- 2.3 The full Noise Impact Assessment Report submitted with the original planning application, which was granted in October 2024, is at Appendix F.

# 3. The Development Plan

The North Warwickshire Local Plan 2021 – LP29 (Development Considerations)

# 4. Other Material Planning Considerations

The National Planning Policy Framework – (the "NPPF")

Noise Policy Statement for England – DEFRA 2010

# 5. Representations

- Over 550 letters of objection have been received. In summary almost all of these have been submitted by residents living in Kingsbury and Dosthill who refer to the site generating HGV traffic which of necessity will have to travel through the residential areas of these two settlements. The other objections come from local residents in the Ascot Drive area to the north of the site. Two matters are raised. The first is to do with HGV traffic too. In this regard they focus on the fact that all HGV traffic, both during the day and at night, will have to travel along the access road into the site between the rear of houses here and the site itself. The second is that this HGV traffic will generate noise particularly in the night-time and the two conditions were included in order to help mitigate this adverse impact.
- 5.2 A useful and detailed account of the concerns raised by the local residents is copied at Appendix G. Since submission, this has been supplemented through the receipt of a Technical Note from a Noise Consultant, instructed by two of the objectors. This is attached in full at Appendix H.
- 5.3 The response from the applicant to this Note is at Appendix I.
- 5.4 The Noise Consultant instructed by the two residents has received both this Note and the EHO's comments as at Appendix J see para 6.1 below. The residents have indicated that they will be responding, but this had not been received at the time of preparing this report. If received in time, a Supplementary Report will be prepared for the Board. If not, a verbal update will be given to the meeting.
- The Tamworth and District Civic Society has objected on the grounds of increased HGV traffic and thus noise pollution on the access roads through Kingsbury and Dosthill including at night-time hours.

# 6. Consultations

6.1 Environmental Health Officer – All of the noise related documents referred to above have been considered and on balance there is no objection. The final response is attached at Appendix J.

## 6.2 Observations

## a) Introduction

- 6.3 Before looking at the proposals, it is necessary to draw the Board's attention to its remit in the determination of this application.
- 6.4 The 2024 planning permission grants planning permission on this site for commercial, industrial and distribution purposes without an hours' restriction. The Board's remit here is not to undertake a review or re-assessment of the merits or otherwise, of that planning permission. Its remit is to solely assess whether the two

identified conditions should remain in the Notice or not. The impacts of HGV movements through Dosthill and Kingsbury are thus outside the scope of this remit. Even if the Board retains the two conditions, those movements will continue, once the permission has been built-out and becomes operational. Because the reason for the two conditions was to assist in noise mitigation, the Board is advised to focus on this matter.

# b) The Conditions

- 6.5 The most useful starting point is to assess whether the planning permission as set out in Appendix B would have been granted, even in the absence of these two conditions.
- 6.6 It is considered that it would. There are two reasons for this.
- 6.7 The planning history and setting of this site was comprehensively described in previous reports dealing with the redevelopment of this site. This was material to the determination of that permission. The main issues which were discussed in detail were to mitigate potential adverse noise and visual impacts. The latter was dealt with through the approval of the Parameters Plan and the former through that Plan, as well as through a number of conditions. As a consequence, the first reason is that the Notice should be read as a whole there are other conditions included which address noise impacts. Condition numbers 9 and 10 directly relate to noise matters and conditions 5, 7, 8, 12 and 13 refer to layout and design, such that they too have a "noise" dimension.
- 6.8 The second reason is that the Environmental Health Officer (EHO) has not objected to their removal, indicating that it would be difficult to defend their retention. Both of these reasons will be expanded on in the next few paragraphs.
- Expanding on the above in respect of the conditions mentioned, Members attention is drawn to the Parameters Plan and to the Green Infrastructure Plan, in terms of how the layout and design of the site can themselves assist in noise mitigation. The former shows the majority of houses in Ascot Drive backing onto Zone A which is to accommodate Class E light industrial uses which are defined in the Use Classes Order as being those which "can be carried out in any residential area without causing detriment to the amenity of the area." Zone B which would accommodate B2 uses affects far less properties. The Green Infrastructure Plan shows additional landscaping along both sides of the access road with more substantial planting at the rear of residential properties here. Additionally, Condition 8 seeks avoidance of service/loading areas along the northern edge of Zones A and B, and conditions 12 and 13 seek to restrict on-street parking along the service road.

- 6.10 Additionally, in respect of direct noise mitigation conditions, then Condition 9 is the substantive one, defining the maximum day and night-time noise thresholds to be experienced at the most affected residential properties and how that is to be measured. Condition 10 compliments this, through explaining the monitoring measures to be adopted. Taken together these provide a suite of conditions that are of substantial weight in terms of mitigating adverse noise impacts. They were drafted particularly Conditions 9 and 10 by the Council's EHO.
- 6.11 In respect of the EHO's response, then he was re-consulted on the proposal to remove the two additional conditions numbers 25 and 26 and he has reviewed all of the matters raised by the applicant and the objectors. There is no objection arising. Each condition is now addressed.
- 6.12 In respect of Condition 25, then his response acknowledges that there are inconsistencies in the respective parties' noise evidence. The issue is whether these are significant. The response refers to two matters. Firstly, it indicates that Condition 25 seeks to control HGV numbers during the night-time, as an indirect noise control measure – hence the source of the inconsistencies. In this regard he concludes that a doubling of traffic only equates to a 3dB increase in hourly levels and no difference in maximum levels. The condition therefore doesn't in his view, achieve a significant reduction in impact during the night-time period, once the context of existing noise levels is considered. In order to assist the Board, Members will be aware that increased noise levels and understanding their impact. will depend on the ambient noise levels at different times of the day. Here, the matter is particularly related to night-time noise, because the affected "receptors" are residential properties. The submitted Noise Impact Assessment at Appendix F. found that the overall night-time ambient noise level (2300-0600 hours) was 35db LA90 at both ends of the proposed access road, at the time of the survey in April 2023. The applicant is saying that the worst-case noise traffic noise prediction levels were found to be 27 dB Laeq1hour, between 0600 and 0700 hours, but that this is still below that of the ambient noise level of 35dBLA90 for the night-time period. Moreover, the traffic noise predictions are based on a higher level of HGV movement, than that set out in Condition 25. The EHO is saying that on balance, he agrees with these conclusions.
- 6.13 The second matter is that the condition is considered to be unenforceable because of its wording and because of the being a multi-occupier estate. If a breach of condition 25 was evidenced, then the matter is one of on whom is a Breach of Conditions Notice to be served. Members will appreciate that, if say 12 HGV's were found to have been driven along the road in one of the defined hours, which vehicles would be in breach all, or just those numbered 9 to 12? Furthermore, would action be taken against all those occupiers who had deliveries during that hour, or would it just be limited to those who "enabled" those excess vehicles to enter along the access road. Additionally, the hours aren't actually defined. It is assumed that they are on the hour, but the condition is open to a different understanding e.g. 2330 to 0030. The condition is thus considered by the EHO to be unenforceable. Planning Officers would also agree with this assessment.

- 6.14 In respect of Condition 26, it is considered that there is doubt concerning its enforceability and its' wording. This is because this permission relates to a multiuse site which is more than likely to receive HGV's from many Companies making enforcement investigations difficult. Additionally, the condition does not define what is meant by "alternative systems" and it is thus imprecise. There is however support for the matter to be addressed in the planning permission through a different form of condition, one which might require a bespoke Noise Management Plan for each occupier. They would then define how they would address this matter.
- 6.15 Members will have noted that the EHO's response was made "on balance". Notwithstanding the matters raised above, officers have reviewed the overall suite of conditions identified in paragraphs 6.7 and 6.9 above, to establish whether they could be amended to provide greater comfort to the residents in the event of the conditions being removed. Members will see from the EHO response at Appendix K, that he too has been involved in this review.
- 6.16 The result of this has been to particularly review Condition 8 in respect of giving greater differentiation between the Zones in terms of layout; to firm up on the location of service yards and to add a requirement for a Noise Impact Appraisal in respect of Zones B and C when the reserved matters applications are submitted, thus taking up on the EHO's suggestion of bespoke Noise Management Plans.
- 6.17 The new condition 8 would read as follows:

# Condition 8

- "8 (a) The proposed layouts in any reserved matters applications for Zone A, as defined on the Parameters Plan approved under Condition 5, shall contain full details of the finished floor levels of all proposed buildings within this Zone, above ordnance datum, in relation to existing ground levels. They shall show no service/loading and unloading areas along the northern edge of this Zone.
- 8 (b) The proposed layouts in any reserved matters applications submitted for Zones B and C, as defined on the Parameters Plan approved under Condition 5, shall contain full details of the finished floor levels of all proposed buildings within these Zones, above ordnance datum, in relation to existing ground levels. They shall show no service/loading and unloading areas along the northern edge of Zone B. Additionally, any reserved matters applications for Zones B and C shall include a Noise Impact Appraisal to identify the internal and external noise impacts arising from occupation of that Zone. The scope for these Appraisals shall have first been agreed in writing by the Local Planning Authority and evidence of this shall be included in any submission.
- 8 (c) The Noise Impact Appraisals submitted under 8(b) above, shall include mitigation measures, if appropriate, to ensure full compliance with the requirements of Conditions 9 and 10"

6.18 In order to address the matter of subsequent occupiers of the buildings – paragraph 6.14 above - a new Condition is suggested as below:

# Condition 11

"Following the vacation of any building within Zones B and C by an occupier, each subsequent occupier shall submit a Noise Assessment Impact Appraisal in respect of its use of that building, to the Local Planning Authority and occupation shall not commence until there is written consent from that Authority to the findings of that Appraisal and the implementation of any approved relevant mitigation measures."

- 6.19 The EHO has also revisited Condition 9 and recommends minor amendments set out in red below, such that:
  - i) The first line would read, "The rated specific sound level from any individual unit arising from internal or external uses .. ".
  - ii) The second would be to add a final sentence, "Measurement and calculation of the rating level shall be in accordance with BS4142 +A1:2019 "Methods for rating and assessing industrial and commercial sound (as amended)".

# c) Conclusion

6.20 At the beginning of this section, it was concluded that the 2024 planning permission would still have been granted without the two conditions the subject of this application. Taking into account all of the evidence submitted – by both the applicant and the objectors - it is considered that as a matter of planning judgement, this remains the case. It is acknowledged that there are differences between the respective parties, but these are not considered to be significant enough to warrant a refusal here. This is because of the existing extensive suite of conditions that directly and indirectly cover noise impacts within the complete Notice (paras 6.7 and 6.9 above); the view of the EHO that on balance the removal would not lead to a significant reduction in noise at night time (paragraph 6.12), that the conditions are considered to be unenforceable (paragraphs 6.13 and 6.14) and that amendments to the existing conditions, together with an extra condition would provide added protection to residents in the event of removal of the condition (paragraphs 6.17 to 19).

# Recommendation

- a) That the development approved under planning permission PAP/2024/0188 dated 4/10/24 may proceed without compliance with Conditions 25 and 26, and that
- b) the subsequent Notice be varied to include conditions as set out below:
  - Details of the appearance, landscaping, layout and scale (hereinafter called the "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.

### **REASON**

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

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. The Phasing Plan shall include details of the separate and severable phases, or sub-phases of the development. 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.

# **REASON**

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

3. The first 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. All applications for approval of reserved matters shall be made to the Local Planning Authority not later than five years from the date of this permission.

# **REASON**

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

4. The development hereby permitted shall be begun not later than three years from the date of approval of the last of the reserved matters to be approved

### **REASON**

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

# **Defining Conditions**

- 5. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents:
  - a) The Site Location Plan 23008/SGP/ZZ/ZZ/DR/A/131000 P2 received on 2/5/23.
  - b) The Parameters Plan 23008/SGP/ZZ/ZZ/DR/A/001001 P7 received on 15/5/24.
  - c) The Green Infrastructure Plan P23/0345/EN/0007/C/GI received on 15/5/24.
  - d) Existing Site Access 70102401/SK/002 Rev A received on 20/2/14.
  - e) Existing site access swept path analysis 16.5m artic 701102401/ATR/001Rev B received on 20/2/24.
  - f) The Framework Travel Plan prepared by WSP received on 3/8/23 referenced 70102401/001.

## **REASON**

In order to define the extent and scope of the permission.

6. The development hereby permitted shall provide for no more than a maximum figure of 22,000 square metres of floorspace (GEA) for uses within Use Classes Eg (ii), Eg (iii), B2 and B8 of the Town and Country Planning (Use Classes) Order 2020 (as amended).

## **REASON**

In order to define the scope and extent of the planning permission.

7. The uses approved under Condition 6 above shall be located on the site, as set out in the Parameters Plan approved under Condition 5 above.

# **REASON**

In order to define the scope and extent of the planning permission and in the interests of the amenities of the area.

8. (a) The proposed layouts in any reserved matters applications for Zone A, as defined on the Parameters Plan approved under Condition 5, shall contain full details of the finished floor levels of all proposed buildings within this Zone, above ordnance datum, in relation to existing ground levels. They shall show no service/loading and unloading areas along the northern edge of this Zone.

(b) The proposed layouts in any reserved matters applications submitted for Zones

B and C, as defined on the Parameters Plan approved under Condition 5, shall contain full details of the finished floor levels of all proposed buildings within these Zones, above ordnance datum, in relation to existing ground levels. They shall show no service/loading and unloading areas along the northern edge of Zone B. Additionally, any reserved matters applications for Zones B and C shall include a Noise Impact Appraisal to identify the internal and external noise impacts arising from occupation of that Zone. The scope for these Appraisals shall have first been agreed in writing by the Local Planning Authority and evidence of this shall be included in any submission.

(c) The Noise Impact Appraisals submitted under (b) above, shall include Mitigation measures, if appropriate, to ensure full compliance with the requirements of Conditions 9 and 10.

## REASON

In order to define the implementation of the permission so as to reduce the risk of adverse noise impacts

- 9. The rated specific sound level from any individual unit arising from internal or external uses, including operational sources of an industrial/commercial nature within the development, the operation of fixed plant, machinery, plant and mobile plant including deliveries, heating, air handling and/or ventilation equipment shall not exceed the levels outlined below.
- i) 40dBLAeq.1hr at any residential property on Ascot Drive, Haydock Close or Epsom Close. The specific sound level shall be measured or predicted at a height of 1.5 metres above ground level at 1 metre from the façade containing a habitable room with an opening window, between 0700 and 2300 on any day. The measurements and/predictions should demonstrate the noise limits for daytime are within gardens of the nearest affected noise sensitive receptors at 1.5 metres above the adjacent ground level as a "free field" level as defined by BS7445:2003, "Description and measurement of environmental noise (parts 1 to 3)", for an area of not less than 75% of any dwelling's garden.
- ii) 35dBLAeq15min at any residential property on Ascot Drive, Haydock Close or Epsom Close. The specific sound level shall be measured or predicted at a height of 4.5 metres above ground level at 1 metre from the façade containing a habitable room with an opening window of any residential property between 0700 and 2300 on any day.
- iii) Where the residential dwelling is a bungalow all measurement heights for day and night are to be 1.5 metres above ground level.

Measurement and calculation of the rating level shall be in accordance with BS4142:2014+A1:2019 "Methods for rating and assessing industrial and commercial sound (as amended)".

### **REASON**

In order to avoid significant noise impacts on health and quality of life in line with the National Planning Policy Framework, the Noise Policy Statement for England 2010 and Policy LP29 of the North Warwickshire Local Plan 2021.

10. Within six months of the occupation of any of the new industrial/commercial units within the development hereby approved, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9. If the specific sound level from these sources exceeds the limits set out in condition 9, additional mitigation measures are to be recommended and included in that submission. Any such measures are to be recommended and included in that submission. Any such measures that are approved by the Local Planning Authority, shall then be installed or introduced to the written satisfaction of the Local Planning Authority. These measures shall be permanently retained and maintained in proper working order for the duration of the operational life of the development.

### REASON

In order to demonstrate compliance with condition 9 and so to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework, the Noise Policy Statement for England 2010 and Policy LP29 of the North Warwickshire Local Plan 2021.

11. Following the vacation of any building within Zones B and C by an occupier, each subsequent occupier shall submit a Noise Assessment Impact Appraisal in respect of its use of that building, to the Local Planning Authority and occupation shall not commence until there is written consent from that Authority to the findings of that Appraisal and the implementation of any approved relevant mitigation measures.

# **REASON**

In order to demonstrate continuing compliance with condition 9 and so to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework, the Noise Policy Statement for England 2010 and Policy LP29 of the North Warwickshire Local Plan 2021.

12. All access arrangements into, through and out of the site together with all off-site highway alterations shall be carried out in accordance with the plans approved under Condition 5.

### REASON

In order to define the scope and extent of the planning permission.

13. There shall be no gate, barrier or other structure constructed or placed across the access into the development area from the spur road running east from the junction with the A51, thus allowing unobstructed vehicular access at all times.

### REASON

In order to reduce the potential for noise pollution arising from parked vehicles not being allowed to enter the site and to reduce the potential for on-street vehicular parking.

14. There shall be no on-street parking of any vehicle whatsoever on any part along both sides of and the whole of the spur road running east from the junction with the A51.

# **REASON**

In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.

15. The layout in the reserved matters applications shall include HGV parking spaces at a minimum of 1 HGV space per 375 square metres of B8 floor space.

# REASON:

In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.

### **Pre-commencement Conditions**

- No development shall take place, including any works of demolition or site clearance, until a Construction Environmental Management Plan (CEMP) has first been submitted to and approved in writing by the Local Planning Authority for the whole of the development hereby approved. The Plan shall provide information for:
  - a) The parking of vehicles for site operatives and visitors.
  - b) The routing for vehicles accessing the site associated with the construction of the development and signage to identify the route.
  - c) The manoeuvring of vehicles within the site.
  - d) Loading and unloading of plant and materials used in the construction of the development, including top-soil.
  - e) The location of the site compounds.
  - f) Storage of plant and materials.
  - g) The erection and maintenance of security hoarding fencing.
  - h) Wheel washing facilities.
  - i) Measures to control the emission of dust and dirt during construction.
  - j) Measures to control and mitigate disturbance from noise.
  - k) A scheme for the recycling/disposal of waste resulting from the construction works.
  - I) Any on-site lighting as required during construction.
  - m) Measures to protect existing trees and hedgerows proposed for retention.
  - n) Delivery, demolition and construction working hours.
  - o) The means by which the terms of the CEMP will be monitored including details of the procedure for reporting and resolving complaints as well as the details of the person or persons to contact in such circumstances.

The approved CEMP shall be adhered to at all times throughout the construction period of each phase of the development as approved under Condition 2.

# **REASON**

In the interests of reducing potential harm to residential amenity and in the interests of highway safety.

No development shall take place including any works of demolition or site clearance, until a Landscape and Ecological Management Plan (""LEMP"") for the whole site, including the triangular area of land that lies between the railway line to the east, the residential properties to the west and the development area to the south, has first been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be in general accordance with the approved Parameters Plan approved under condition 5. The LEMP shall include:

- a) a description and evaluation of the features to be managed;
- b) ecological trends and constraints on site that might influence management,
- c) the aims, objectives and targets for the management,
- d) descriptions of the management operations for achieving the aims and objectives,
- e) prescriptions for management actions,
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period),
- g) Details of the monitoring needed to measure the effectiveness of management,
- h) Details of each element of the monitoring programme,
- i) Details of the persons or organisations(s) responsible for implementation and monitoring,
- j) Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve the required aims, objectives ad targets,
- k) Reporting procedures for each year 1, 2, 5, 10, 20 and 30 with biodiversity net gain reconciliation calculated at each stage,
- I) The legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery,
- m) How contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above shows that the conservation aims and objectives set out in (c) above are not being met so that the development still delivers the full functioning bio-diversity objectives of the originally approved scheme.

The details in that Plan shall then be implemented on each phase of the development of the site and it shall be adhered to at all times during the lifetime of the development.

# **REASON**

In the interests of enhancing and protecting bio-diversity.

- No development shall commence on site including any works of demolition or site clearance, until a detailed surface water drainage scheme for the whole site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a) Evidence to show that the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm is limited to the Qbar greenfield run off rate of 4.32 l/s/ha for the site in line with the Outline Flood Risk Assessment and SUDS Strategy prepared by HWA (v3) dated August 2023.
  - b) A detailed assessment demonstrating the on-site water courses suitability as a receptor for surface water run-off from the development. This

### assessment shall include:

A condition survey of the watercourse and evidence of any remedial measures identified as necessary;

A review of flood risk impacts from the watercourse demonstrating consideration for downstream receptors off site in the context of the proposals,

Evidence demonstrating that all development and surface water infrastructure is outside the anticipated fluvial flood extent.

- c) Drawings/plans illustrating the proposed sustainable surface water drainage scheme. The Outline Flood Risk Assessment and SUDS Strategy prepared by HWA (v3) dated August 2023 may be treated as a minimum and further source control SUDS should be considered during the detailed design stages as part of a ""SUDS management train"" approach to provide additional benefits and resilience within the design.
- d) Detailed drawings including cross sections, of proposed features such as infiltration structures, attenuation features and outfall structures. These should be feature-specific demonstrating that such surface water drainage systems are designed in accordance with the SUDS Manual CIRIA Report C753 and cross sections should demonstrate that all SUDS features will be accessible for maintenance whilst also providing an adequate easement from the on-site watercourse.
- e) Provision of detailed network level calculations demonstrating the performance of the proposed system to include:
- i) suitable representation of the proposed drainage scheme, details of design criteria used (including consideration of a surcharged outfall) with justification of such criteria,
- ii) simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events,together with results demonstrating the performance of the drainage scheme including attenuation storage, potential flood volumes and network status for each return period,

and evidence to allow suitable cross- checking of calculations and the proposals.

- f) The provision of plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. This overland flow routing should:
- i) demonstrate how run-off will be directed through the development without exposing properties to flood risk;
- ii) consider property finished floor levels and thresholds in relating to exceedance flows, and
- iii) recognition that exceedance can occur due to a number of factors such that exceedance management should not rely on calculations demonstrating no flooding.

Only the scheme that has been approved in writing shall then be implemented in full on site.

## **REASON**

To reduce the risk of increased flooding and to improve and protect water supply.

No phase of the development hereby permitted shall commence until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire-fighting purposes relevant to each phase, has first been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be implemented within the relevant phase.

### REASON

In the interests of public safety.

No development within any phase of the development hereby approved shall take place until details of all external lighting specifications for that phase have been submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by an Impact Assessment in order to show that there are no adverse impacts arising from any proposed light source or from the glow of light arising from each phase. The Assessment shall also include an analysis of the cumulative impact of lighting arising from the whole site. In particular the details shall avoid external lighting being installed on the northern-most elevations of the buildings to be erected in Zones A and B as defined by the Parameters Plan approved under Condition 5 above. The lighting shall be installed, operated and maintained at all times in accordance with the approved details.

# **REASON**

In the interests of reducing the risk of adverse harm to the residential amenity of the local community.

# **Pre-Occupation Conditions**

- 21. There shall be no occupation of any building hereby approved for business purposes within any phase of the development, until a Drainage Verification Report for the installed surface water drainage system as approved under Condition 17 within that phase, has been submitted to and approved in writing by the Local Planning Authority. It should include:
  - a) Demonstration that any departures from the approved design are in keeping with the approved principles.
  - b) As built photographs and drawings
  - c) The results of any performance testing undertaken as part of the application process,
  - d) Copies of all statutory approvals such as Land Drainage Consent for Discharge,

e) Confirmation that the system is free from defects, damage and foreign objects.

The report should be prepared by a suitably qualified independent drainage engineer.

## **REASON**

To ensure that the development is implemented as approved and thereby reducing the risk of flooding

- 22. There shall be no occupation of any building hereby approved for business purposes within any phase of the development until a site-specific maintenance plan for the approved surface water drainage system including the pond as identified on the Green Infrastructure Plan approved under Condition 5, has first been submitted to and approved in writing by the Local Planning Authority. It shall include:
  - a) The name of the party responsible, including contact names, address, email address and phone numbers.
  - b) Plans showing the locations of features requiring maintenance and how these should be accessed and assessed.
  - c) Details of how each feature is to be maintained and managed throughout the lifetime of the development,
  - d) Provide details of how site vegetation will be maintained for the lifetime of the development.
  - e) The procedures for reporting the monitoring undertaken on an annual basis or other period as may be agreed.
  - f) Details of the any remedial measures to be undertaken in order to retain the functioning of the system and the pond, together with its outfall, in accordance with the details approved under Condition 14.
  - g) Evidence through the submission of Verification reports that any measures undertaken under (f) above have been completed and that they have achieved the appropriate outcome.

# **REASON**

To ensure that the maintenance of sustainable drainage structures so as to reduce the risk of flooding.

23. No phase of the development hereby permitted shall be occupied for business purposes until the roads serving that phase, including footways, 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 these purposes at all times thereafter.

### **REASON**

In the interests of highway safety

## **Other Conditions**

24. No works involving the disturbance of any surfacing of public footpath 200/T24/1 or proposals to resurface it shall commence until details of such works are first submitted to and approved in writing by the Local Planning Authority. Only the approved works shall then be implemented on site.

#### REASON

In the interests of maintaining unobstructed public access

25. Any contamination that is found during the course of construction within any phase of the development hereby approved, that was not previously identified shall be reported immediately to the Local Planning Authority. Development within that phase shall be suspended and a risk assessment carried out and submitted to the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to the Local Planning Authority. Work shall then only resume or continue on the development in that phase, in accordance with the schemes that have been approved in writing by the Local Planning Authority.

### **REASON**

In the interests of reducing the risk of future pollution.

# Informatives:

- 1. The Local Planning Authority has met the requirements of the NPPF in the issue of a positive decision following full engagement with the applicant on a number of technical matters together with securing amendments and planning conditions so as to mitigate potentially adverse impacts.
- 2. In respect of Condition 9 above the term ""specific sound"" relates to the sound source being assessed. For the avoidance of doubt, the ""specific sound source relating to this condition is from any individual unit within the proposed development including all sources of external and internal plant and equipment. The Laeq values represent the ""specific sound level"". For the purposes of this planning condition, the ""specific sound level"" LAeq Tr is the equivalent continuous A-weighted sound pressure level produced by the specific sound source at the assessment location over a given reference time interval i.e. Tr = I hr for daytime and Tr = 15 minutes for night-time.

- 3. Attention is drawn to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Local Planning Authority will pay particular attention to the potential impact of any proposed advertisement, particularly if illuminated, on the northern facing elevations of any building to be erected in any of the three Zones identified on the Parameters Plan. This is in order to protect the amenities of nearby residential property.
- 4. Attention is drawn to the Borough Council's Air Quality Planning Supplementary Planning Document and the applications for reserved matters should evidence how their proposals have addressed the matters raised therein.



### **General Development Applications**

(5/a) Application No: PAP/2025/0091

Land between Rush Lane, and Tamworth Road, Cliff, Kingsbury,

Application to remove conditions 25 (8no. HGV movements between 2300 and 0700) and 26 (non-audible HGV warnings between 2300 and 0700) of Planning Application PAP/2023/0188 dated 4/10/2024, for

# Summix RLT Developments Ltd

#### 1. Introduction

- 1.1 Planning permission was granted for this development of up to 22,000sqm of flexible uses within Use Classes E (g)(ii), E(g)(iii), B2 and B8 on land north of Rush Lane and east of the A51, in October last year. The current application seeks to remove two of the conditions attached to that permission. In light of the Board's previous involvement, the matter is brought to the Board.
- 1.2 The report outlines the background to the permission and describes the proposed changes. It is a report for information only, as a determination report will be brought to the Board following a period of consultation.

### 2. Background

- 2.1 The site is around 8 hectares in area and located between the Tamworth Road (the A51) to the west and Rush Lane to the east. To the north is an established residential area in Dosthill generally referred to as "Ascot Drive". There are established general industrial premises beyond the southern boundary (the Hunnebeck premises). There are other industrial premises on the other side of Rush Lane and further to the east are the Birmingham to Derby railway line and the Kingsbury Brickworks.
  - 2.2The site is illustrated at Appendix A.
- 2.3 The site has remained unused since mineral extraction and subsequent landfill ended in the 1990's. The site is now overgrown.
- Outline planning permission was originally granted in 1997 for the industrial use of the land, and this was renewed several times. Details were approved in 2008 and in 2010. The recent 2024 permission is the last consent for the site and thus represents the lawful use of the site. The 2010 permission included the construction of the access junction onto the A51 together with the embankments for the spur road extending eastwards. These works are in place and thus the 2010 permission is extant.

### 3. The 2024 Planning Permission

- 3.1 The recent 2024 outline permission approved a "parameters plan" setting out the framework for the industrial development of the site using the spur road for access onto the A51 via the existing on-site arrangements. This Plan is at Appendix B.
- 3.3 The 2024 Notice is at Appendix C.
- 3.4 Attention is drawn to Conditions 25 and 26 which are highlighted below. These are the conditions the subject of the current application.
  - a) Condition 25

"No more than 8 HGV movements arising from HGV's visiting the site shall occur in each hourly period between 2300 and 0700 hours"

Reason: In the interests of avoiding disturbance due to noise.

- b) Condition 26
- "No audible vehicular reversing or warning alarms fitted to any vehicle shall be operated between 2300 hours and 0700 hours. The use of alternative non-audible warning systems is recommended in this development"

Reason: In the interests of avoiding disturbance due to noise.

### 4. The Proposal

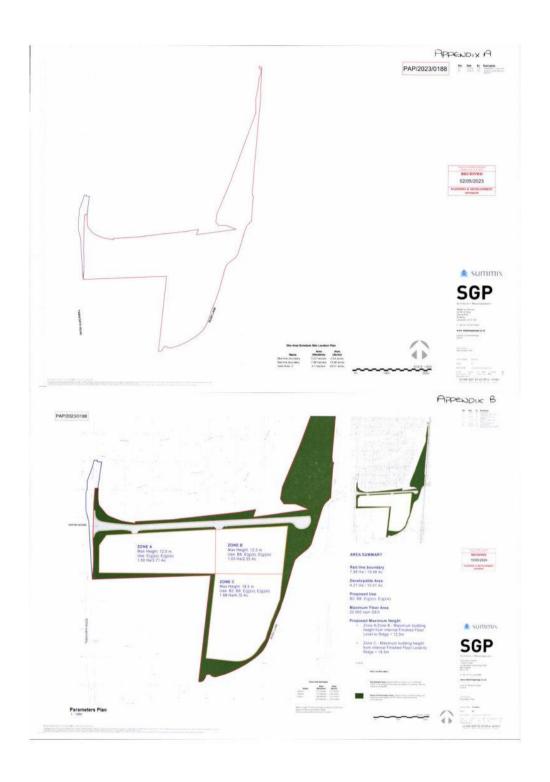
4.1 The applicant has provided a full explanation of the reasons for the proposed removal of these two conditions. This is copied in full at Appendix D.

#### 5. Observations

5.1 A determination report will be brought to the Board in due course and after the consultation period has expired. Members are advised that the Board's remit at that time is only to consider the proposed removal of the two conditions. It is not to revisit the grant of planning permission, or any other planning condition. As such, the response of the Environmental Health Officer will be material to the recommendation that is to be made to the Board.

#### Recommendation

That the receipt of the application be noted at the present time.



5a/3



Mr Henry Courtier Pegasus Group 21 Ganton Street London W1F 9BN

#### Jeff Brown BA Dip TP MRTPI **Head of Development Control Service**

The Council House South Street Atherstone Warwickshire CV9 1DE

Telephone: Fax:

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E Mail: Website: PlanningControl@NorthWarks.gov.uk

www.northwarks.gov.uk

Date:

4 October 2024

The Town & Country Planning Acts
The Town and Country Planning (Listed Buildings and
Conservation Areas) Act 1990
The Town & Country Planning (General Development)
Orders The Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended)

# **DECISION NOTICE**

Major Outline Application

Application Ref: PAP/2023/0188

Grid Ref:

Easting 421654.78 Northing 299420.3

Site Address Land At, Tamworth Road, Dosthill,

**Description of Development** 

Outline planning application with full details of access (with matters reserved for landscape, scale, layout and appearance) for development comprising up to 22,000sqm (GEA) for flexible Use Class E(g)(ii), Eg(iii), B2 and/or B8 with associated car parking and works (Cross boundary application Tamworth BC reference 0163/2023)

Applicant Summix RLT Developments Ltd

Your planning application was valid on 31 May 2023. It has now been considered by the Council. I can inform you that:

Planning permission is GRANTED subject to the following conditions:

Details of the appearance, landscaping, layout and scale (hereinafter called the "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.

### REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

Authorised	Officer:	

Date:

4 October 2024

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If the development hereby permitted is to be constructed in more than one phase, details of If the development nereby 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. The Phasing Plan shall include details of the separate and severable phases, or sub-phases of the development. 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.

#### REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

The first 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. All applications for approval of reserved matters shall be made to the Local Planning Authority not later than five years from the date of this permission.

#### REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions

The development hereby permitted shall be begun not later than three years from the date of approval of the last of the reserved matters to be approved

#### REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

#### **Defining Conditions**

- The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents: 5.
  - The Site Location Plan 23008/SGP/ZZ/ZZ/DR/A/131000 P2 received on 2/5/23. The Parameters Plan 23008/SGP/ZZ/ZZ/DR/A/001001 P7 received on 16/5/24. The Green Infrastructure Plan P23/0345/EN/0007/D/GI received on 16/5/24.

  - d)
  - Existing Site Access 70102401/SK/002 Rev A received on 20/2/24.

    Existing site access swept path analysis 16.5m artic 701102401/ATR/001Rev B received on 20/2/24.
  - The Framework Travel Plan prepared by WSP (JULY 2024) received on 26/7/24 referenced 70102401/001.

#### REASON

In order to define the extent and scope of the permission.

Authorise	ed Officer:		
Date:	4 October 2024		
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#### PAP/2023/0188

The development hereby permitted shall provide for no more than a maximum figure of 22,000 square metres of floorspace (GEA) for uses within Use Classes Eg (ii), Eg (iii), B2 and B8 of the Town and Country Planning (Use Classes) Order 2020 (as amended).

In order to define the scope and extent of the planning permission.

The uses approved under Condition 6 above shall be located on the site, as set out in the 7 Parameters Plan approved under Condition 5 above.

#### REASON

In order to define the scope and extent of the planning permission and in the interests of the amenities of the area.

The proposed layout in the reserved matters applications shall be designed in general accordance with the Parameters Plan approved under condition 5. The reserved matters applications shall contain full details of the finished floor levels of all proposed buildings, above ordnance datum, in relation to existing ground levels. In particular, the layout for Zones A and B as defined by the Parameters Plan shall avoid service/loading and unloading areas being located along the northern edge of each of these two Zones.

#### REASON

In order to define the implementation of the permission so as to reduce the risk of adverse noise impacts.

- The specific sound from any individual unit arising from internal or external uses, including operational sources of an industrial/commercial nature within the development, the 9. operation of fixed plant, machinery, plant and mobile plant including deliveries, heating, air handing and/or ventilation equipment shall not exceed the levels outlined below:
  - i) 40dBLAeq, thr at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 1.5 metres above ground level at I metre from the facade containing a habitable room with an opening above ground level at 1 metre from the facade containing a habitable from with an apening window, between 0700 and 2300 on any day. The measurements and/predictions should demonstrate the noise limits for daytime are within gardens of the nearest affected noise sensitive receptors at 1.5m above the adjacent ground level as a free field" level as defined by BS 7445:2003 ""Description and measurement of environmental noise (parts 1 to 3)"" for

an area of not less than 75% of any dwelling's garden.
ii) 35dBLAeq15min at any residential property on Ascot Drive, Haydock Lane or Epsom iii) 350BLAeq15min at any residential property of Ascot Drive, haydook baffe be besting the specific sound level shall be measured or predicted at a height of 4.5 metres above ground level at I metre from the facade containing a habitable room with an opening window of any residential dwelling between 2300 and 0700 on any day.

Where the residential dwelling is a bungalow, all measurement heights for day and

night time are 1.5 metres above ground level.

### REASON

In order to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.

Authorise	ed Officer:			
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10. Within six months of the occupation of any of the new industrial/commercial units within the development hereby permitted, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/ commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9.

If the specific sound level from these sources exceeds the limits set out in condition 9, additional mitigation measures are to be recommended and included in that submission. Any such measures that are approved in writing by the Local Planning Authority, shall then be installed or introduced to the written satisfaction of the Local Planning Authority. These measures shall be permanently retained and maintained in proper working order for the duration of the operational life of the development.

#### REASON

In order to demonstrate compliance with condition 9 and so to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy I 299

 All access arrangements into, through and out of the site together with all off-site highway alterations shall be carried out in accordance with the plans approved under Condition 5.

#### REASON

In order to define the scope and extent of the planning permission.

12. There shall be no gate, barrier or other structure constructed or placed across the access into the development area from the spur road running east from the junction with the A51, thus allowing unobstructed vehicular access at all times,

#### REASON

In order to reduce the potential for noise pollution arising from parked vehicles not being allowed to enter the site and to reduce the potential for on-street vehicular parking.

13. There shall be no on-street parking of any vehicle whatsoever on any part along both sides of and the whole of the spur road running east from the junction with the A51.

#### REASON

In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.

 The layout in the reserved matters applications shall include HGV parking spaces at a minimum of 1 HGV space per 375 square metres of B8 floor space.

#### REASON:

In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.

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#### **Pre-commencement Conditions**

- No development shall take place, including any works of demolition or site clearance, until a Construction Environmental Management Plan (CEMP) has first been submitted to and approved in writing by the Local Planning Authority for the whole of the development hereby approved. The Plan shall provide information for:
  - The parking of vehicles for site operatives and visitors.
  - b) The routing for vehicles accessing the site associated with the construction of the development and signage to identify the route.

    c) The manoeuvring of vehicles within the site.
  - d) Loading and unloading of plant and materials used in the construction of the development, including top-soil.

    e) The location of the site compounds.

  - Storage of plant and materials.

    The erection and maintenance of security hoarding fencing.
  - g) h) Wheel washing facilities.
  - Measures to control the emission of dust and dirt during construction.

    Measures to control and mitigate disturbance from noise.
  - j) k)
  - A scheme for the recycling/disposal of waste resulting from the construction works.

  - Any on-site lighting as required during construction.

    Measures to protect existing trees and hedgerows proposed for retention.

    Delivery, demolition and construction working hours. m)
  - n)
  - o) The means by which the terms of the CEMP will be monitored including details of the procedure for reporting and resolving complaints as well as the details of the person or persons to contact in such circumstances.

The approved CEMP shall be adhered to at all times throughout the construction period of each phase of the development as approved under Condition 2.

In the interests of reducing potential harm to residential amenity and in the interests of highway safety.

- No development shall take place including any works of demolition or site clearance, until a Landscape and Ecological Management Plan (""LEMP"") for the whole site, including the 16. Landscape and Ecological Management Flant (LEMF) for the whole site, indicating the triangular area of land that lies between the railway line to the east, the residential properties to the west and the development area to the south, has first been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be in general accordance with the approved Parameters Plan approved under condition 5. The LEMP shall include:

  - a description and evaluation of the features to be managed; ecological trends and constraints on site that might influence management, the aims, objectives and targets for the management,
  - c)
  - descriptions of the management operations for achieving the aims and objectives,

  - prescriptions for management actions, Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period),
    g) Details of the monitoring needed to measure the effectiveness of management,
    h) Details of each element of the monitoring programme,

  - Details of the persons or organisations(s) responsible for implementation and monitoring,

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- Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve the required aims, objectives ad targets,
- Reporting procedures for each year 1, 2, 5, 10, 20 and 30 with bio-diversity net gain
- reconciliation calculated at each stage,

  1) The legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its
- delivery,
  m) How contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above shows that the conservation aims and objectives set out in (c) above are not being met so that the development still delivers the full functioning bio-diversity objectives of the originally approved scheme.

The details in that Plan shall then be implemented on each phase of the development of the site and it shall be adhered to at all times during the lifetime of the development.

#### REASON

In the interests of enhancing and protecting bio-diversity.

- No development shall commence on site including any works of demolition or site clearance, until a detailed surface water drainage scheme for the whole site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a) Evidence to show that the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm is limited to the Qbar greenfield run off rate of 4.32 l/s/ha for the site in line with the Outline Flood Risk Assessment and SUDS Strategy prepared by HWA (v3) dated August 2023.
  - A detailed assessment demonstrating the on-site water courses suitability as a receptor for surface water run-off from the development. This assessment shall include

A condition survey of the watercourse and evidence of any remedial measures identified as

necessary; A review of flood risk impacts from the watercourse demonstrating consideration for downstream receptors off site in the context of the proposals,

Evidence demonstrating that all development and surface water infrastructure is outside the anticipated fluvial flood extent.

- c) Drawings/plans illustrating the proposed sustainable surface water drainage scheme. The Outline Flood Risk Assessment and SUDS Strategy prepared by HWA (v3) dated August 2023 may be treated as a minimum and further source control SUDS should be considered during the detailed design stages as part of a ""SUDS management train"" approach to provide additional benefits and resilience within the design.
- d) Detailed drawings including cross sections, of proposed features such as infiltration structures, attenuation features and outfall structures. These should be feature-specific demonstrating that such surface water drainage systems are designed in accordance with the SUDS Manual CIRIA Report C753 and cross sections should demonstrate that all SUDS features will be accessible for maintenance whilst also providing an adequate easement from the on-site watercourse.

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- e) Provision of detailed network level calculations demonstrating the performance of the proposed system to include:
- i) suitable representation of the proposed drainage scheme, details of design criteria used (including consideration of a surcharged outfall) with justification of such criteria,
- ii) simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events,together with results demonstrating the performance of the drainage scheme including attenuation storage, potential flood volumes and network status for each return period, and evidence to allow suitable cross- checking of calculations and the proposals.
- f) The provision of plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. This overland flow routing should:
- i) demonstrate how run-off will be directed through the development without exposing properties to flood risk;
- properties to nood risk;
  ii) consider property finished floor levels and thresholds in relating to exceedance flows, and
  iii) recognition that exceedance can occur due to a number of factors such that exceedance
  management should not rely on calculations demonstrating no flooding.

Only the scheme that has been approved in writing shall then be implemented in full on site.

#### REASON

To reduce the risk of increased flooding and to improve and protect water supply.

18. No phase of the development hereby permitted shall commence until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire-fighting purposes relevant to each phase, has first been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be implemented within the relevant phase.

#### REASON

In the interests of public safety.

19. No development within any phase of the development hereby approved shall take place until details of all external lighting specifications for that phase have been submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by an Impact Assessment in order to show that there are no adverse impacts arising from any proposed light source or from the glow of light arising from each phase. The Assessment shall also include an analysis of the cumulative impact of lighting arising from the whole site. In particular the details shall avoid external lighting being installed on the northern-most elevations of the buildings to be erected in Zones A and B as defined by the Parameters Plan approved under Condition 5 above. The lighting shall be installed, operated and maintained at all times in accordance with the approved details.

#### REASON

**Authorised Officer:** 

In the interests of reducing the risk of adverse harm to the residential amenity of the local community.

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#### **Pre-Occupation Conditions**

- There shall be no occupation of any building hereby approved for business purposes within any phase of the development, until a Drainage Verification Report for the installed surface water drainage system as approved under Condition 17 within that phase, has been submitted to and approved in writing by the Local Planning Authority. It should include:
  - Demonstration that any departures from the approved design are in keeping with the approved principles.
  - As built photographs and drawings
  - c) The results of any performance testing undertaken as part of the application process,
  - Copies of all statutory approvals such as Land Drainage Consent for Discharge, Confirmation that the system is free from defects, damage and foreign objects. d)

The report should be prepared by a suitably qualified independent drainage engineer.

#### REASON

To ensure that the development is implemented as approved and thereby reducing the risk

- There shall be no occupation of any building hereby approved for business purposes within any phase of the development until a site-specific maintenance plan for the approved surface water drainage system including the pond as identified on the Green Infrastructure Plan approved under Condition 5, has first been submitted to and approved in writing by the Local Planning Authority. It shall include:
  - The name of the party responsible, including contact names, address, email address
  - and phone numbers.
    b) Plans showing the locations of features requiring maintenance and how these should be accessed and assessed.
  - Details of how each feature is to be maintained and managed throughout the lifetime of the development,
  - Provide details of how site vegetation will be maintained for the lifetime of the development.
    e) The procedures for reporting the monitoring undertaken on an annual basis or other
  - period as may be agreed.
  - f) Details of the any remedial measures to be undertaken in order to retain the functioning of the system and the pond, together with its outfall, in accordance with the details approved under Condition 14.
  - g) Evidence through the submission of Verification reports that any measures undertaken under (f) above have been completed and that they have achieved the appropriate outcome.

#### REASON

To ensure that the maintenance of sustainable drainage structures so as to reduce the risk of flooding.

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22. No phase of the development hereby permitted shall be occupied for business purposes until the roads serving that phase, including footways, 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 these purposes at all times thereafter.

#### REASON

In the interests of highway safety

#### Other Conditions

23. No works involving the disturbance of any surfacing of public footpath 200/T24/1 or proposals to resurface it shall commence until details of such works are first submitted to and approved in writing by the Local Planning Authority. Only the approved works shall then be implemented on site.

#### REASON

In the interests of maintaining unobstructed public access

24. Any contamination that is found during the course of construction within any phase of the development hereby approved, that was not previously identified shall be reported immediately to the Local Planning Authority. Development within that phase shall be suspended and a risk assessment carried out and submitted to the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to the Local Planning Authority. Work shall then only resume or continue on the development in that phase, in accordance with the schemes that have been approved in writing by the Local Planning Authority.

#### REASON

In the interests of reducing the risk of future pollution.

 No more than 8 HGV movements arising from HGV's visiting the site shall occur in each hourly period between 2300 and 0700 hours.

#### REASON

In the interests of avoiding disturbance due to noise.

26. No audible vehicular reversing or warning alarms fitted toi any vehicle shall be operated between 2300 hours and 0700 hours. The use of alternative non-audible warning systems is recommended in this development.

#### REASON

In the interests of avoiding disturbancre due to noise.

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#### INFORMATIVES

- The Local Planning Authority has met the requirements of the NPPF in the issue of a positive decision following full engagement with the applicant on a number of technical matters together with securing amendments and planning conditions so as to mitigate potentially adverse impacts.
- In respect of Condition 9 above the term ""specific sound" relates to the sound source being assessed. For the avoidance of doubt, the ""specific sound£ source relating to this condition is from any individual unit within the proposed development including all sources of external and internal plant and equipment. The Laeq values represent the ""specific sound level"". For the purposes of this planning condition, the ""specific sound level"" LAeq Tr is the equivalent continuous A-weighted sound pressure level produced by the specific sound source at the assessment location over a given reference time interval i.e. Tr = I hr for daytime and Tr = 15 minutes for night-time.
- Attention is drawn to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Local Planning Authority will pay particular attention to the potential impact of any proposed advertisement, particularly if illuminated, on the northern facing elevations of any building to be erected in any of the three Zones identified on the Parameters Plan. This is in order to protect the amenities of nearby residential property.
- Attention is drawn to the Borough Council's Air Quality Planning Supplementary Planning Document and the applications for reserved matters should evidence how their proposals have addressed the

#### APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, you can appeal to the Department for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision, then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, or online at www.planninginspectorate.gov.uk and www.planningportal.gov.uk/pcs.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. The Secretary of State does not refuse to consider appeals solely because the Local Planning
- Authority based their decision on a direction given by him.

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#### **PURCHASE NOTICES**

- If either the Local Planning Authority or the Department for Communities and Local Government grants permission to develop land subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

#### NOTES

- This decision is for the purposes of the Town and Country Planning Act only. It is not a decision under Building Regulations or any other statutory provision. Separate applications may be required.
- 2. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <a href="http://www.northwarks.gov.uk/planning">http://www.northwarks.gov.uk/planning</a>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <a href="http://www.northwarks.gov.uk/contact">http://www.northwarks.gov.uk/contact</a>).
- Plans and information accompanying this decision notice can be viewed online at our website http://www.northwarks.gov.uk/planning
   Please refer to the conditions on this decision notice for details of those plans and information approved.

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PAP/2025/0091



HC/ET/P23-2307

RECEIVED
03/03/2025

26 February 2025

North Warwickshire Borough Council Planning Control The Council House South Street Atherstone Warwickshire CV9 1DE

Dear Sir/Madam,

Town and Country Planning Act 1990 (as amended) – Section 73
Application for Removal of Conditions Following Grant of Planning Permission ref. PAP/2023/0188
Land at Tamworth Road, Dosthill, B77 1QL
Planning Portal Ref. PP-13803844

On behalf of our client, Summix RLT Developments Ltd (the 'Applicant'), please find enclosed an application for the removal of Conditions 25 and 26 following the grant of outline planning permission ref. PAP/2023/0188 relating to Land at Tamworth Road, Dosthill, B77 1QL (the 'Application Site'). This application is submitted under Section 73 (S73) of the Town and Country Planning Act 1990 (as amended) (hereafter referred to as 'the Act') and it seeks:

"Removal of Conditions 25 and 26 of planning permission ref. PAP/2023/0188."

Conditions 25 and 26 relate to noise control measures, and as outlined in this letter, their removal is justified primarily on the basis that remaining conditions attached to the outline permission sufficiently control noise, thereby negating the need for their inclusion.

We are aware that an application granted under S73 of the Act is a re-granting of a previous planning permission. In the case of planning permission ref. PAP/2023/0188, the associated Section 106 Agreement (S106) at Clause 9.4 explicitly states that the obligations of the Agreement remain in effect in the event of any subsequent applications made under S73 of the Act. As such, it is not envisaged that a Section 106 Deed of Variation is necessary as part of this S73.

Outline planning permission ref. PAP/2023/0188 comprised land within both North Warwickshire Borough Council (NWBC) and Tamworth Borough Council (TBC), as such a separate approval for the development was issued by TBC under application ref. 0163/2023 on 8 August 2024. The TBC Decision Notice does not include the conditions that this S73 application is seeking to remove and therefore is not applicable.

Application Documents

In addition to this Covering Letter, the following documentation has been submitted via the Planning Portal (ref. PP-13803844) to support this application:

- Planning Application Form, including relevant Ownership Certificate;
- Site Location Plan (drawing no. 23-008-SGP-ZZ- ZZ-DR-A- 131000, rev. P2), prepared by SGP; and

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· Noise Assessment Note, prepared by In Acoustic.

The application fee of £293 (excluding £70 Planning Portal administration fee) will be paid under separate cover.

Development and Planning Permission Context

The development site measures 7.88ha and is located between Tamworth Road (A51) to the west and Rush Lane to the east. To the north lies the existing residential area of Dosthill and there is an existing industrial site beyond the southern boundary, known as 'the Hunnebeck premises' as well as a builder's merchants and open storage yard. A small part of the site along the northeastern edge is bound by the Birmingham to Derby Railway line and Kingsbury Brickworks. The site is approximately 1.7km southwest of Tamworth Town Centre.

The location of the application site within the surrounding area is identified in Figure 1 below.



Figure 1: Approved Site Location Plan (drawing no. 23-008-SGP-ZZ- ZZ-DR-A- 131000, rev. P2)

The site has remained unused since mineral extraction and landfill ceased to operate and has been vacant since these activities ended in the 1990s. The site is now overgrown with shrubs and vegetation.

It is important to note that outline planning permission was originally granted at the site in 1997 (ref. OAP/1994/0232) for the industrial use of the land, with a subsequent reserved matters application

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approved in 2008 (ref. PAP/2008/0088) to secure the access, siting, design, external appearance and landscaping details. This permission was extended under PAP/2010/0292. NWBC have confirmed the position that the permission remains extant as a result of the construction of the junction onto the A51, together with the embankments for the spur road extending eastwards.

#### Application Proposals

Outline planning permission ref. ref PAP/2023/0188 was granted on site on 4th October 2024 for the following development, which is subject of this S73 application.

"Outline planning application with full details of access (with matters reserved for landscape, scale, layout and appearance) for development comprising up to 22,000sqm (GEA) for flexible Use Class E(g)(ii), Eg(iii), B2 and/or B8 with associated car parking and works (Cross boundary application Tamworth BC reference 0163/2023)."

The purpose of this Section 73 application is to seek the removal of Conditions 25 and 26 from operative planning permission ref. PAP/2023/0188. These conditions, which relate to noise control measures, are not considered necessary due to the inclusion of further conditions within the permission that already secure the required noise mitigation. For reference, the wording of the conditions that this application seeks to remove are extracted from the Decision Notice below.

#### Condition 25

'No more than 8 HGV movements arising from HGV's visiting the site shall occur in each hourly period between 2300 and 0700 hours.

Reason: In the interests of avoiding disturbance due to noise.'

#### Condition 26

'No audible vehicular reversing or warning alarms fitted to any vehicle shall be operated between 2300 hours and 0700 hours. The use of alternative non-audible warning systems is recommended in this development.

Reason: In the interests of avoiding disturbance due to noise.'

The below justification for removal of these conditions should be read alongside the Technical Note prepared by InAcoustic (dated 20<sup>th</sup> February 2025).

#### **Conditions Test**

In accordance with relevant legislation and national policy, planning conditions should only be imposed where they meet the six tests set out in Paragraph 57 of the National Planning Policy Framework (NPPF) (2024) which states, 'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other aspects.' Furthermore, Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (TCPO) requires local planning authorities to provide clear justification for any conditions imposed.

As per paragraph 57 of the NPPF, the six tests that are required of planning conditions are as follows:

- Test 1 Necessary;
- Test 2 Relevant to planning:
- Test 3 Relevant to the development permitted;

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- Test 4 Enforceable;
- Test 5 Precise: and
- Test 6 Reasonable in all other respects.

This S73 application seeks the removal of Conditions 25 and 26 on the basis that they are not necessary, given that the remaining conditions within the permission already secure the required noise mitigation measures. The removal of these conditions aligns with national policy guidance, which seeks to ensure that conditions are kept to a minimum and do not unnecessarily duplicate other conditions.

#### Background and Context

During the determination period of the outline planning application PAP/2023/0188, Condition 25 and 26 were voluntarily offered by the Applicant prior to Planning Committee in an attempt to appease concerns raised by local residents. The wording of both conditions was taken from conditions attached to planning permission PAP/2010/0292 (Condition 19 and 20). The inclusion of these conditions was not discussed with the Council's Environmental Health Officer and purely offered on the basis of trying to appease the concerns of local residents. Despite these efforts, local residents continued to object to the proposals at Planning Committee.

#### Noise Impact Assessment Considerations

Condition 25 relates to trip generation levels that are lower than those modelled in the Noise Assessment Report (10th August 2023), which was submitted and approved under the operational outline permission. According to the trip generation profile outlined in Paragraph 6.1.2 of the report, the predicted change in ambient sound levels at the closest receptors is 0 dB during each corresponding time period. This calculation accounts for the following:

- Residual sound levels:
- Intervening topography; and
- Screening provided by the existing embankment and boundary structures.

It has therefore been demonstrated that even with increased road traffic on the access road, there would be no change in ambient sound levels experienced by the closest residential receptors, and consequently, no quantifiable noise level impact. This is further discussed within the Noise Assessment Note, prepared by In Acoustic, submitted to support this S73 application.

# Noise Related Planning Conditions Imposed

The noise impacts of the proposed development upon nearby residential receptors (particularly those of Ascot Drive) were given significant consideration in the determination of Outline application PAP/2023/0188. A number of planning conditions were sought by the Council's Environmental Health Officer and agreed with the Applicant to mitigate the proposed development and ensure an acceptable noise environment for the nearest residential properties. This includes the following conditions:

### Condition 8 (Parameters Plan):

'The proposed layout in the reserved matters applications shall be designed in general accordance with the Parameters Plan approved under condition 5. The reserved matters applications shall contain full details of the finished floor levels of all proposed buildings, above ordnance datum, in relation to existing ground levels. In particular, the layout for

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Zones A and B as defined by the Parameters Plan shall avoid service/loading and unloading areas being located along the northern edge of each of these two Zones.

Reason: In order to define the implementation of the permission so as to reduce the risk of adverse noise impacts.'

### Condition 9 (Sound Levels):

The specific sound from any individual unit arising from internal or external uses, including operational sources of an industrial/commercial nature within the development, the operation of fixed plant, machinery, plant and mobile plant including deliveries, heating, air handing and/or ventilation equipment shall not exceed the levels outlined below:

- i. 40dBLAeq,Ihr at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 1.5 metres above ground level at I metre from the facade containing a habitable room with an opening window, between 0700 and 2300 on any day. The measurements and/predictions should demonstrate the noise limits for daytime are within gardens of the nearest affected noise sensitive receptors at 1.5m above the adjacent ground level as a free field" level as defined by BS 7445:2003 ""Description and measurement of environmental noise (parts 1 to 3)"" for an area of not less than 75% of any dwelling's garden.
- ii. 35dBLAeq15min at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 4.5 metres above ground level at I metre from the facade containing a habitable room with an opening window of any residential dwelling between 2300 and 0700 on any day.
- Where the residential dwelling is a bungalow, all measurement heights for day and night time are 1.5 metres above ground level.

Reason: In order to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.'

### Condition 10 (Noise Compliance Monitoring):

'Within six months of the occupation of any of the new industrial/commercial units within the development hereby permitted, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/ commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9.

If the specific sound level from these sources exceeds the limits set out in condition 9, additional mitigation measures are to be recommended and included in that submission. Any such measures that are approved in writing by the Local Planning Authority, shall then be installed or introduced to the written satisfaction of the Local Planning Authority. These measures shall be permanently retained and maintained in proper working order for the duration of the operational life of the development.

Reason: In order to demonstrate compliance with condition 9 and so to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.

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#### Condition 12 (Vehicular Access):

'There shall be no gate, barrier or other structure constructed or placed across the access into the development area from the spur road running east from the junction with the A51, thus allowing unobstructed vehicular access at all times.

<u>Reason</u>: In order to reduce the potential for noise pollution arising from parked vehicles not being allowed to enter the site and to reduce the potential for on-street vehicular parking.'

### Condition 13 (On-Street Parking):

There shall be no on-street parking of any vehicle whatsoever on any part along both sides of and the whole of the spur road running east from the junction with the A51. Reason: In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.'

The removal of Conditions 25 and 26 is justified on the basis that the abovementioned existing conditions listed on the Decision Notice already regulate, manage and mitigate noise impacts. To summarise, Condition 9 (Sound Levels) was recommended by the Environmental Health Officer and explicitly limits the rating noise level from within the site, which includes for peak anticipated HGV manoeuvres. Notwithstanding the number of HGV deliveries, their noise impact remains negligible within the already regulated development.

Conditions 8, 10, 12, and 13 were agreed as result of cooperative discussions between the Applicant and the Council and provide reasonable and enforceable noise control measures, that ensure appropriate environmental controls without requiring the additional restrictions imposed by Conditions 25 and 26.

In this instance, Conditions 25 and 26 fail the necessity test, as their objectives are already met through other conditions. Furthermore, Condition 26 lacks precision and enforceability as it merely recommends rather than enforces the use of alternative, non-audible warning systems (as discussed below). To avoid unnecessary duplication and to ensure the permission remains reasonable and enforceable, we respectfully request that Conditions 25 and 26 be removed through this S73 application.

### Health and Safety

Condition 26 seeks to prohibit the use of audible reverse alarms throughout the periods of 23:00-07:00. In addition to the above justification that the condition does not meet the 'conditions test' contained within national planning policy, the removal of Condition 26 is necessary to ensure the safety of operational staff during night-time hours. Audible vehicular reversing and warning alarms are a critical safety measure designed to prevent accidents, particularly in environments where there may be limited visibility and potential interaction between vehicles, built structures and pedestrians. Restricting their use between 23:00 and 07:00 hours could compromise safety by reducing awareness of vehicle movements, increasing the risk of accidents and injury.

Whilst Condition 26 recommends the use of alternative non-audible warning systems, which include flashing lights, these do not always provide sufficient warning. Health and Safety Executive (HSE) guidance (HSG136 (3rd edition), published 2014) emphasises the importance of effective warning signals in mitigating collision risks.

**Expertly Done.** 

SIGN [ECONOMICS [ENVIRONMENT] RESITAGE [LAND & PROPERTY ] PLANNING [TRANSPORT & INFRASTRUCTURE

in Section of the Property Program (Section PEGASUSGROUP.CO.UK



Furthermore, it is noted that other operational developments in proximity to the site are not subject to the same restriction. It would not be practical or reasonable to expect third-party operators or future occupiers of the development to disable their reversing alarms, as these are required for health and safety reasons.

Notwithstanding the above, Condition 26 <u>recommends</u> the use of alternative non-audible warning systems across the development. As per paragraph 57 of the NPPF, the implementation of planning conditions must be enforceable and precise, and the recommendation of alternative warning systems does not meet the condition test in this regard.

In light of the above, the removal of Condition 26 is justified to maintain a safe working environment and ensure consistency with operational standards applied to comparable sites in the area.

#### Conclusion

Section 73 of the Act allows for the re-granting of an original planning permission without complete compliance with conditions originally attached, meaning conditions can be varied or removed entirely. The National Planning Practice Guidance (Paragraph: 017 Reference ID: 013 Reference ID: 17a-013-20230726) states:

"There is no statutory limit on the degree of change permissible to conditions under \$73, but the change must only relate to conditions and not to the operative part of the permission."

It is considered that the proposed design amendments constitute a 'minor-material' amendment to the full permission, and hence the submission of this Section 73 application.

Critically, through the minor material amendment proposed to remove Conditions 25 and 26, the scheme will continue to deliver the necessary noise mitigation measures and environmental controls, ensuring that any potential impacts are adequately managed without the need for the unnecessary duplication of conditions.

I trust the above and enclosed provides you with sufficient information to validate this application and look forward to receiving confirmation of this in due course. If you require any additional information then please do not hesitate to contact me.

Yours faithfully,

Pegasus Group

Henry Courtier Director - Planning

Henry.Courtier@pegasusgroup.co.uk

**Expertly Done.** 

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Mr Henry Courtier Pegasus Group 21 Ganton Street London W1F 9BN

Jeff Brown BA Dip TP MRTPI **Head of Development Control Service** 

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PlanningControl@NorthWarks.gov.uk

Website:

www.northwarks.gov.uk

Date:

4 October 2024

The Town & Country Planning Acts
The Town and Country Planning (Listed Buildings and
Conservation Areas) Act 1990
The Town & Country Planning (General Development)

The Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended)

# **DECISION NOTICE**

Major Outline Application

Application Ref: PAP/2023/0188

Grid Ref:

Easting 421654.78 Northing 299420.3

Site Address

Land At, Tamworth Road, Dosthill,

**Description of Development** 

Outline planning application with full details of access (with matters reserved for landscape, scale, layout and appearance) for development comprising up to 22,000sqm (GEA) for flexible Use Class E(g)(ii), Eg(iii), B2 and/or B8 with associated car parking and works (Cross boundary application Tamworth BC reference 0163/2023)

### **Applicant**

Summix RLT Developments Ltd

Your planning application was valid on 31 May 2023. It has now been considered by the Council. I can inform you that:

Planning permission is **GRANTED** subject to the following conditions:

Details of the appearance, landscaping, layout and scale (hereinafter called the "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.

# REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

<b>Authorised Officer:</b>	

Date:

4 October 2024

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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. The Phasing Plan shall include details of the separate and severable phases, or sub-phases of the development. 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.

#### REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

3. The first 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. All applications for approval of reserved matters shall be made to the Local Planning Authority not later than five years from the date of this permission.

### REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

4. The development hereby permitted shall be begun not later than three years from the date of approval of the last of the reserved matters to be approved

### REASON

To comply with Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Act 2004, and to prevent an accumulation of unimplemented planning permissions.

# **Defining Conditions**

- 5. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents:
  - a) The Site Location Plan 23008/SGP/ZZ/ZZ/DR/A/131000 P2 received on 2/5/23.
  - b) The Parameters Plan 23008/SGP/ZZ/ZZ/DR/A/001001 P7 received on 16/5/24.
  - c) The Green Infrastructure Plan P23/0345/EN/0007/D/GI received on 16/5/24.
  - d) Existing Site Access 70102401/SK/002 Rev A received on 20/2/24.
  - e) Existing site access swept path analysis 16.5m artic 701102401/ATR/001Rev B received on 20/2/24.
  - f) The Framework Travel Plan prepared by WSP (JULY 2024) received on 26/7/24 referenced 70102401/001.

### REASON

In order to define the extent and scope of the permission.

Authorise	d Officer:	
Date:	4 October 2024	

 The development hereby permitted shall provide for no more than a maximum figure of 22,000 square metres of floorspace (GEA) for uses within Use Classes Eg (ii), Eg (iii), B2 and B8 of the Town and Country Planning (Use Classes) Order 2020 (as amended).

#### REASON

In order to define the scope and extent of the planning permission.

 The uses approved under Condition 6 above shall be located on the site, as set out in the Parameters Plan approved under Condition 5 above.

#### REASON

In order to define the scope and extent of the planning permission and in the interests of the amenities of the area.

8. The proposed layout in the reserved matters applications shall be designed in general accordance with the Parameters Plan approved under condition 5. The reserved matters applications shall contain full details of the finished floor levels of all proposed buildings, above ordnance datum, in relation to existing ground levels. In particular, the layout for Zones A and B as defined by the Parameters Plan shall avoid service/loading and unloading areas being located along the northern edge of each of these two Zones.

### REASON

In order to define the implementation of the permission so as to reduce the risk of adverse noise impacts.

- 9. The specific sound from any individual unit arising from internal or external uses, including operational sources of an industrial/commercial nature within the development, the operation of fixed plant, machinery, plant and mobile plant including deliveries, heating, air handing and/or ventilation equipment shall not exceed the levels outlined below:
  - i) 40dBLAeq,lhr at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 1.5 metres above ground level at I metre from the facade containing a habitable room with an opening window, between 0700 and 2300 on any day. The measurements and/predictions should demonstrate the noise limits for daytime are within gardens of the nearest affected noise sensitive receptors at 1.5m above the adjacent ground level as a free field"" level as defined by BS 7445:2003 ""Description and measurement of environmental noise (parts 1 to 3)"" for an area of not less than 75% of any dwelling's garden.
  - ii) 35dBLAeq15min at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 4.5 metres above ground level at I metre from the facade containing a habitable room with an opening window of any residential dwelling between 2300 and 0700 on any day.
  - iii) Where the residential dwelling is a bungalow, all measurement heights for day and night time are 1.5 metres above ground level.

### REASON

In order to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.

Authorise	ed Officer:	
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10. Within six months of the occupation of any of the new industrial/commercial units within the development hereby permitted, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/ commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9.

If the specific sound level from these sources exceeds the limits set out in condition 9, additional mitigation measures are to be recommended and included in that submission. Any such measures that are approved in writing by the Local Planning Authority, shall then be installed or introduced to the written satisfaction of the Local Planning Authority. These measures shall be permanently retained and maintained in proper working order for the duration of the operational life of the development.

#### REASON

In order to demonstrate compliance with condition 9 and so to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.

All access arrangements into, through and out of the site together with all off-site highway alterations shall be carried out in accordance with the plans approved under Condition 5.

#### REASON

In order to define the scope and extent of the planning permission.

12. There shall be no gate, barrier or other structure constructed or placed across the access into the development area from the spur road running east from the junction with the A51, thus allowing unobstructed vehicular access at all times.

### **REASON**

In order to reduce the potential for noise pollution arising from parked vehicles not being allowed to enter the site and to reduce the potential for on-street vehicular parking.

13. There shall be no on-street parking of any vehicle whatsoever on any part along both sides of and the whole of the spur road running east from the junction with the A51.

### REASON

In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.

14. The layout in the reserved matters applications shall include HGV parking spaces at a minimum of 1 HGV space per 375 square metres of B8 floor space.

### REASON:

In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.

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### **Pre-commencement Conditions**

- 15. No development shall take place, including any works of demolition or site clearance, until a Construction Environmental Management Plan (CEMP) has first been submitted to and approved in writing by the Local Planning Authority for the whole of the development hereby approved. The Plan shall provide information for:
  - a) The parking of vehicles for site operatives and visitors.
  - b) The routing for vehicles accessing the site associated with the construction of the development and signage to identify the route.
  - c) The manoeuvring of vehicles within the site.
  - d) Loading and unloading of plant and materials used in the construction of the development, including top-soil.
  - e) The location of the site compounds.
  - f) Storage of plant and materials.
  - g) The erection and maintenance of security hoarding fencing.
  - h) Wheel washing facilities.
  - i) Measures to control the emission of dust and dirt during construction.
  - j) Measures to control and mitigate disturbance from noise.
  - k) A scheme for the recycling/disposal of waste resulting from the construction works.
  - I) Any on-site lighting as required during construction.
  - m) Measures to protect existing trees and hedgerows proposed for retention.
  - n) Delivery, demolition and construction working hours.
  - o) The means by which the terms of the CEMP will be monitored including details of the procedure for reporting and resolving complaints as well as the details of the person or persons to contact in such circumstances.

The approved CEMP shall be adhered to at all times throughout the construction period of each phase of the development as approved under Condition 2.

#### REASON

In the interests of reducing potential harm to residential amenity and in the interests of highway safety.

- 16. No development shall take place including any works of demolition or site clearance, until a Landscape and Ecological Management Plan (""LEMP"") for the whole site, including the triangular area of land that lies between the railway line to the east, the residential properties to the west and the development area to the south, has first been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be in general accordance with the approved Parameters Plan approved under condition 5. The LEMP shall include:
  - a) a description and evaluation of the features to be managed;
  - b) ecological trends and constraints on site that might influence management,
  - c) the aims, objectives and targets for the management,
  - d) descriptions of the management operations for achieving the aims and objectives,
  - e) prescriptions for management actions,
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period),
  - g) Details of the monitoring needed to measure the effectiveness of management,
  - h) Details of each element of the monitoring programme,
  - i) Details of the persons or organisations(s) responsible for implementation and monitoring,

Authorise	ed Officer:		
Date:	4 October 2024		
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- j) Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve the required aims, objectives ad targets,
- k) Reporting procedures for each year 1, 2, 5, 10, 20 and 30 with bio-diversity net gain reconciliation calculated at each stage,
- I) The legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery,
- m) How contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above shows that the conservation aims and objectives set out in (c) above are not being met so that the development still delivers the full functioning bio-diversity objectives of the originally approved scheme.

The details in that Plan shall then be implemented on each phase of the development of the site and it shall be adhered to at all times during the lifetime of the development.

#### REASON

In the interests of enhancing and protecting bio-diversity.

- 17. No development shall commence on site including any works of demolition or site clearance, until a detailed surface water drainage scheme for the whole site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a) Evidence to show that the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm is limited to the Qbar greenfield run off rate of 4.32 l/s/ha for the site in line with the Outline Flood Risk Assessment and SUDS Strategy prepared by HWA (v3) dated August 2023.
  - b) A detailed assessment demonstrating the on-site water courses suitability as a receptor for surface water run-off from the development. This assessment shall include:

A condition survey of the watercourse and evidence of any remedial measures identified as necessary;

A review of flood risk impacts from the watercourse demonstrating consideration for downstream receptors off site in the context of the proposals.

Evidence demonstrating that all development and surface water infrastructure is outside the anticipated fluvial flood extent.

- c) Drawings/plans illustrating the proposed sustainable surface water drainage scheme. The Outline Flood Risk Assessment and SUDS Strategy prepared by HWA (v3) dated August 2023 may be treated as a minimum and further source control SUDS should be considered during the detailed design stages as part of a ""SUDS management train"" approach to provide additional benefits and resilience within the design.
- d) Detailed drawings including cross sections, of proposed features such as infiltration structures, attenuation features and outfall structures. These should be feature-specific demonstrating that such surface water drainage systems are designed in accordance with the SUDS Manual CIRIA Report C753 and cross sections should demonstrate that all SUDS features will be accessible for maintenance whilst also providing an adequate easement from the on-site watercourse.

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- e) Provision of detailed network level calculations demonstrating the performance of the proposed system to include:
- i) suitable representation of the proposed drainage scheme, details of design criteria used (including consideration of a surcharged outfall) with justification of such criteria,
- ii) simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events,together with results demonstrating the performance of the drainage scheme including attenuation storage, potential flood volumes and network status for each return period,

and evidence to allow suitable cross- checking of calculations and the proposals.

- f) The provision of plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. This overland flow routing should:
- i) demonstrate how run-off will be directed through the development without exposing properties to flood risk;
- ii) consider property finished floor levels and thresholds in relating to exceedance flows, and
- iii) recognition that exceedance can occur due to a number of factors such that exceedance management should not rely on calculations demonstrating no flooding.

Only the scheme that has been approved in writing shall then be implemented in full on site.

#### REASON

To reduce the risk of increased flooding and to improve and protect water supply.

18. No phase of the development hereby permitted shall commence until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire-fighting purposes relevant to each phase, has first been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be implemented within the relevant phase.

#### REASON

In the interests of public safety.

19. No development within any phase of the development hereby approved shall take place until details of all external lighting specifications for that phase have been submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by an Impact Assessment in order to show that there are no adverse impacts arising from any proposed light source or from the glow of light arising from each phase. The Assessment shall also include an analysis of the cumulative impact of lighting arising from the whole site. In particular the details shall avoid external lighting being installed on the northern-most elevations of the buildings to be erected in Zones A and B as defined by the Parameters Plan approved under Condition 5 above. The lighting shall be installed, operated and maintained at all times in accordance with the approved details.

### REASON

In the interests of reducing the risk of adverse harm to the residential amenity of the local community.

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Date:	4 October 2024	
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### **Pre-Occupation Conditions**

- 20. There shall be no occupation of any building hereby approved for business purposes within any phase of the development, until a Drainage Verification Report for the installed surface water drainage system as approved under Condition 17 within that phase, has been submitted to and approved in writing by the Local Planning Authority. It should include:
  - Demonstration that any departures from the approved design are in keeping with the approved principles.
  - b) As built photographs and drawings
  - c) The results of any performance testing undertaken as part of the application process,
  - d) Copies of all statutory approvals such as Land Drainage Consent for Discharge,
  - e) Confirmation that the system is free from defects, damage and foreign objects.

The report should be prepared by a suitably qualified independent drainage engineer.

#### REASON

To ensure that the development is implemented as approved and thereby reducing the risk of flooding

- 21. There shall be no occupation of any building hereby approved for business purposes within any phase of the development until a site-specific maintenance plan for the approved surface water drainage system including the pond as identified on the Green Infrastructure Plan approved under Condition 5, has first been submitted to and approved in writing by the Local Planning Authority. It shall include:
  - a) The name of the party responsible, including contact names, address, email address and phone numbers.
  - b) Plans showing the locations of features requiring maintenance and how these should be accessed and assessed.
  - Details of how each feature is to be maintained and managed throughout the lifetime of the development,
  - d) Provide details of how site vegetation will be maintained for the lifetime of the development.
  - e) The procedures for reporting the monitoring undertaken on an annual basis or other period as may be agreed.
  - f) Details of the any remedial measures to be undertaken in order to retain the functioning of the system and the pond, together with its outfall, in accordance with the details approved under Condition 14.
  - g) Evidence through the submission of Verification reports that any measures undertaken under (f) above have been completed and that they have achieved the appropriate outcome.

# REASON

To ensure that the maintenance of sustainable drainage structures so as to reduce the risk of flooding.

Authorise	ed Officer:	
Date:	4 October 2024	
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22. No phase of the development hereby permitted shall be occupied for business purposes until the roads serving that phase, including footways, 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 these purposes at all times thereafter.

### REASON

In the interests of highway safety

#### **Other Conditions**

23. No works involving the disturbance of any surfacing of public footpath 200/T24/1 or proposals to resurface it shall commence until details of such works are first submitted to and approved in writing by the Local Planning Authority. Only the approved works shall then be implemented on site.

### REASON

In the interests of maintaining unobstructed public access

24. Any contamination that is found during the course of construction within any phase of the development hereby approved, that was not previously identified shall be reported immediately to the Local Planning Authority. Development within that phase shall be suspended and a risk assessment carried out and submitted to the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to the Local Planning Authority. Work shall then only resume or continue on the development in that phase, in accordance with the schemes that have been approved in writing by the Local Planning Authority.

#### REASON

In the interests of reducing the risk of future pollution.

 No more than 8 HGV movements arising from HGV's visiting the site shall occur in each hourly period between 2300 and 0700 hours.

### REASON

In the interests of avoiding disturbance due to noise.

26. No audible vehicular reversing or warning alarms fitted toi any vehicle shall be operated between 2300 hours and 0700 hours. The use of alternative non-audible warning systems is recommended in this development.

### REASON

In the interests of avoiding disturbancre due to noise.

Authorise	ed Officer:	
Date:	4 October 2024	
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#### **INFORMATIVES**

- The Local Planning Authority has met the requirements of the NPPF in the issue of a positive decision following full engagement with the applicant on a number of technical matters together with securing amendments and planning conditions so as to mitigate potentially adverse impacts.
- 2. In respect of Condition 9 above the term ""specific sound"" relates to the sound source being assessed. For the avoidance of doubt, the ""specific sound£ source relating to this condition is from any individual unit within the proposed development including all sources of external and internal plant and equipment. The Laeq values represent the ""specific sound level"". For the purposes of this planning condition, the ""specific sound level"" LAeq Tr is the equivalent continuous A-weighted sound pressure level produced by the specific sound source at the assessment location over a given reference time interval i.e. Tr = I hr for daytime and Tr = 15 minutes for night-time.
- 3. Attention is drawn to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Local Planning Authority will pay particular attention to the potential impact of any proposed advertisement, particularly if illuminated, on the northern facing elevations of any building to be erected in any of the three Zones identified on the Parameters Plan. This is in order to protect the amenities of nearby residential property.
- Attention is drawn to the Borough Council's Air Quality Planning Supplementary Planning Document and the applications for reserved matters should evidence how their proposals have addressed the matters raised therein.

### APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, you can appeal to the Department for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision, then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, or online at www.planninginspectorate.gov.uk and www.planningportal.gov.uk/pcs.
- 4. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- 5. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- The Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Authorise	ed Officer:	
Date:	4 October 2024	
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### **PURCHASE NOTICES**

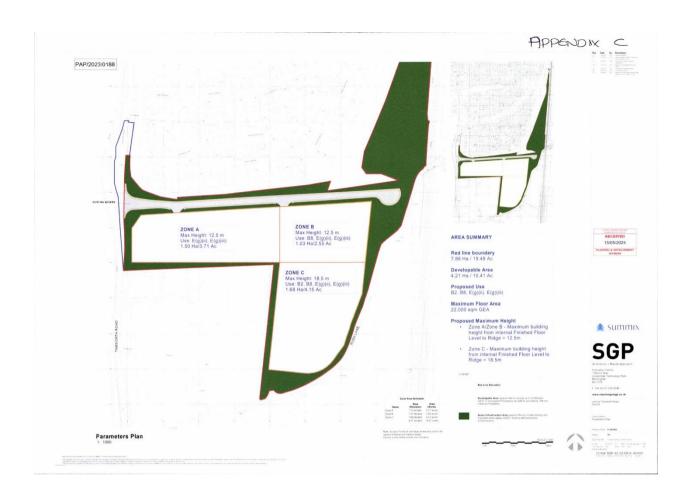
- If either the Local Planning Authority or the Department for Communities and Local Government grants permission to develop land subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

### NOTES

- This decision is for the purposes of the Town and Country Planning Act only. It is not a decision under Building Regulations or any other statutory provision. Separate applications may be required.
- 2. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <a href="http://www.northwarks.gov.uk/planning">http://www.northwarks.gov.uk/planning</a>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <a href="http://www.northwarks.gov.uk/contact">http://www.northwarks.gov.uk/contact</a>).
- Plans and information accompanying this decision notice can be viewed online at our website <a href="http://www.northwarks.gov.uk/planning">http://www.northwarks.gov.uk/planning</a>. Please refer to the conditions on this decision notice for details of those plans and information approved.

Authorised Officer:			
Date:	4 October 2024		

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PAP/2025/0091

PEGASUS GROUP

HC/ET/P23-2307

NORTH WARWICKSHIRE:
BORGUGH COUNCIL.

RECEIVED

03/03/2025

PLANNING & DEVELOPMENT

26 February 2025

North Warwickshire Borough Council Planning Control The Council House South Street Atherstone Warwickshire CV9 1 DE

Dear Sir/Madam,

Town and Country Planning Act 1990 (as amended) – Section 73

Application for Removal of Conditions Following Grant of Planning Permission ref. PAP/2023/0188

Land at Tamworth Road, Dosthill, B77 1QL

Planning Portal Ref. PP-13803844

On behalf of our client, Summix RLT Developments Ltd (the 'Applicant'), please find enclosed an application for the removal of Conditions 25 and 26 following the grant of outline planning permission ref. PAP/2023/0188 relating to Land at Tamworth Road, Dosthill, B77 1QL (the 'Application Site'). This application is submitted under Section 73 (S73) of the Town and Country Planning Act 1990 (as amended) (hereafter referred to as 'the Act') and it seeks:

"Removal of Conditions 25 and 26 of planning permission ref. PAP/2023/0188."

Conditions 25 and 26 relate to noise control measures, and as outlined in this letter, their removal is justified primarily on the basis that remaining conditions attached to the outline permission sufficiently control noise, thereby negating the need for their inclusion.

We are aware that an application granted under S73 of the Act is a re-granting of a previous planning permission. In the case of planning permission ref. PAP/2023/0188, the associated Section 106 Agreement (S106) at Clause 9.4 explicitly states that the obligations of the Agreement remain in effect in the event of any subsequent applications made under S73 of the Act. As such, it is not envisaged that a Section 106 Deed of Variation is necessary as part of this S73.

Outline planning permission ref. PAP/2023/0188 comprised land within both North Warwickshire Borough Council (NWBC) and Tamworth Borough Council (TBC), as such a separate approval for the development was issued by TBC under application ref. 0163/2023 on 8 August 2024. The TBC Decision Notice does not include the conditions that this S73 application is seeking to remove and therefore is not applicable.

### **Application Documents**

In addition to this Covering Letter, the following documentation has been submitted via the Planning Portal (ref. PP-13803844) to support this application:

- Planning Application Form, including relevant Ownership Certificate;
- Site Location Plan (drawing no. 23-008-SGP-ZZ- ZZ-DR-A- 131000, rev. P2), prepared by SGP;
   and

**Expertly Done.** 

Pegasus\_Group @pegasusgroup Pegasus\_Group
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· Noise Assessment Note, prepared by In Acoustic.

The application fee of £293 (excluding £70 Planning Portal administration fee) will be paid under separate cover.

Development and Planning Permission Context

The development site measures 7.88ha and is located between Tamworth Road (A51) to the west and Rush Lane to the east. To the north lies the existing residential area of Dosthill and there is an existing industrial site beyond the southern boundary, known as 'the Hunnebeck premises' as well as a builder's merchants and open storage yard. A small part of the site along the northeastern edge is bound by the Birmingham to Derby Railway line and Kingsbury Brickworks. The site is approximately 1.7km southwest of Tamworth Town Centre.

The location of the application site within the surrounding area is identified in Figure 1 below.



Figure 1: Approved Site Location Plan (drawing no. 23-008-SGP-ZZ-ZZ-DR-A- 131000, rev. P2)

The site has remained unused since mineral extraction and landfill ceased to operate and has been vacant since these activities ended in the 1990s. The site is now overgrown with shrubs and vegetation.

It is important to note that outline planning permission was originally granted at the site in 1997 (ref. OAP/1994/0232) for the industrial use of the land, with a subsequent reserved matters application

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approved in 2008 (ref. PAP/2008/0088) to secure the access, siting, design, external appearance and landscaping details. This permission was extended under PAP/2010/0292. NWBC have confirmed the position that the permission remains extant as a result of the construction of the junction onto the A51, together with the embankments for the spur road extending eastwards.

### **Application Proposals**

Outline planning permission ref. ref PAP/2023/0188 was granted on site on  $4^{th}$  October 2024 for the following development, which is subject of this S73 application.

"Outline planning application with full details of access (with matters reserved for landscape, scale, layout and appearance) for development comprising up to 22,000sqm (GEA) for flexible Use Class E(g)(ii), Eg(iii), B2 and/or B8 with associated car parking and works (Cross boundary application Tamworth BC reference 0163/2023)."

The purpose of this Section 73 application is to seek the removal of Conditions 25 and 26 from operative planning permission ref. PAP/2023/0188. These conditions, which relate to noise control measures, are not considered necessary due to the inclusion of further conditions within the permission that already secure the required noise mitigation. For reference, the wording of the conditions that this application seeks to remove are extracted from the Decision Notice below.

#### Condition 25

'No more than 8 HGV movements arising from HGV's visiting the site shall occur in each hourly period between 2300 and 0700 hours.

Reason: In the interests of avoiding disturbance due to noise.'

#### Condition 26

'No audible vehicular reversing or warning alarms fitted to any vehicle shall be operated between 2300 hours and 0700 hours. The use of alternative non-audible warning systems is recommended in this development.

Reason: In the interests of avoiding disturbance due to noise.'

The below justification for removal of these conditions should be read alongside the Technical Note prepared by InAcoustic (dated 20<sup>th</sup> February 2025).

### **Conditions Test**

In accordance with relevant legislation and national policy, planning conditions should only be imposed where they meet the six tests set out in Paragraph 57 of the National Planning Policy Framework (NPPF) (2024) which states, 'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other aspects.' Furthermore, Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (TCPO) requires local planning authorities to provide clear justification for any conditions imposed.

As per paragraph 57 of the NPPF, the six tests that are required of planning conditions are as follows:

- Test 1 Necessary;
- Test 2 Relevant to planning;
- Test 3 Relevant to the development permitted;

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- Test 4 Enforceable:
- · Test 5 Precise; and
- Test 6 Reasonable in all other respects.

This S73 application seeks the removal of Conditions 25 and 26 on the basis that they are not necessary, given that the remaining conditions within the permission already secure the required noise mitigation measures. The removal of these conditions aligns with national policy guidance, which seeks to ensure that conditions are kept to a minimum and do not unnecessarily duplicate other conditions.

#### **Background and Context**

During the determination period of the outline planning application PAP/2023/0188, Condition 25 and 26 were voluntarily offered by the Applicant prior to Planning Committee in an attempt to appease concerns raised by local residents. The wording of both conditions was taken from conditions attached to planning permission PAP/2010/0292 (Condition 19 and 20). The inclusion of these conditions was not discussed with the Council's Environmental Health Officer and purely offered on the basis of trying to appease the concerns of local residents. Despite these efforts, local residents continued to object to the proposals at Planning Committee.

### Noise Impact Assessment Considerations

Condition 25 relates to trip generation levels that are lower than those modelled in the Noise Assessment Report (10<sup>th</sup> August 2023), which was submitted and approved under the operational outline permission. According to the trip generation profile outlined in Paragraph 6.1.2 of the report, the predicted change in ambient sound levels at the closest receptors is 0 dB during each corresponding time period. This calculation accounts for the following:

- · Residual sound levels;
- · Intervening topography; and
- · Screening provided by the existing embankment and boundary structures.

It has therefore been demonstrated that even with increased road traffic on the access road, there would be no change in ambient sound levels experienced by the closest residential receptors, and consequently, no quantifiable noise level impact. This is further discussed within the Noise Assessment Note, prepared by In Acoustic, submitted to support this S73 application.

### Noise Related Planning Conditions Imposed

The noise impacts of the proposed development upon nearby residential receptors (particularly those of Ascot Drive) were given significant consideration in the determination of Outline application PAP/2023/0188. A number of planning conditions were sought by the Council's Environmental Health Officer and agreed with the Applicant to mitigate the proposed development and ensure an acceptable noise environment for the nearest residential properties. This includes the following conditions:

### Condition 8 (Parameters Plan):

'The proposed layout in the reserved matters applications shall be designed in general accordance with the Parameters Plan approved under condition 5. The reserved matters applications shall contain full details of the finished floor levels of all proposed buildings, above ordnance datum, in relation to existing ground levels. In particular, the layout for

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Zones A and B as defined by the Parameters Plan shall avoid service/loading and unloading areas being located along the northern edge of each of these two Zones.

Reason: In order to define the implementation of the permission so as to reduce the risk of adverse noise impacts.'

### Condition 9 (Sound Levels):

'The specific sound from any individual unit arising from internal or external uses, including operational sources of an industrial/commercial nature within the development, the operation of fixed plant, machinery, plant and mobile plant including deliveries, heating, air handing and/or ventilation equipment shall not exceed the levels outlined below:

- i. 40dBLAeq, Ihr at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 1.5 metres above ground level at I metre from the facade containing a habitable room with an opening window, between 0700 and 2300 on any day. The measurements and/predictions should demonstrate the noise limits for daytime are within gardens of the nearest affected noise sensitive receptors at 1.5m above the adjacent ground level as a free field" level as defined by BS 7445:2003 ""Description and measurement of environmental noise (parts 1 to 3)" for an area of not less than 75% of any dwelling's garden.
- ii. 35dBLAeq15min at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 4.5 metres above ground level at I metre from the facade containing a habitable room with an opening window of any residential dwelling between 2300 and 0700 on any day.
- Where the residential dwelling is a bungalow, all measurement heights for day and night time are 1.5 metres above ground level.

Reason: In order to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.'

### Condition 10 (Noise Compliance Monitoring):

'Within six months of the occupation of any of the new industrial/commercial units within the development hereby permitted, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/ commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9.

If the specific sound level from these sources exceeds the limits set out in condition 9, additional mitigation measures are to be recommended and included in that submission. Any such measures that are approved in writing by the Local Planning Authority, shall then be installed or introduced to the written satisfaction of the Local Planning Authority. These measures shall be permanently retained and maintained in proper working order for the duration of the operational life of the development.

<u>Reason</u>: In order to demonstrate compliance with condition 9 and so to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.'

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#### Condition 12 (Vehicular Access):

'There shall be no gate, barrier or other structure constructed or placed across the access into the development area from the spur road running east from the junction with the A51, thus allowing unobstructed vehicular access at all times.

<u>Reason</u>: In order to reduce the potential for noise pollution arising from parked vehicles not being allowed to enter the site and to reduce the potential for on-street vehicular parking.'

#### Condition 13 (On-Street Parking):

'There shall be no on-street parking of any vehicle whatsoever on any part along both sides of and the whole of the spur road running east from the junction with the A51. Reason: In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.'

The removal of Conditions 25 and 26 is justified on the basis that the abovementioned existing conditions listed on the Decision Notice already regulate, manage and mitigate noise impacts. To summarise, Condition 9 (Sound Levels) was recommended by the Environmental Health Officer and explicitly limits the rating noise level from within the site, which includes for peak anticipated HGV manoeuvres. Notwithstanding the number of HGV deliveries, their noise impact remains negligible within the already regulated development.

Conditions 8, 10, 12, and 13 were agreed as result of cooperative discussions between the Applicant and the Council and provide reasonable and enforceable noise control measures, that ensure appropriate environmental controls without requiring the additional restrictions imposed by Conditions 25 and 26.

In this instance, Conditions 25 and 26 fail the necessity test, as their objectives are already met through other conditions. Furthermore, Condition 26 lacks precision and enforceability as it merely recommends rather than enforces the use of alternative, non-audible warning systems (as discussed below). To avoid unnecessary duplication and to ensure the permission remains reasonable and enforceable, we respectfully request that Conditions 25 and 26 be removed through this S73 application.

### **Health and Safety**

Condition 26 seeks to prohibit the use of audible reverse alarms throughout the periods of 23:00-07:00. In addition to the above justification that the condition does not meet the 'conditions test' contained within national planning policy, the removal of Condition 26 is necessary to ensure the safety of operational staff during night-time hours. Audible vehicular reversing and warning alarms are a critical safety measure designed to prevent accidents, particularly in environments where there may be limited visibility and potential interaction between vehicles, built structures and pedestrians. Restricting their use between 23:00 and 07:00 hours could compromise safety by reducing awareness of vehicle movements, increasing the risk of accidents and injury.

Whilst Condition 26 recommends the use of alternative non-audible warning systems, which include flashing lights, these do not always provide sufficient warning. Health and Safety Executive (HSE) guidance (HSG136 (3rd edition), published 2014) emphasises the importance of effective warning signals in mitigating collision risks.

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Furthermore, it is noted that other operational developments in proximity to the site are not subject to the same restriction. It would not be practical or reasonable to expect third-party operators or future occupiers of the development to disable their reversing alarms, as these are required for health and safety reasons.

Notwithstanding the above, Condition 26 <u>recommends</u> the use of alternative non-audible warning systems across the development. As per paragraph 57 of the NPPF, the implementation of planning conditions must be enforceable and precise, and the recommendation of alternative warning systems does not meet the condition test in this regard.

In light of the above, the removal of Condition 26 is justified to maintain a safe working environment and ensure consistency with operational standards applied to comparable sites in the area.

#### Conclusion

Section 73 of the Act allows for the re-granting of an original planning permission without complete compliance with conditions originally attached, meaning conditions can be varied or removed entirely. The National Planning Practice Guidance (Paragraph: 017 Reference ID: 013 Reference ID: 17a-013-20230726) states:

"There is no statutory limit on the degree of change permissible to conditions under S73, but the change must only relate to conditions and not to the operative part of the permission."

It is considered that the proposed design amendments constitute a 'minor-material' amendment to the full permission, and hence the submission of this Section 73 application.

Critically, through the minor material amendment proposed to remove Conditions 25 and 26, the scheme will continue to deliver the necessary noise mitigation measures and environmental controls, ensuring that any potential impacts are adequately managed without the need for the unnecessary duplication of conditions.

I trust the above and enclosed provides you with sufficient information to validate this application and look forward to receiving confirmation of this in due course. If you require any additional information then please do not hesitate to contact me.

Yours faithfully,

Pegasus Group

Henry Courtier Director - Planning

Henry.Courtier@pegasusgroup.co.uk

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# PAP/2025/0091

20th February 2025

your reference

PAP/2023/0188

our reference

22-431

By e-mail: Henry.Courtier@pegasusgroup.co.uk

Henry Courtier Pegasus Group 21 Ganton Street London W1F 9BN NORTH WARWICKSHIRE BOROUGH COUNCIL

RECEIVED

03/03/2025

PLANNING & DEVELOPMENT DIVISION

Dear Henry,

RE: Land at Rush Lane, Tamworth. Supporting Noise Information Relating to \$73 Application.

This document sets out the noise-related planning conditions applied to Planning Permission Reference: PAP/2023/0188, by North Warwickshire Borough Council, on 4<sup>th</sup> October 2024, in relation to the outline planning application for up to 22,000sqm (GEA) of commercial space for flexible Use Class E(g)(ii), Eg(iii), B2 and/or B8 with associated car parking and works, with full details of access (with matters reserved for landscape, scale, layout and appearance), with a rationale for removing Planning Conditions 25 and 26, via a Section 73 Application.

### **Planning Condition Requirements:**

Paragraph 57 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- 1. necessary;
- 2. relevant to planning;
- 3. relevant to the development to be permitted;
- 4. enforceable;
- precise: and
- 6. reasonable in all other respects.

These are referred to in the NPPF guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply.

# Noise-Related Planning Conditions Applied:

8. The proposed layout in the reserved matters applications shall be designed in general accordance with the Parameters Plan approved under condition 5. The reserved matters applications shall contain full details of the finished floor levels of all proposed buildings, above ordnance datum, in relation to existing ground levels. In particular, the layout for Zones A and B as defined by the Parameters Plan shall avoid service/loading and unloading areas being located along the northern edge of each of these two Zones.

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REASON - In order to define the implementation of the permission so as to reduce the risk of adverse noise impacts.

- 9. The specific sound from any individual unit arising from internal or external uses, including operational sources of an industrial/commercial nature within the development, the operation of fixed plant, machinery, plant and mobile plant including deliveries, heating, air handing and/or ventilation equipment shall not exceed the levels outlined below:
  - i) 40dBL<sub>Aeq,lhr</sub> at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 1.5 metres above ground level at I metre from the facade containing a habitable room with an opening window, between 0700 and 2300 on any day. The measurements and/predictions should demonstrate the noise limits for daytime are within gardens of the nearest affected noise sensitive receptors at 1.5m above the adjacent ground level as a free field"" level as defined by BS 7445:2003 ""Description and measurement of environmental noise (parts 1 to 3)"" for an area of not less than 75% of any dwelling's garden.
  - ii) 35dBL<sub>Aeq15min</sub> at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 4.5 metres above ground level at I metre from the facade containing a habitable room with an opening window of any residential dwelling between 2300 and 0700 on any day.
  - iii) Where the residential dwelling is a bungalow, all measurement heights for day and night time are 1.5 metres above ground level. REASON In order to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.
- 10. Within six months of the occupation of any of the new industrial/commercial units within the development hereby permitted, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/ commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9.

If the specific sound level from these sources exceeds the limits set out in condition 9, additional mitigation measures are to be recommended and included in that submission. Any such measures that are approved in writing by the Local Planning Authority, shall then be installed or introduced to the written satisfaction of the Local Planning Authority. These measures shall be permanently retained and maintained in proper working order for the duration of the operational life of the development. REASON - In order to demonstrate compliance with condition 9 and so to avoid significant adverse noise impacts on health and quality of life in line with the National Planning Policy Framework (paragraph 185); the Noise Policy Statement for England 2010 and Local Plan policy LP29.

- 12. There shall be no gate, barrier or other structure constructed or placed across the access into the development area from the spur road running east from the junction with the A51, thus allowing unobstructed vehicular access at all times.
  - REASON In order to reduce the potential for noise pollution arising from parked vehicles not being allowed to enter the site and to reduce the potential for on-street vehicular parking.

22-431/Rush Lane, Tamworth/s73 Application - Supporting Information on Noise



- 13. There shall be no on-street parking of any vehicle whatsoever on any part along both sides of and the whole of the spur road running east from the junction with the A51.
  REASON In order to reduce the potential for noise pollution arising from parked vehicles and to reduce the potential for on-street vehicular parking thus leading to highway safety concerns.
- No more than 8 HGV movements arising from HGV's visiting the site shall occur in each hourly period between 2300 and 0700 hours.
   REASON - In the interests of avoiding disturbance due to noise.
- 26. No audible vehicular reversing or warning alarms fitted to any vehicle shall be operated between 2300 hours and 0700 hours. The use of alternative non-audible warning systems is recommended in this development.
  REASON In the interests of avoiding disturbance due to noise.

#### Discussion:

Conditions 8, 9 and 10, listed above, were derived via a cooperative process between the Applicant Team and the Local Authority officers, so there is no issue with these conditions.

<u>Conditions 12 and 13</u> cover site management, and while they have a noise management element, are not strictly related to the normal and lawful noise generation of the site

Condition 25, however is considered unduly and unnecessarily restrictive, as it relates to lower levels of trip generation than were stated as being theoretically probable within the noise assessment report. Paragraph 6.1.2 of report reference 22-431 states:

"On the basis of the forecast traffic information, the following has been considered in the assessment:

- 40 HGV movements in a daytime 1-hour period (10:00-11:00), with 51 LGV movements and 59 car movements during the same period;
- 9 HGV movements in a night-time 1-hour period (04:00-05:00), with 7 LGV movements and 37 car movements during the same period; and
- 24 HGV movements in an early morning 1-hour period (06:00-07:00), with 25 LGV movements and 126 car movements during the same period."

On the basis of this trip generation profile, the predicted change in ambient sound level at the closest receptors is 0 dB during each corresponding time period; taking account of the residual sound level, intervening topography and existing screening afforded by the leading edge of the existing embankment and garden boundary structures. Consequently, the submitted and accepted noise impact assessment has demonstrated that higher levels of road traffic on the access road will give rise to no change in ambient sound level and no impact.

It is understood that this condition was offered by the Applicant prior to the Planning Committee in order to appease concerns raised by local residents. The condition is, however, not necessary from a noise perspective and therefore results in a <u>failure of NPPF planning condition Tests 1 (Necessity) and 6 (Reasonableness)</u>.

It is suggested that the 24 HGVs in an hour, with 25 corresponding LGV movements and 126 car movements is a probable worst case for a development of this scale and type and the assessment demonstrates that the traffic associated with this scenario can be comfortable absorbed into the

22-431/Rush Lane, Tamworth/s73 Application - Supporting Information on Noise



ambient sound environment at this site, with no impact upon neighbouring acoustic amenity, thus making the restriction set out in Condition 25 demonstrably excessive.

Additionally, the practicality of enforcing this restriction is questionable. The site is proposed for multiple occupancy, and there is no mechanism in place to determine which unit is responsible for HGV movements exceeding the limit. In the event of a breach, it would be unclear whether enforcement action should be taken against one specific operator or multiple tenants/owners/operators collectively. This lack of enforceability raises concerns and results in a failure of under Test 4 (Enforceability) of the NPPF.

As set out above, it is asserted that Condition 25 fails at least three of the necessary tests of planning conditions in England and should therefore be removed as there is no reason from a noise perspective for its inclusion on the Planning Permission.

Condition 26, which attempts to prohibit the use of audible reverse alarms during the night-time (23:00-07:00) hours, is also considered flawed, even if its intent is understood.

It should be noted that other developments in the area benefit from unrestricted operations and that audible reverse alarms are not known to be prohibited; for example, at the neighbouring Hunnebeck site, where the operators have repeatedly asserted the high likelihood of noisy night-time activities.

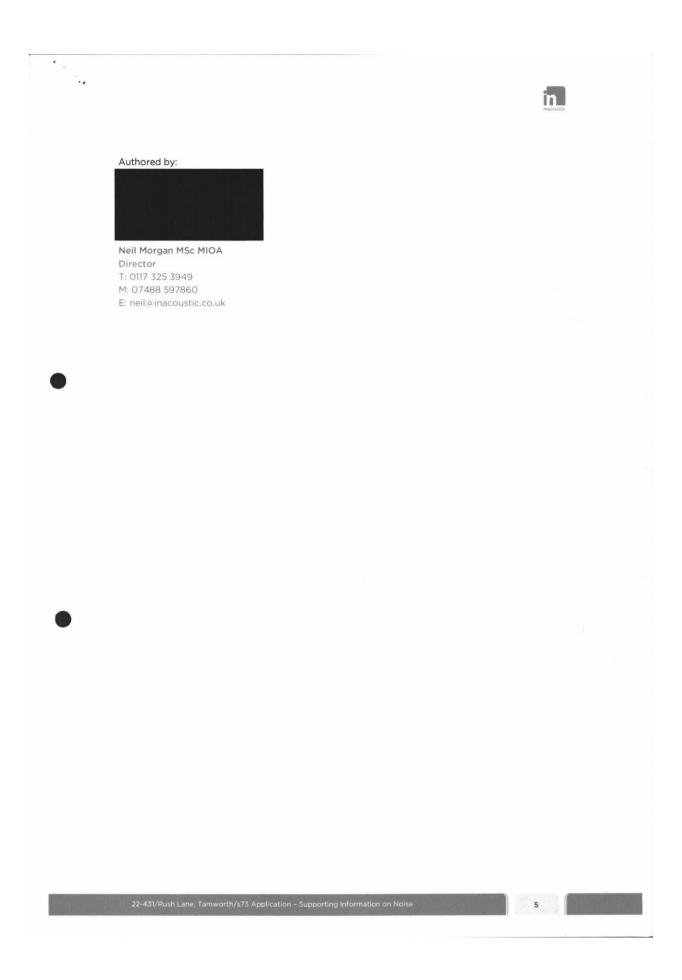
It should be noted that the noise impact assessment does include source noise data for reversing HGVs, which includes tonal reverse alarms and even refrigeration units, such that an absolute worst case is considered. On this basis, noise effects have been predicted to be within the *Low Impact* category of BS4142:2014+A1:2019, with the predicted sound levels from cumulative activity within the site itself being below the prevailing L<sub>A90</sub> background sound level at the nearest receptors. The proposed design ethos of the site introduces sufficient source-receiver separation distances and screening from the built form of the development to ensure that noise impacts are appropriately managed.

Furthermore; the operational limitations of applying such a condition where third-party vehicles maybe arriving at the site, plus the health and safety implications of removing an essential safety item from the site have to be considered. It is simply not possible or reasonable to remove all reverse alarms from vehicles arriving at the site, where these are not owner-operated (by the business within the site).

As a result of the facts set out above, it is asserted that Condition 26, at least, fails  $\underline{\text{Tests 1}}$  (Necessity) and 6 (Reasonableness).

Furthermore, Condition 26 goes on to <u>recommend</u> use of <u>alternative non-audible warning systems</u> .... in this <u>development</u>. It should be borne in mind that the purpose of planning conditions is to add precise controls to a development and not make recommendations, so it is considered that <u>Condition 26 also fails Test 5 (Imprecise)</u>.

As a result of the phenomena set out above, it is asserted that Condition 26 fails at least three of the necessary tests of planning conditions in England and should therefore be removed



APPENDIX F.

PAP/2023/0188

NORTH WARWICKSHIRE BOROUGH COUNCIL RECEIVED

31/08/2023

PLANNING & DEVELOPMENT DIVISION



Land at Tamworth Road, Dosthill

Noise Assessment for Planning Application

10<sup>th</sup> August 2023

inacoustic | **bristol**Caswell Park, Caswell Lane, Clapton-in-Gordano, Bristol, BS20 7RT

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nacoustic is a trading name of Inacoustic Ltd, registered in the UK 10873933



Version	1	2	3
Comments	Noise Assessment	Applicant Comments	Scheme Amendments
Date	27 <sup>th</sup> April 2023	27 <sup>th</sup> April 2023	10 <sup>th</sup> July 2023
Authored By	Neil Morgan MSc MIOA	Neil Morgan MSc MIOA	Neil Morgan MSc MIOA
Reviewed By	Antony Best BSc (Hons) MIOA	Antony Best BSc (Hons) MIOA	Antony Best BSc (Hons) MIOA
Project Number	22-431	22-431	22-431

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The findings and opinions expressed are relevant to the dates of the site works and should not be relied upon to represent conditions at substantially later dates. If additional information becomes available which may affect our comments, conclusions or recommendations, the author reserves the right to review the information, reassess any new potential concerns and modify our opinions accordingly.



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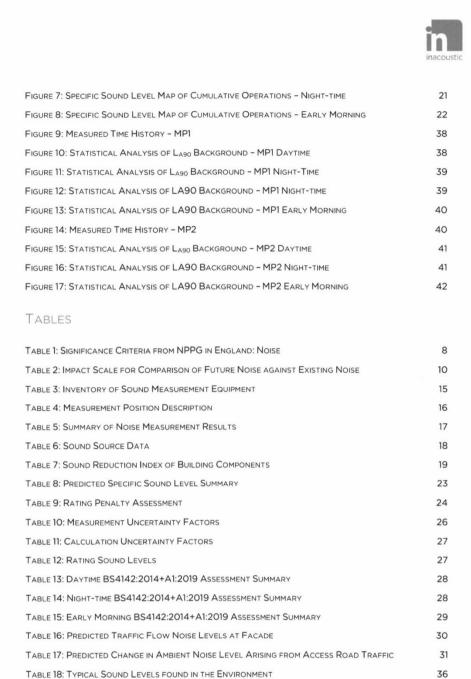


TABLE 19: TRIP RATES PER UNIT - 100% B2 ALLOCATION

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# 1. INTRODUCTION

### 1.1. Overview

inacoustic has been commissioned to assess the impact of noise from a proposed speculative commercial B2/B8/Eg(ii)/Eg(iii) development at a site off Rush Lane, Tamworth.

The following technical noise assessment has been produced to provide supporting information to accompany a planning application to North Warwickshire Borough Council and Tamworth Borough Council and is based upon environmental noise measurements undertaken at the site and a subsequent predictive exercise.

This noise assessment is necessarily technical in nature; therefore a glossary of terms is included in Appendix A to assist the reader.

## 1.2. Scope and Objectives

The scope of the noise assessment can be summarised as follows:

- A sound monitoring survey was undertaken at a discrete location representative of the closest noise-sensitive receptors to the Site;
- An assessment of potential noise impacts with respect to the prevailing acoustic conditions at existing off-site receptors; and
- Recommendation of mitigation measures, where necessary, to comply with the requirements BS4142:2014+A1:2019<sup>1</sup>.

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<sup>&</sup>lt;sup>1</sup> British Standard 4142: 2014+A1:2019 Method for rating and assessing commercial sound. BSI



# 2. LEGISLATION AND POLICY FRAMEWORK

# 2.1. National Policy

### 2.1.1. National Planning Policy Framework, 2021

The National Planning Policy Framework (NPPF)<sup>2</sup> sets out the Government's planning policies for England. Planning policy requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The NPPF is also a material consideration in planning decisions. It sets out the Government's requirements for the planning system and how these are expected to be addressed.

Under Section 15; Conserving and Enhancing the Natural Environment, in Paragraph 174, the following is stated:

"Planning policies and decisions should contribute to and enhance the natural and local environment by:

 e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability".

Paragraph 185 of the document goes on to state:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life:
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason"

Paragraph 185 refers to the Noise Policy Statement for England, which is considered overleaf.

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 $<sup>^2</sup>$  Ministry of Housing, Communities and Local Government (MHCLG), July 2021. National Planning Policy Framework. HMSO. London.



### 2.1.2. Noise Policy Statement for England, 2010

The underlying principles and aims of existing noise policy documents, legislation and guidance are clarified in DEFRA: 2010: Noise Policy Statement for England (NPSE)3. The NPSE sets out the "Long Term Vision" of Government noise policy as follows:

"Promote good health and good quality of life through the effective management of noise within the context of Government policy on sustainable development".

The NPSE outlines three aims for the effective management and control of environmental, neighbour and neighbourhood noise:

- "Avoid significant adverse impacts on health and quality of life;
- Mitigate and minimise adverse impacts on health and quality of life; and
- Where possible, contribute to the improvement of health and quality of life".

The guidance states that it is not possible to have a single objective noise-based measure that defines "Significant Observed Adverse Effect Level (SOAEL)" that is applicable to all sources of noise in all situations and that not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available.

### 2.1.3. National Planning Practice Guidance in England: Noise, 2019

Further guidance in relation to the NPPF and the NPSE has been published in the National Planning Practice Guidance in England: Noise (NPPG Noise)4, which summarises the noise exposure hierarchy, based on the likely average response. The following three observed effect levels are identified below:

- Significant Observed Adverse Effect Level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur;
- Lowest Observed Adverse Effect Level: This is the level of noise exposure above which adverse effects on health and quality of life can be detected; and No Observed Adverse Effect Level: This is the level of noise exposure below which no effect
- at all on health or quality of life can be detected.

<sup>&</sup>lt;sup>3</sup> Department for Environment, Food and Rural Affairs (DEFRA), 2010. Noise Policy Statement for England.

DEFRA.

Department for Communities and Local Government (DCLG), 2019. National Planning Practice Guidance for England: Noise. DCLG.



## Criteria related to each of these levels are reproduced in Table 1.

TABLE 1: SIGNIFICANCE CRITERIA FROM NPPG IN ENGLAND: NOISE

Perception	Examples of Outcomes	Increasing Effect Level	Action
	No Observed Effect Leve	ı	
Not Noticeable	No Effect	No Observed Effect	No specific measures required
	No Observed Adverse Effect	Level	
Noticeable and Not Intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life.	No Observed Adverse Effect	No specific measures required
	Lowest Observed Adverse Effect	ct Level	
Noticeable and Intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
	Significant Observed Adverse Eff	ect Level	
Present and Disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Present and Very Disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory.	Unacceptable Adverse Effect	Prevent

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#### 2.2. British Standards

#### 2.2.1. BS4142:2014+A1:2019

 $BS4142:2014^5$  sets out a method to assess the likely effect of sound from factories, industrial premises or fixed installations and sources of an industrial nature in commercial premises, on people who might be inside or outside a dwelling or premises used for residential purposes in the vicinity.

The procedure contained in BS4142:2014 for assessing the effect of sound on residential receptors is to compare the measured or predicted sound level from the source in question, the  $L_{Aeq,T}$  'specific sound level', immediately outside the dwelling with the  $L_{A90,T}$  background sound level.

Where the sound contains a tonality, impulsivity, intermittency and other sound characteristics, then a correction depending on the grade of the aforementioned characteristics of the sound is added to the specific sound level to obtain the  $L_{Ar,Tr}$  'rating sound level'. A correction to include the consideration of a level of uncertainty in sound measurements, data and calculations can also be applied when necessary.

BS4142:2014 states: "The significance of sound of an industrial and/or commercial nature depends upon both the margin by which the rating level of the specific sound source exceeds the background sound level and the context in which the sound occurs". An estimation of the impact of the specific sound can be obtained by the difference of the rating sound level and the background sound level and considering the following:

- "Typically, the greater this difference, the greater the magnitude of the impact."
- "A difference of around +10dB or more is likely to be an indication of a significant adverse impact, depending on the context."
- "A difference of around +5dB is likely to be an indication of an adverse impact, depending on the context."
- "The lower the rating level is relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact. Where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context."

During the daytime, the assessment is carried out over a reference time period of 1-hour, with a reference period of 15-minutes used for the night-time assessment. The periods associated with day or night, for the purposes of the Standard, are considered to be 07.00 to 23.00 and 23.00 to 07.00, respectively.

 $<sup>^{5}</sup>$  British Standard 4142: 2014 +A1:2019 Method for rating and assessing commercial sound. BSI



#### 2.3. Other Guidance

#### 2.3.1. Relative Change in Ambient Noise Level

In circumstances where a noise environment may be altered by addition or removal of a noise source, considered to be largely anonymous or within the prevailing acoustic character of an area, for example, changes to traffic quantum or patterns, it is normal to consider the relative change in ambient noise level. The assessment, therefore, focuses primarily on this phenomenon.

The impact scale adopted in this assessment is shown in Table 2 below, which relates to established human responses to noise.

TABLE 2: IMPACT SCALE FOR COMPARISON OF FUTURE NOISE AGAINST EXISTING NOISE

Noise Level Change dB(A)	Subjective Response	Significance
0	No change	No impact
0.1 - 0.9	Imperceptible change	Negligible impact
1.0 - 2.9	Barely perceptible	Minor impact
3.0 - 5.9	Noticeable	Moderate impact
6.0 - 9.9	Up to a doubling or halving of loudness	Substantial impact
10.0 or more	More than a doubling or halving of loudness	Major impact

The criteria above reflect the key benchmarks that relate to human perception of sound. A change of 3 dB(A) is generally considered to be the smallest change in environmental noise that is perceptible to the human ear. A 10 dB(A) change in noise represents a doubling or halving of the noise level. The difference between the minimum perceptible change and the doubling or halving of the noise level is split to provide greater definition to the assessment of changes in noise level.

It is considered that the criteria specified in Table 2 provide a good indication as to the likely significance of changes in noise levels in this case and have been used to assess the impact of noise from the proposed development.



## 3. SITE DESCRIPTION

### 3.1. Site and Surrounding Area

The Proposed Development comprises a brownfield site, understood to be a former landfill, within the industrial area to the south of Dosthill, Tamworth.

The site has been the subject of recent unsuccessful planning applications for residential development; however, it is understood that the area is allocated for commercial/employment use within the Adopted Local Plan, so is now being proposed for uses that are supported by the Local Planning Authority.

The site is bound to the west by the A51, Tamworth Road, to the south and east by Rush Lane and to the north by residential area of Ascot Drive. A portion of the western area of the site bounds the commercial premises of Hunnebeck, who provide shuttering and formwork to the construction industry and have the potential to operate on a 24-hour basis. To the east of Rush Lane, lies the Birmingham New Street to Nottingham Railway Line, which carries frequent passenger services and freight traffic. Also, to the east of the site lies the Weinerberger (Kingsbury Works) aggregates and brick production facility, which operates on a round-the-clock basis. To the south of the site; beyond Rush Lane, lies a recently constructed pallet recycling facility, which receives and processes wooden pallets.

The area also includes historic landfill waste disposal sites, with the Kingsbury site, to the south-east of the site, most recently operated by Biffa Waste Services.

The Proposed Development area, in the context of its surroundings, can be seen in Figure 1. The site straddles the boundary of North Warwickshire Borough Council and Tamworth Borough Council, with the majority falling with the North Warwickshire Borough.

The ambient sound environment across the site is influenced by road traffic noise arising from vehicles on the A51 Tamworth Road, with localised contributions arising from road traffic on Rush Lane, which was concentrated during shift changes at the Weinerberger plant. Frequent contributions were noted to arise from regular rail traffic on the nearby line, which included frequent freight traffic and high-speed passenger movements.

In terms of commercial noise; the Weinerberger plant does give rise to some audibility throughout the area, primarily as a result of on-site plant and vehicle movements. The Hunnebeck site, however, gives rise to significant localised contributions, arising from formwork cleaning and repair activities. This activity comprises the percussive removal of concrete residue and re-shaping of metal formwork, during the daytime period, giving rise to localised forklift movements (with reverse alarms) and impulsive materials handling. It is understood that some materials handling and distribution activity may occur at any time of the day or night, as demand dictates.

The planning application for the Kingsbury Pallets recycling facility was supported by a noise assessment report, which identified noise-generating activities associated with plant and vehicle movements, static plant and shredding equipment.

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FIGURE 1: SITE FOR PROPOSED DEVELOPMENT AND SURROUNDING AREA



## 3.2. Proposed Development Overview

Given this is an outline planning application, with layout, appearance and landscaping to be reserved matters, the exact layout of the Proposed Development beyond the concept and general design ethos is not yet fixed. As submitted, the Proposed Development will comprise:

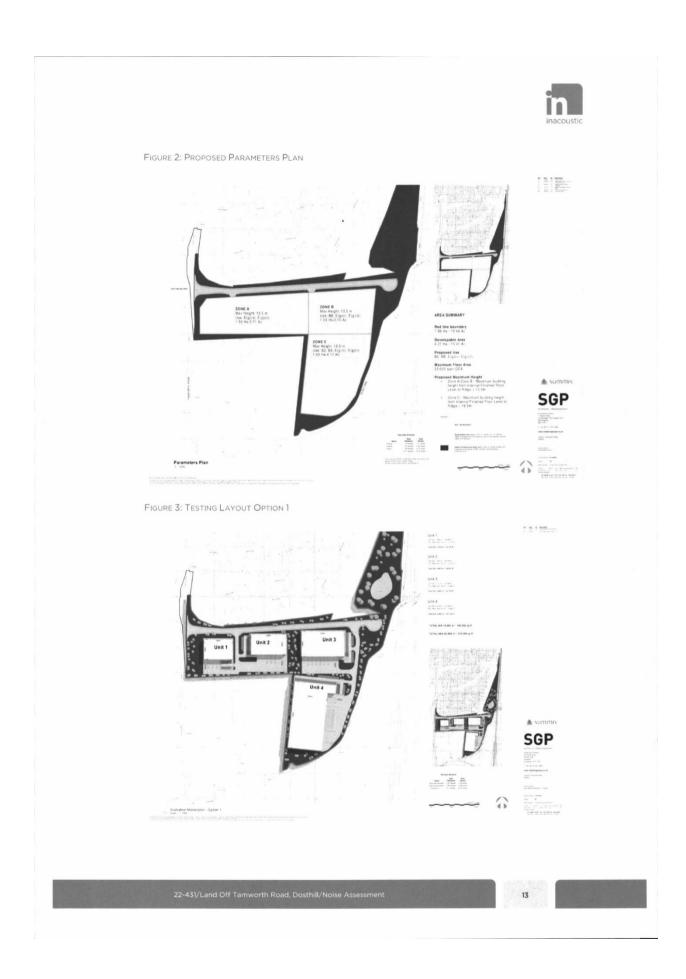
- Developable area = 4.21ha (previously 4.32ha)

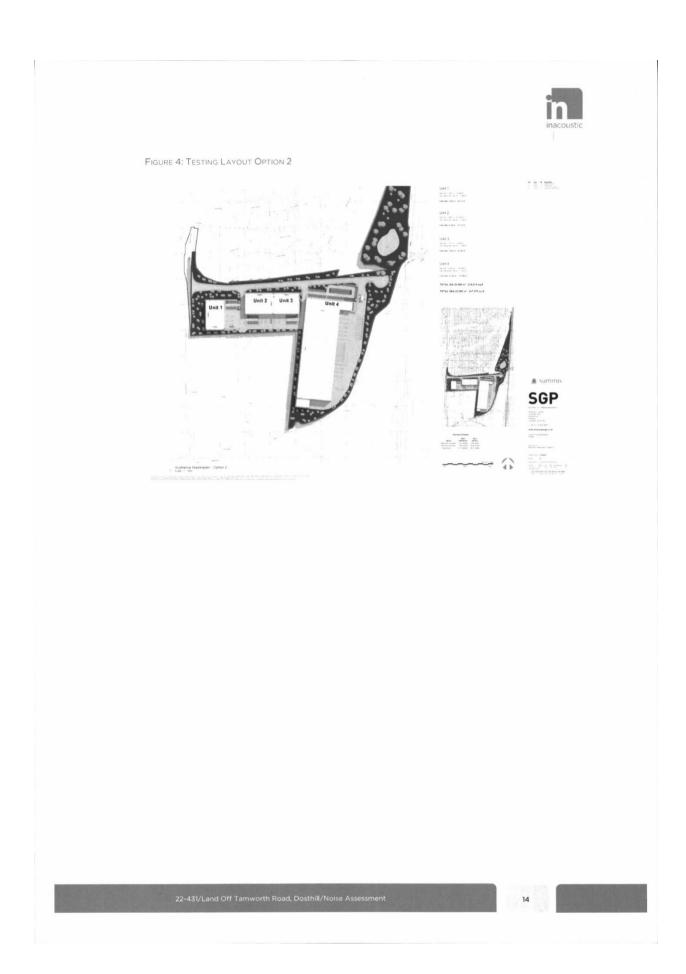
  Maximum floorspace = 22,000sqm GEA (previously 23,000sqm GEA). This includes 10% (2,000sqm) mezzanine space.
- Split into 3 zones (rather than 2 previously)
- Maximum heights parameters

  - Zone A = 13.5m Zone B = 13.5m
  - Zone C = 18.5m
- Uses
  - Zone A = E(g)(ii); E(g)(iii)0
  - Zone B = E(g)(ii); E(g)(iii); B8
  - Zone C = E(g)(ii); E(g)(iii); B2; B8
- **Operating Hours** 
  - Zone A = 0700 2000 Zone B = 24hrs

  - Zone C = 24hrs

The specific design and layout will be determined at the detailed planning stage; however, the proposed, parameters plan is shown in Figure 2, with two potential testing layout options set out in Figure 3 and Figure 4.







## MEASUREMENT METHODOLOGY

#### 4.1. General

The prevailing noise conditions in the area have been determined by an environmental noise survey conducted during both daytime and night-time periods between Wednesday 12<sup>th</sup> and Friday 14<sup>th</sup>

#### 4.2. Measurement Details

All noise measurements were undertaken by a consultant certified as competent in environmental noise monitoring, and, in accordance with the principles of BS 74456.

All acoustic measurement equipment used during the noise survey conformed to Type 1 specification of British Standard  $61672^7$ . A full inventory of this equipment is shown in Table 3 below.

TABLE 3: INVENTORY OF SOUND MEASUREMENT EQUIPMENT

Position	Make, Model & Description	Serial Number	Calibration Certificate Number	Calibration Due Date
	Brüel & Kjær 2238 Sound Level Meter	2756961		
MP1	Brüel & Kjær ZC 0030 Preamplifier	1.1	1137607	20/12/2024
	Brüel & Kjær 4188 Microphone	2407240		
	Brüel & Kjær 2238 Sound Level Meter	2812838		
MP2	Brüel & Kjær ZC 0030 Preamplifier	- 6	1138714	18/01/2025
	Brüel & Kjær 4188 Microphone	2793282		
All	Rion NC-74 Acoustic Calibrator	35246906	TCRT23/1081	26/01/2024

The sound measurement equipment used during the survey was field calibrated at the start and end of the measurement period. A calibration laboratory has calibrated the field calibrator used within the twelve months preceding the measurements. A drift of less than 0.1 dB in the field calibration was found to have occurred on the sound level meters.

The weather conditions during the survey were suitable for environmental noise measurement; being dry with low wind speeds, below 5ms-1.

<sup>6</sup> British Standard 7445: 2003: Description and measurement of environmental noise. BSI <sup>7</sup> British Standard 61672: 2003: Electroacoustics. Sound level meters. Part 1 Specifications. BSI.



The microphones were fitted with protective windshields for the measurement, which are described in Table 4, with an aerial photograph indicating their locations shown in Figure 4.

TABLE 4: MEASUREMENT POSITION DESCRIPTION

Measurement Position	Description
MP1	Largely unattended daytime and night-time measurement of sound under facade-field conditions, at a height of 1.7 metres above local ground level, located at the northern boundary of the Site. The sound environment at this location was influenced by road traffic noise from Tamworth Road (242m to the west), with underlying contributions arising from the industrial uses to the south and east.
MP2	Largely unattended daytime and night-time measurement of sound under facade-field conditions, at a height of 1.7 metres above local ground level, located at the northern boundary of the Site. The sound environment at this location was dominated by road traffic noise from Tamworth Road (70m to the west), with underlying contributions arising from the industrial uses to the south and east.

FIGURE 5: MEASUREMENT POSITION



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## 4.3. Summary Results

The summarised results of the environmental noise measurements are presented in Table 5, with the time history and statistical analyses presented under Appendix B.

TABLE 5: SUMMARY OF NOISE MEASUREMENT RESULTS

Measurement	0	Noise Level, dB			
Position	Period	LAeqT	La90	L <sub>A10</sub>	L <sub>Amax</sub>
MP1	Daytime	48.5	40.0	48.0	81.0
	Night-Time	45.4	35.0	45.0	68.6
	Early Morning	48.9	43.0	50.0	70.1
MP2	Daytime	51.6	44.0	52.0	78.7
	Night-Time	50.7	35.0	47.0	73.1
	Early Morning	54.2	49.0	57.0	71.7

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## Noise Assessment - Commercial Operation

## 5.1. Noise Modelling

#### 5.1.1. General

As precise details of the Proposed Development, *vis-à-vis* end users and operational details have not yet been finalised, beyond the scope of the use categories for the site, the following assessment considers a hypothetical operational scenario, taking account of the type and scale of the development, <u>Option 1</u> layout proposals and reasonable, worst-case assumptions on noise generation.

#### 5.1.2. Operational Assumptions

The following input data has been considered within the assessment:

- Sustained internal sound levels within the flexible areas equivalent to 5 dB below the first exposure action of the Noise at Work Regulations 2005;
- Parking bay activity assessed on the basis of the worst case 1-hour usage statistics for 100% light industrial use, presented within Appendix C;
- Loading bay activity on the basis of the worst case 1-hour usage statistics for 100% light industrial use, presented within Appendix C;
- Roller shutter doors to the service areas maintained in a closed position during noisy operations.

#### 5.1.3. Source Data

The A-weighted sound power levels associated with the Proposed Development, based on archive data, can be seen below in Table 6.

TABLE 6: SOUND SOURCE DATA

5	Distance / Description	Noise Level - dB		
Source	Distance / Description	$L_{Aeq,T}$	SEL	
HGV Passby	10 metres	- 1	77.0	
HGV Reversing (inc Reverse Alarm)	10 metres	-	82.0	
HGV Starting and Departing	10 metres		76.0	
LGV Passby	10 metres		68.0	
LGV Starting and Departing	10 metres		73.0	
Car Passby	10 metres		71.0	
Car Reversing	10 metres		71.0	
Internal Level	Internal Reverberant	75.0		

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On the basis of the forecast traffic information, the following has been considered in the assessment:

- 40 HGV movements in a daytime 1-hour period (10:00-11:00), with 51 LGV movements and 59 car movements during the same period;
- 9 HGV movements in a night-time 1-hour period (04:00-05:00), with 7 LGV movements and 37 car movements during the same period; and
- 24 HGV movements in an early morning 1-hour period (06:00-07:00), with 25 LGV movements and 126 car movements during the same period.

#### 5.1.4. Building Envelope

In terms of the acoustic performance of the building envelope, the sound reduction statistics set out in Table 7 have been adopted.

TABLE 7: SOUND REDUCTION INDEX OF BUILDING COMPONENTS

Component	Type / Material	SRI - dB(A)
Wall Cladding	Tata Trimapanel or similar	28.9
Roof Cladding	Tata Trisomet or similar	28.5
Main Doors	Steel Roller Shutter - Closed	18.0

It has been assumed that any proposed ventilation louvres or access doors will be of a design and fit that does not compromise the overall sound insulation performance of the building envelope.

#### 5.1.5. Calculation Process

Calculations were carried out using Cadna/A, which undertakes its calculations in accordance with guidance given in ISO9613-1:1993 and ISO9613-2:1996.

#### 5.1.6. Sound Data Assumptions

Given that the land between Proposed Development and nearest receptors is mixed, the ground factor has been set to 0.5 in the calculation software.

It has been assumed that all processes may occur simultaneously, representing a worst-case scenario.

#### 5.1.7. Specific Sound Level Map

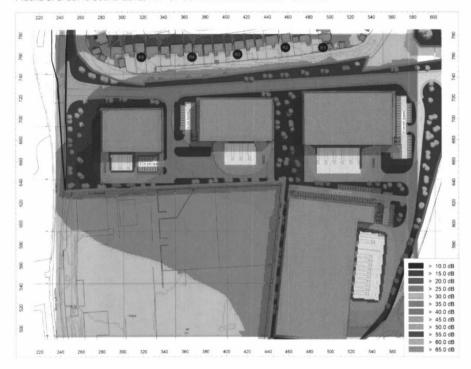
A sound map of the predicted specific sound level arising from cumulative typical operations at the closest receptors to the Site can be seen in Figure 6 for the daytime; Figure 7 for the night-time; and Figure 8 for the evening.



#### 5.1.8. Specific Sound Level Summary

The predicted specific sound level arising from operations at the closest receptors to the Site, as shown on Figure 6, Figure 7 and Figure 8 can be seen in Table 8.

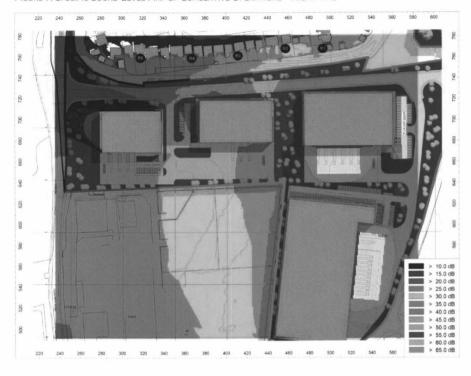
FIGURE 6: SPECIFIC SOUND LEVEL MAP OF CUMULATIVE OPERATIONS - DAYTIME



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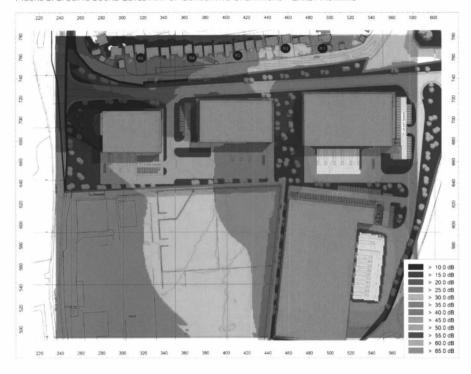
FIGURE 7: SPECIFIC SOUND LEVEL MAP OF CUMULATIVE OPERATIONS - NIGHT-TIME



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FIGURE 8: SPECIFIC SOUND LEVEL MAP OF CUMULATIVE OPERATIONS - EARLY MORNING



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TABLE 8: PREDICTED SPECIFIC SOUND LEVEL SUMMARY

	Specific Sound Level at Façade dB(A)				
Position	Noise Breakout	Vehicle Movements	Cumulative		
	Daytin	ne			
R1	28.9	15.8	29.1		
R2	30.8	21.2	31.3		
R3	31.1	21.2	31.6		
R4	31.4	25.0	32.3		
R5	29.2	24.3	30.4		
	Night-ti	ime			
R1	26.8	8.9	26.9		
R2	28.7	14.6	28.9		
R3	26.1	12.1	26.2		
R4	23.8	10.1	24.0		
R5	18.9	5.2	19.1		
	Early Mo	rning			
R1	26.8	14.7	27.1		
R2	28.7	20.7	29.4		
R3	26.1	18.3	26.7		
R4	23.8	16.3	24.6		
R5	18.9	11.0	19.5		

#### 5.2. Assessment

## 5.2.1. Rating Penalty Principle

Section 9 of BS4142:2014+A1:2019 describes how the rating sound level should be derived from the specific sound level, by determining a rating penalty.

#### BS4142:2014+A1:2019 states:

"Certain acoustic features can increase the significance of impact over that expected from a basic comparison between the specific sound level and the background sound level. Where such features are present at the assessment location, add a character correction to the specific sound level to obtain the rating level. This can be approached in three ways:

- a) subjective method;b) objective method for tonality;
- c) reference method."



Given that the extraction system was operational, the subjective method has been adopted to derive the rating sound level from the specific sound level. This is discussed in Section 9.2 of BS4142:2014+A1:2019, which states:

"Where appropriate, establish a rating penalty for sound based on a subjective assessment of its characteristics. This would also be appropriate where a new source cannot be measured because it is only proposed at that time, but the characteristics of similar sources can subjectively be assessed.

Correct the specific sound level if a tone, impulse or other characteristics occurs, or is expected to be present, for new or modified sound sources."

BS4142:2014+A1:2019 defines four characteristics that should be considered when deriving a rating penalty, namely; tonality; impulsivity; intermittency; and other sound characteristics, which are defined as:

#### **Tonality**

A rating penalty of +2 dB is applicable for a tone which is "just perceptible", +4 dB where a tone is "clearly perceptible", and +6 dB where a tone is "highly perceptible".

#### Impulsivity

A rating penalty of +3 dB is applicable for impulsivity which is "just perceptible", +6 dB where it is "clearly perceptible", and +9 dB where it is "highly perceptible".

#### Other Sound Characteristics

BS4142:2014+A1:2019 states that where "the specific sound features characteristics that are neither tonal nor impulsive, though otherwise are readily distance against the residual acoustic environment, a penalty of +3 dB can be applied."

#### 5.2.2. Rating Penalty Assessment

Considering the content of Section 5.2.1, an assessment of the noise source associated with the Proposed Development, in terms of whether any rating penalties are applicable, and has been detailed in Table 9.

TABLE 9: RATING PENALTY ASSESSMENT

	Tonality	Impulsivity	Intermittency	Other Sound Characteristics	Discussion
Noise Breakout	0 dB	O dB	O dB	O dB	On the basis of the predicted results, which make robust allowances for internally generated noise, it is considered that such activities would be at a level typically regarded as inaudible, relative to the background/residual sound environment. Therefore, although operational details are not yet known, it is considered that no acoustic feature

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corrections would be required for this source. On the basis of the predicted results, which make robust allowances for vehicular activity noise, it is considered that such activities would be at a level typically regarded as anonymous relative to the background/residual sound Vehicular 0 dB 0 dB 0 dB 0 dB environment, which is already heavily characterised by vehicle Activities movements. Therefore, although operational details are not yet known, it is considered that no acoustic feature corrections would be required for this source.

In summary, no rating penalty has been included in the assessment.

#### 5.2.3. Uncertainty

BS4142:2014+A1:2019 requires that the level of uncertainty in the measured data and associated calculations is considered in the assessment. The Standard recommends that steps should be taken to reduce the level of uncertainty.

#### Measurement Uncertainty

BS4142:2014+A1:2019 states that measurement uncertainty depends on a number of factors, including the following, which are applicable to the Proposed Development:

- b) the complexity and level of variability of the residual acoustic environment;
- d) the location(s) selected for taking the measurements;
- g) the measurement time intervals;
- the range of times when the measurements have been taken; the range of suitable weather conditions during which measurements have been taken;
- k) the level of rounding of each measurement recorded; and
- the instrumentation used.



Each of the measurement uncertainty factors outlined above have been considered and discussed in Table 10.

TABLE 10: MEASUREMENT UNCERTAINTY FACTORS

Measurement Uncertainty Factor Reference	Level of Uncertainty	Discussion
b)	O dB	Residual acoustic environment is relatively constant, hence no correction for a complex residual acoustic environment.
d)	O dB	The measurements were undertaken at a location considered to be robustly representative of the closest noise-sensitive receptors to the site.
g)	O dB	Measurement time intervals were set in accordance with BS4142:2014+A1:2019, hence no further correction needs to be made.
h)	O dB	Background measurements were undertaken over continuous partially attended daytime and night-time periods.
i)	0 dB	The partially attended nature of the measurement enabled detailed observations of the weather conditions and no periods of significant wind or precipitation were noted.
k)	0 dB	Measured values were rounded to 0.1 dB, therefore rounding would not have had a significant impact on the overall typical background sound levels.
D	0 dB	The acoustic measurement equipment accorded with Type 1 specification of British Standard 61672, and were deployed with appropriate wind shields.

In summary, a correction of O dB has been included in the assessment, to account for measurement

## **Calculation Uncertainty**

BS4142:2014 states that calculation uncertainty depends on a number of factors, including the following, which are applicable to the Proposed Development:

<sup>b) uncertainty in the operation or sound emission characteristics of the specific sound source and any assumed sound power levels;
c) uncertainty in the calculation method;
d) simplifying the real situation to "fit" the model (user influence on modelling); and
e) error in the calculation process."</sup> 



Each of the calculation uncertainty factors outlined above have been considered and discussed in Table 11.

TABLE 11: CALCULATION UNCERTAINTY FACTORS

Calculation Uncertainty Factor Reference	Level of Uncertainty	Discussion
b)	0 dB	Sound levels for all sources/activities have been based on robust archive data and reasonable worst-case assumptions.
c)	0 dB	Calculations were undertaken in accordance with ISO 9613-2, which is considered a "validated method" by BS4142:2014+A1:2019.
d)	O dB	The real situation has not been simplified for the purposes of this assessment.
e)	+1 dB	ISO 9613-2 indicates that there is a $\pm 3$ dB accuracy to the prediction method, dependent upon input variables and propagation complexities.

In summary, a +1 dB has been included in the assessment, for calculation uncertainty.

The overall uncertainty is considered to be small enough that it would not affect the conclusions of the assessment.

## 5.2.4. Rating Sound Level

Incorporating the rating penalties detailed in Section 5.2.2 with the predicted specific sound levels, as detailed in , the rating sound levels have been derived and have been detailed in Table 12 below.

TABLE 12: RATING SOUND LEVELS

NSR	Cumulative Specific Sound Level (dB)			Rating Sound Level (dB)		
	Day	Night	Early Morning	Day	Night	Early Morning
1	29	27	27	29	27	27
2	31	29	29	31	29	29
3	32	26	27	32	26	27
4	32	24	25	32	24	25
5	30	19	20	30	19	20



#### 5.2.5. BS4142:2014+A1:2019 Assessment

The rating sound level, as calculated from the predicted specific sound level, has been assessed in accordance with BS4142:2014+A1:2019, at all NSRs.

The resultant assessment summary, during the daytime period, can be seen in Table 13.

TABLE 13: DAYTIME BS4142:2014+A1:2019 ASSESSMENT SUMMARY

NSR	Rating Sound Level (dB)	Daytime Background Sound Level (dB)	Excess of Rating over Daytime Background Sound Level (dB)		
1	29	40	-11		
2	31	40	-9		
3	32	40	-8		
4	32	44	-12		
5	30	44	-14		

It can be seen that the Proposed Development, in its assessed form is likely to have a *'low impact'* at the nearest noise-sensitive receptors during the day.

The resultant assessment summary, during the night-time period, can be seen in Table 14.

TABLE 14: NIGHT-TIME BS4142:2014+A1:2019 ASSESSMENT SUMMARY

NSR	Rating Sound Level (dB)	Night-time Background Sound Level (dB)	Excess of Rating over Night-time Background Sound Level (dB)		
1	27	35	-8		
2	29	35	-6		
3	26	35	-9		
4	24	35	-11		
5	19	35	-16		

It can be seen that the Proposed Development, in its assessed form is likely to have a 'low impact' at the nearest noise-sensitive receptors during the night.



The resultant assessment summary, during the early morning (06:00-07:00) period, can be seen in Table 15.

TABLE 15: EARLY MORNING BS4142:2014+A1:2019 ASSESSMENT SUMMARY

NSR	Rating Sound Level (dB)	Early Morning Background Sound Level (dB)	Excess of Rating over Early Morning Background Sound Level (dB)			
1	27	43	-16			
2	29	43	-14			
3	27	43	-14			
4	25	49	-24			
5	20	49	-29			

It can be seen that the Proposed Development, in its assessed form is likely to have a *'low impact'* at the nearest noise-sensitive receptors during the early morning peak.

#### 5.2.6. Effect on the Ambient Sound Environment - Residential Receptors

The differential between the predicted specific noise levels at each residential receptor, when compared to the measured ambient  $L_{\text{Aeq},T}$  levels in the area would ensure that no significant increase in the prevailing ambient sound level would occur during the day or night.

#### 5.2.7. Discussion and Operational Recommendations

The assessment identifies that probable noise emissions from activities associated with the Site would likely give rise to low levels of audibility at the closest residential properties to the site and that the currently proposed building construction would be effective in containing the probable levels of internally generated noise within the units.

The assessment does consider the effects of the presumed, most potentially acoustically significant operations within the Proposed Development, on a reasonable and robust basis, given the lack of currently available information relating to the actual end uses of the buildings within the Site. These assumptions are considered sufficient to demonstrate the potential levels of noise impact arising from the Proposed Development and offer sufficient comfort to the Local Planning Authority, that noise arising from the Site can be controlled via the design of the Site.

The application of noise-limiting planning conditions would add a level of operational control and ensure that no restrictions on operating hours would need to be applied, in lieu of noise.

The following noise-limiting planning condition is therefore suggested to cover cumulative activity:

Noise arising from the Development shall not exceed the typical background sound level during the day or night at the closest residential receptors to the site, existing at the time of the approval of this planning permission, when assessed in accordance with the methodology and principles set out in BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound.



## 6. Noise Assessment - Access Road

### 6.1. Noise Modelling

#### 6.1.1. General

Road traffic noise arising from the use of the site access road has been considered separately from the unit-specific operational noise, as it will comprise a more ostensibly anonymous sound source, that residents will already be habituated to, given the levels of existing road traffic noise in the area.

Consequently, the predicted traffic flows for the worst-case Option 1 operating scenario (100% light industrial) have been considered, with regard to their potential effect upon the measured ambient sound level in the area.

#### 6.1.2. Operational Assumptions

On the basis of the forecast traffic information, the following has been considered in the assessment:

- 40 HGV movements in a daytime 1-hour period (10:00-11:00), with 51 LGV movements and 59 car movements during the same period;
- 9 HGV movements in a night-time 1-hour period (04:00-05:00), with 7 LGV movements and 37 car movements during the same period; and
- 24 HGV movements in an early morning 1-hour period (06:00-07:00), with 25 LGV movements and 126 car movements during the same period.

#### 6.1.3. Predictions

Calculations were carried out using Cadna/A, which undertakes its calculations in accordance with guidance given in ISO9613-1:1993 and ISO9613-2:1996.

Given that the land between Proposed Development and nearest receptors is mixed, the ground factor has been set to 0.5 in the calculation software. The road traffic source has been considered as a line source, taking account of the sound power levels arising from the vehicle passbys predicted to occur during the daytime, night-time and early morning peak flow periods.

The predictions assume a consistent traffic flow along the whole length of the access road, without allowing for the flow reductions arising from vehicles accessing Units 1, 2 and 3, en-route to Unit 4, so represent a worst case. The predicted noise levels at each receptor façade are set out in Table 16.

TABLE 16: PREDICTED TRAFFIC FLOW NOISE LEVELS AT FACADE

	Specific Sound Level at Façade L <sub>Aeq,1hour</sub> - dB					
Position	Peak Daytime	Peak Night-time	Early Morning			
R1	24.5	19.8	24.6			
R2	25.1	20.4	25.2			
R3	26.5	21.8	26.6			

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R4	26.9	22.2	27.0
R5	25.0	20.3	25.1

## 6.1.4. Assessment

On the basis of the predicted road traffic noise level at the receptor facades and the measured ambient sound levels for each discrete time period, the predicted relative change in ambient sound level has been calculated and is presented in Table 17.

TABLE 17: PREDICTED CHANGE IN AMBIENT NOISE LEVEL ARISING FROM ACCESS ROAD TRAFFIC

	Sound Level - dB							
Receptor	Specific Sound Level: L <sub>Aeq,1-hour</sub>	Existing Ambient Level: L <sub>Aeq,T</sub>	Future Ambient Level: L <sub>Aeq.T</sub>	Change in Ambient Level				
		Peak Daytime						
1	24.5	48.5	48.5	0.0				
2	25.1	48.5	48.5	0.0				
3	26.5	48.5	48.5	0.0				
4	26.9	51.6	51.6	0.0				
5	25.0	51.6	51.6	0.0				
		Peak Night-time						
1	19.8	45.4	45.4	0.0				
2	20.4	45.4	45.4	0.0				
3	21.8	45.4	45.4	0.0				
4	22.2	50.7	50.7	0.0				
5	20.3	50.7	50.7	0.0				
		Peak Early Morning						
1	24.6	48.9	48.9	0.0				
2	25.2	48.9	48.9	0.0				
3	26.6	48.9	48.9	0.0				
4	27.0	54.2	54.2	0.0				
5	25.1	54.2	54.2	0.0				

The assessment set out in Table 17 identifies that the high dominance of existing road traffic noise, will effectively dilute the contributions arising from additional road traffic along the access road to the development, to such an extent that no change in ambient sound level is anticipated, thus equating to no change and no effect from this potential source of noise.

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#### CONSTRUCTION 7.

The precise construction method and phasing have not yet been determined; however, a Construction Environmental Management Plan (CEMP) will be prepared and submitted in due course to the Local Planning Authority for approval, which will be steered by the criteria set out in BS 5228: 2009+A: 2014<sup>8</sup>

With regard to vibration, the document sets a ground vibration limit, in terms of Peak Particle Velocity (PPV) of 1 mm per second at any occupied residential property and 3 mm per second at any other property in any orthogonal direction.

It is anticipated that construction hours will be limited by condition, agreed with the Local Planning Authority.

With respect to the minimisation of acoustic disruption arising from construction activity, the following techniques will be employed:

- effective co-ordination and time management of construction operations would be important in avoiding noise and vibration nuisance to surrounding uses. Early and helpful communications with the surrounding receptors would assist reducing potential for and in managing any complaints arising during the demolition and construction works of the Proposed Development: and
- contractors would be required to ensure that works are carried out in accordance with Best Practice Measures (BPM) as stipulated in the Control of Pollution Act 1974. A full explanation of measures to control construction noise would be incorporated within the CEMP and detailed in all construction method statements.

The Proposed Development in regards to general noise mitigation would be in accordance with Best Practicable Means (BPM) as specified in BS 5228 and would comprise the following, where possible:

- using 'silenced' plant and equipment;
- switching off engines where vehicles are standing for a significant period of time;
- fitting of acoustic enclosures to suppress noisy equipment:
- operating plant at low speeds and incorporating of automatic low speed idling;
- selecting electrically driven equipment in preference to internal combustion powered, hydraulic power in preference to pneumatic and wheeled in lieu of tracked plant;
- properly maintaining all plant (greased, blown silencers replaced, saws kept sharpened, teeth set and blades flat, worn bearings replaced, etc.);
- considering the use of temporary screening or enclosures for static noisy plant to reduce noise emissions;
- certifying plant to meet any relevant EC Directive standards; and
- undertaking awareness training of all contractors in regards to BS5228 (Parts 1 and 2) which would form a prerequisite of their appointment.

Typically, adopting BPM would reduce overall construction noise levels by approximately 5 dB.

Should any non-routine activities be identified that would make it impracticable to work to the adopted target criterion, provisions would be set out in advance and with the agreement of the Local Planning Authority, to reduce and control the effect. It is recommended that noise monitoring is carried out during particularly noisy phases of work close to the site boundary so that such situations can be actively managed in accordance with the CEMP.

<sup>&</sup>lt;sup>8</sup> British Standard BS 5228: 2009+A: 2014 Code of practice for noise and vibration control on construction and



For any proposed construction works to be undertaken outside of the permitted working day, particularly at night, prior consent would be sought from the Local Planning Authority. Dispensation procedures for works would be agreed in advance and included within Construction Method Statements and a CEMP.

Deliveries and removal of material off-site, would be subject to the following controls;

- ensuring that construction traffic is parked off the public highway;
- controlling the discharge of trucks from Site to avoid congestion; and implementing traffic management systems at the entrance to the site at all times to control the traffic into the site.

By implementing the aforementioned measures, it is anticipated that any noise impacts to nearby sensitive receptors during the demolition and construction works will be minimised.



## 8. CONCLUSION

inacoustic has been commissioned to assess the impact of noise from a proposed speculative commercial B2/B8/Eg(ii)/Eg(iii) development at a site off Rush Lane, Tamworth.

This technical noise assessment has been produced to provide supporting information to accompany a planning application to North Warwickshire Borough Council and Tamworth Borough Council and is based upon environmental noise measurements undertaken at the site and a subsequent predictive exercise.

The assessment considers the potential noise emissions arising from robust activity levels at the Proposed Development.

The assessment has identified that noise levels arising as a result of probable operations are predicted to be at a level defined as a Low Impact at the closest off-site noise-sensitive receptors, in BS4142:2014+A1:2019 terms.

The assessment has also identified that noise effects arising as a result of vehicles using the proposed access road will not be significant, when considered against the residual acoustic environment of the area.

In light of the above, it is considered that the potential noise impacts associated with the Proposed Development can be adequately controlled by the design and the application of a suitably worded planning condition and that noise should not be considered a material constraint to the granting of planning permission for the proposals.



# 9. APPENDICES

# 9.1. Appendix A - Definition of Terms

Sound Pressure	Sound, or sound pressure, is a fluctuation in air pressure over the static ambient pressure.
Sound Pressure Level (Sound Level)	The sound level is the sound pressure relative to a standard reference pressure of $20\mu Pa$ ( $20x10^{-6}$ Pascals) on a decibel scale.
Decibel (dB)	A scale for comparing the ratios of two quantities, including sound pressure and sound power. The difference in level between two sounds s1 and s2 is given by 20 log10 ( s1 / s2 ). The decibel can also be used to measure absolute quantities by specifying a reference value that fixes one point on the scale. For sound pressure, the reference value is $20\mu Pa$ .
A-weighting, dB(A)	The unit of sound level, weighted according to the A-scale, which takes into account the increased sensitivity of the human ear at some frequencies.
Noise Level Indices	Noise levels usually fluctuate over time, so it is often necessary to consider an average or statistical noise level. This can be done in several ways, so a number of different noise indices have been defined, according to how the averaging or statistics are carried out.
$L_{eq,T}$	A noise level index called the equivalent continuous noise level over the time period T. This is the level of a notional steady sound that would contain the same amount of sound energy as the actual, possibly fluctuating, sound that was recorded.
L <sub>max,T</sub>	A noise level index defined as the maximum noise level during the period T. L <sub>max</sub> is sometimes used for the assessment of occasional loud noises, which may have little effect on the overall L <sub>eq</sub> noise level but will still affect the noise environment. Unless described otherwise, it is measured using the 'fast' sound level meter response.
L <sub>90,T</sub>	A noise level index. The noise level exceeded for 90% of the time over the period T. $L_{90}$ can be considered to be the "average minimum" noise level and is often used to describe the background noise.
L <sub>10,T</sub>	A noise level index. The noise level exceeded for 10% of the time over the period T. $L_{10}$ can be considered to be the "average maximum" noise level. Generally used to describe road traffic noise.
Free-Field	Far from the presence of sound reflecting objects (except the ground), usually taken to mean at least 3.5m
Facade	At a distance of 1m in front of a large sound reflecting object such as a building façade.
Fast Time Weighting	An averaging time used in sound level meters. Defined in BS 5969.

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In order to assist the understanding of acoustic terminology and the relative change in noise, the following background information is provided.

The human ear can detect a very wide range of pressure fluctuations, which are perceived as sound. In order to express these fluctuations in a manageable way, a logarithmic scale called the decibel, or dB scale is used. The decibel scale typically ranges from 0 dB (the threshold of hearing) to over 120 dB. An indication of the range of sound levels commonly found in the environment is given in the following table.

TABLE 18: TYPICAL SOUND LEVELS FOUND IN THE ENVIRONMENT

Sound Level	Location
OdB(A)	Threshold of hearing
20 to 30dB(A)	Quiet bedroom at night
30 to 40dB(A)	Living room during the day
40 to 50dB(A)	Typical office
50 to 60dB(A)	Inside a car
60 to 70dB(A)	Typical high street
70 to 90dB(A)	Inside factory
100 to 110dB(A)	Burglar alarm at 1m away
110 to 130dB(A)	Jet aircraft on take off
140dB(A)	Threshold of Pain

The ear is less sensitive to some frequencies than to others. The A-weighting scale is used to approximate the frequency response of the ear. Levels weighted using this scale are commonly identified by the notation dB(A).

In accordance with logarithmic addition, combining two sources with equal noise levels would result in an increase of 3 dB(A) in the noise level from a single source.

A change of 3 dB(A) is generally regarded as the smallest change in broadband continuous noise which the human ear can detect (although in certain controlled circumstances a change of 1 dB(A) is just perceptible). Therefore, a 2 dB(A) increase would not be normally be perceptible. A 10 dB(A) increase in noise represents a subjective doubling of loudness.

A noise impact on a community is deemed to occur when a new noise is introduced that is out of character with the area, or when a significant increase above the pre-existing ambient noise level occurs.

For levels of noise that vary with time, it is necessary to employ a statistical index that allows for this variation. These statistical indices are expressed as the sound level that is exceeded for a percentage of the time period of interest. In the UK, traffic noise is measured as the  $L_{\rm Alo}$ , the noise level exceeded for 10% of the measurement period. The  $L_{\rm Ago}$  is the level exceeded for 90% of the time and has been adopted to represent the background noise level in the absence of discrete events. An alternative way of assessing the time varying noise levels is to use the equivalent continuous sound level,  $L_{\rm Agq}$ .



This is a notional steady level that would, over a given period of time, deliver the same sound energy as the actual fluctuating sound.

To put these quantities into context, where a receiver is predominantly affected by continuous flows of road traffic, a doubling or halving of the flows would result in a just perceptible change of 3 dB, while an increase of more than 25%, or a decrease of more than 20%, in traffic flows represent changes of 1 dB in traffic noise levels (assuming no alteration in the mix of traffic or flow speeds).

Note that the time constant and the period of the noise measurement should be specified. For example, BS 4142 specifies background noise measurement periods of 1 hour during the day and 15 minutes during the night. The noise levels are commonly symbolised as LA90,1hour dB and LA90,15mins dB. The noise measurement should be recorded using a 'FAST' time response equivalent to 0.125 ms.

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## 9.2. Appendix B - Measurement Results

FIGURE 9: MEASURED TIME HISTORY - MP1

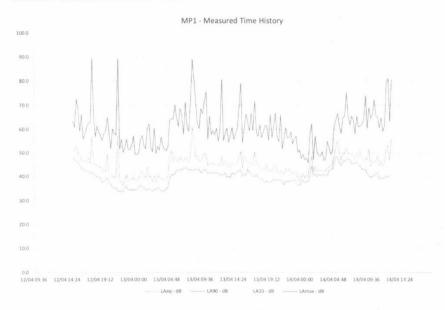
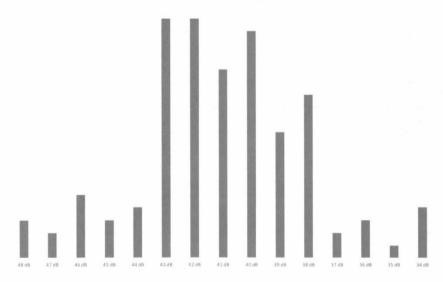


FIGURE 10: STATISTICAL ANALYSIS OF LA90 BACKGROUND - MP1 DAYTIME

 $\ensuremath{\mathsf{MP1}}$  - Statistical Analysis of Daytime  $\ensuremath{\mathsf{L}}_{\ensuremath{\mathsf{A90}}}$  Background Sound



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FIGURE 11: STATISTICAL ANALYSIS OF LA90 BACKGROUND - MP1 NIGHT-TIME

MP1 - Statistical Analysis of Night-time L<sub>A90</sub> Background Sound

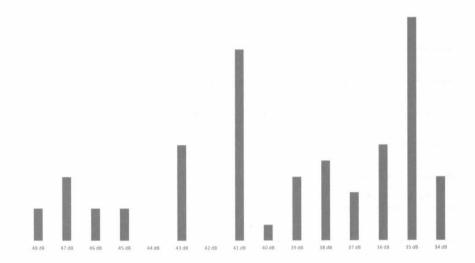
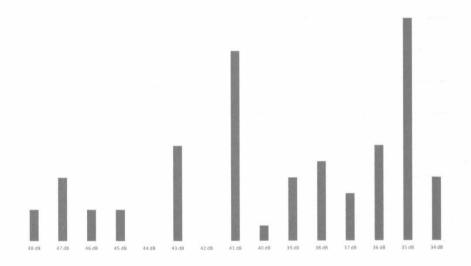


FIGURE 12: STATISTICAL ANALYSIS OF LA90 BACKGROUND - MP1 NIGHT-TIME

 $\ensuremath{\mathsf{MP1}}$  - Statistical Analysis of Night-time  $\ensuremath{\mathsf{L}}_{\ensuremath{\mathsf{A}}\ensuremath{\mathsf{90}}}$  Background Sound



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FIGURE 13: STATISTICAL ANALYSIS OF LA90 BACKGROUND - MP1 EARLY MORNING

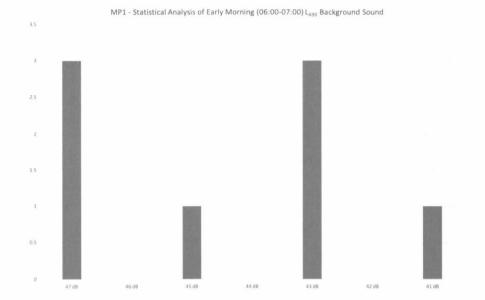
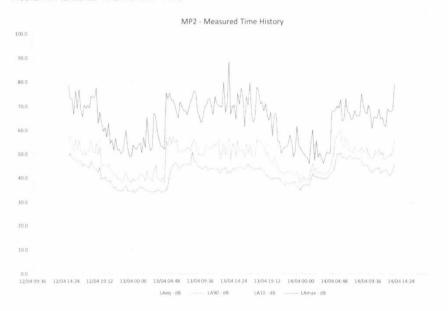


FIGURE 14: MEASURED TIME HISTORY - MP2



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FIGURE 15: STATISTICAL ANALYSIS OF LA90 BACKGROUND - MP2 DAYTIME

MP2 - Statistical Analysis of Daytime L<sub>A90</sub> Background Sound

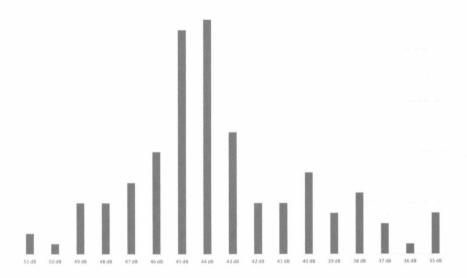
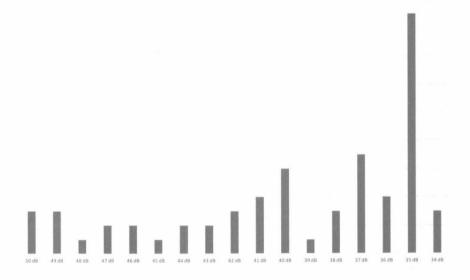
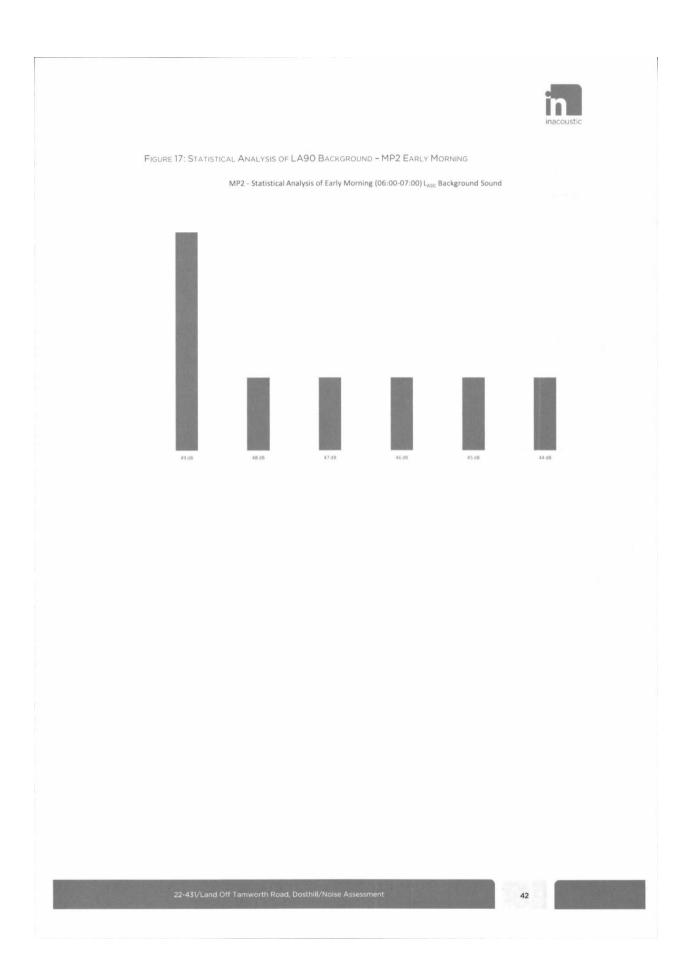


FIGURE 16: STATISTICAL ANALYSIS OF LA90 BACKGROUND - MP2 NIGHT-TIME

 $\ensuremath{\mathsf{MP2}}$  - Statistical Analysis of Night-time  $\ensuremath{\mathsf{L}}_{\ensuremath{\mathsf{A}90}}$  Background Sound



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# 9.3. Appendix C - Trip Generation Profile

TABLE 19: TRIP RATES PER UNIT - 100% B2 ALLOCATION

			Ur	nit 1: 2,36:	2 sqm GIA				
Period		OGVs		LGVs			Cars		
	Arr	Dep	Total	Arr	Dep	Total	Arr	Dep	Total
0000-0100	0	0	1	0	0	1	2	2	4
0100-0200	0	0	1	0	0	1	2	2	4
0200-0300	0	0	1	0	0	1	2	2	3
0300-0400	0	0	1	0	0	1	2	2	4
0400-0500	1	0	1	0	0	1	2	2	4
0500-0600	1	1	1	1	1	2	5	5	9
0600-0700	2	1	3	1	1	3	7	7	15
0700-0800	1	1	1	1	0	1	10	2	12
0800-0900	2	1	3	1	1	2	18	2	19
0900-1000	1	1	2	1	1	2	10	5	15
1000-1100	3	2	5	3	3	6	3	4	7
1100-1200	1	1	3	1	1	2	5	4	9
1200-1300	0	1	1	2	2	4	4	5	9
1300-1400	1	1	2	1	2	3	7	8	15
1400-1500	1	1	2	2	1	4	6	8	14
1500-1600	1	1	1	1	1	2	3	5	8
1600-1700	0	1	1	1	1	2	6	11	18
1700-1800	1	0	1	1	1	2	4	15	19
1800-1900	0	1	1	0	0	0	2	10	12
1900-2000	1	1	1	1	1	2	5	5	9
2000-2100	0	0	1	1	1	1	3	3	6
2100-2200	0	0	1	1	1	1	3	3	5
2200-2300	0	0	1	0	0	1	3	3	5
2300-2400	0	0	1 -	0	0	1	2	2	4
Total	18	16	34	22	22	45	115	115	230
			ıU	nit 2: 2, <u>9</u> 1	6 sqm GIA				
Period		OGVs			LGVs			Cars	15 15 15 TO

Unit 2: 2,916 sqm GIA									
Period	OGVs			LGVs			Cars		
	Arr	Dep	Total	Arr	Dep	Total	Arr	Dep	Total
0000-0100	0	0	1	0	0	1	2	2	4
0100-0200	0	0	1	0	0	1	2	2	4
0200-0300	0	0	1	0	0	1	2	2	4
0300-0400	1	0	1	0	0	1	2	2	5
0400-0500	1	1	1	1	1	1	3	3	5
0500-0600	1	1	2	1	1	2	6	6	12
0600-0700	2	2	4	2	2	4	9	9	18

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0700-0800	1	1	2	1	0	2	12	2	15
0800-0900	2	1	3	1	2	3	22	2	24
0900-1000	1	1	2	2	1	3	13	6	19
1000-1100	3	3	6	4	4	7	4	5	9
1100-1200	2	2	3	1	1	2	6	5	11
1200-1300	1	1	2	3	2	6	5	6	11
1300-1400	2	1	3	2	2	4	9	10	19
1400-1500	1	1	2	3	2	5	8	10	18
1500-1600	1	1	1	1	1	2	4	6	10
1600-1700	1	1	1	1	1	2	8	14	22
1700-1800	1	1	2	2	1	2	5	18	23
1800-1900	0	1	1	0	0	0	2	13	15
1900-2000	1	1	2	1	1	2	6	6	11
2000-2100	1	1	1	1	1	1	4	4	7
2100-2200	0	0	1	1	1	1	3	3	7
2200-2300	0	0	1	1	1	1	3	3	6
2300-2400	0	0	1	0	0	1	3	3	5
Total	23	20	42	28	28	55	142	142	283

Unit 3: 4,474 sqm GIA										
Period	OGVs			LGVs			Cars			
	Arr	Dep	Total	Arr	Dep	Total	Arr	Dep	Total	
0000-0100	1	1	1	1	1	1	3	3	7	
0100-0200	1	1	1	1	1	1	3	3	. 7	
0200-0300	1	1	1	1	1	1	3	3	6	
0300-0400	1	1	1	1	1	1	3	3	7	
0400-0500	1	1	2	1	1	2	4	4	8	
0500-0600	1	1	2	2	2	3	9	9	18	
0600-0700	3	2	5	3	3	5	14	14	28	
0700-0800	- 1	1	2	2	1	2	19	4	22	
0800-0900	4	1	5	1	3	4	34	3	36	
0900-1000	2	2	4	2	2	4	20	9	29	
1000-1100	5	4	9	6	6	11	6	7	13	
1100-1200	2	2	5	1	2	3	9	8	16	
1200-1300	1	1	2	5	4	8	8	9	17	
1300-1400	2	2	4	2	4	6	13	16	29	
1400-1500	2	1	3	4	3	7	12	15	27	
1500-1600	1	1	2	1	2	3	6	9	16	
1600-1700	1	1	2	1	2	3	12	22	34	
1700-1800	1	1	2	2	1	4	8	28	35	
1800-1900	0	1	1	0	0	0	3	19	23	
1900-2000	1	1	2	2	2	3	9	9	17	

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2000-2100	1	1	2	1	1	2	5	5	11	
2100-2200	1	1	1	1	1	2	5	5	10	
2200-2300	1	1	1	1	1	2	5	5	10	
2300-2400	1	0	1	1	1	2	4	4	8	
Total	35	30	65	43	42	85	217	218	435	

Unit 4: 10,335 sqm GIA										
Period										
	Arr	Dep	Total	Arr	Dep	Total	Arr	Dep	Total	
0000-0100	1	1	3	2	2	3	8	8	16	
0100-0200	2	1	3	2	2	3	8	8	16	
0200-0300	2	1	3	1	1	3	7	7	14	
0300-0400	2	2	3	2	2	3	8	8	16	
0400-0500	3	2	5	2	2	4	10	10	19	
0500-0600	3	3	6	4	4	8	21	21	41	
0600-0700	7	6	12	6	6	13	32	33	65	
0700-0800	3	3	5	4	1	5	44	8	52	
0800-0900	9	2	11	3	7	10	78	7	84	
0900-1000	4	4	9	5	4	10	46	21	67	
1000-1100	11	10	21	13	13	26	14	16	31	
1100-1200	5	5	11	3	4	8	20	18	37	
1200-1300	2	3	5	11	9	20	17	22	39	
1300-1400	5	4	10	5	9	14	31	37	68	
1400-1500	4	3	8	10	7	16	28	35	63	
1500-1600	2	2	5	3	4	8	14	22	36	
1600-1700	2	2	4	3	4	8	27	50	78	
1700-1800	3	2	5	5	3	9	18	64	82	
1800-1900	0	2	2	0	1	1	8	45	52	
1900-2000	3	3	6	4	4	8	20	20	40	
2000-2100	2	2	4	2	2	5	13	13	25	
2100-2200	2	1	3	2	2	5	12	12	23	
2200-2300	2	2	3	2	2	4	11	11	22	
2300-2400	1	1	2	2	2	3	9	9	18	
Total	80	69	150	98	98	196	502	503	1005	

Total: 20,086 sqm GIA									
Period	OGVs			LGVs			Cars		
	Arr	Dep	Total	Arr	Dep	Total	Arr	Dep	Total
0000-0100	3	2	5	3	3	6	15	15	30
0100-0200	3	3	6	3	3	6	15	15	31
0200-0300	3	3	6	3	3	5	14	14	27
0300-0400	3	3	6	3	3	6	16	16	31
0400-0500	5	4	9	4	4	7	19	19	37

22-431/Land Off Tamworth Road, Dosthill/Noise Assessment



0500-0600	6	5	11	8	8	16	40	40	80
0600-0700	13	11	24	12	12	25	63	63	126
0700-0800	5	5	10	8	3	10	85	16	101
0800-0900	17	4	21	6	13	19	151	13	164
0900-1000	8	8	17	11	8	19	89	40	129
1000-1100	21	19	40	26	26	51	28	32	59
1100-1200	11	11	21	6	9	15	38	34	73
1200-1300	4	6	11	21	17	38	34	42	76
1300-1400	11	8	19	11	17	28	59	72	132
1400-1500	8	6	15	19	13	32	55	68	123
1500-1600	4	4	9	6	8	15	28	43	70
1600-1700	4	4	9	6	9	15	53	98	151
1700-1800	6	4	11	11	6	17	34	125	159
1800-1900	0	4	4	0	2	2	15	87	102
1900-2000	6	5	11	8	8	15	39	39	78
2000-2100	4	4	8	5	5	10	24	24	49
2100-2200	3	3	6	4	4	9	23	23	46
2200-2300	3	3	6	4	4	8	22	22	43
2300-2400	3	2	5	3	3	7	17	17	35
Total	156	134	291	191	190	381	975	977	1952

22-431/Land Off Tamworth Road. Dosthill/Noise Assessment



25/4 APPENDIX G

#### **Jeff Brown**

From:

Sent:

28 March 2025 14:02

To:

Jeff Brown

Subject:

Planning Application PAP/2025/0091 OBJECTION

Caution: Warning external email

Dear Jeff,

I hope that I find you well.

I am writing to you directly to express my clear **Objection** to the PAP/2025/0091 application to remove condition 25 and 26, as I am sure you will remember well that it was myself that successfully campaigned to add these conditions to the PAP/2023/0188 application. I was very surprised to receive the email notifying me of this further application, being as following the disappointing result of PAP/2023/0188 for the neighbouring residents of Ascot Drive and the wider community, we collectively could only reflect that at least these two conditions would set about minimising the impact during the evening when a higher percentage of people would be in their homes and trying to sleep. And this sets the tone for the reason that I campaigned to ensure that these conditions were added inline with the PAP/2010/0292 application: minimising the impact imposed by the development and the wellbeing of the neighbouring residents of Ascot Drive and local community.

I would like to address the multiple reasons given in the applicants cover letter to remove Conditions 25 and 26.

- 1. The technicality of the TBC application not including conditions 25 and 26 is technicality and clerical issue to be addressed separately. As a resident of NWBC I have only been formally notified of the applications submitted through NWBC. There has been no formal communications from TBC or notifications of the applications relating to the development. It should not be down to the residents to compare and contrast two applications for the same development. Do NWBC and TBC not communicate to ensure that amendments made to the applications are not updated on both applications?
- 2. Condition 9 (Sound levels) whilst the noise limits imposed are welcomed by the residents they are going to be very difficult to directly monitor by the residents with no access to audio recording devices, without employing the costly services of a company such as those used by the applicant through these applications. Condition 25 actively looks to ensure that the impact to the residents is met and far more easily monitored with simple traffic surveying should it be required. The only control of Condition 9 is through Condition 10 'Within six months of the occupation of any of the new industrial/commercial units within the development hereby permitted, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9.' this applies to the first six months of occupation only and does not monitor levels thereafter, which as I have outlined above will render the local community and therefore the residents of Ascot Driver the 'police' of these conditions without the ability to monitor actual noise level readings.

It should also be noted that this condition was necessary and included in the PAP/2010/0292 application, which had less opportunity for HGVs due to the layout of smaller units without HGV loading bays. PAP/2023/0188 which has now been granted is not like for like with PAP/2010/0292 and now all four units hown in the applicants illustrative plan include HGV bays. Therefore the opportunity for increased noise levels without Condition 25 is increased. I will take the opportunity to remind at this point the reason to include Condition 25: *Reason: In the interests of avoiding disturbance due to noise.* 

- 3. It should be noted that the Noise Impact assessments are simulations and cannot be guaranteed following the actual building of the development. Condition 25 goes some way to provide more of a guarantee of the level of noise omitted through HGV movements, again was deemed necessary in the PAP/2010/0292 granted application with similar Noise Impact Assessments.
- 4. With reference to Condition 26 and this statement taken from the applicants cover letter:

"Whilst Condition 26 recommends the use of alternative non-audible warning systems, which include flashing lights, these do not always provide sufficient warning. Health and Safety Executive (HSE) guidance (HSG136 (3rd edition), published 2014) emphasises the importance of effective warning signals in mitigating collision risks."

Please see the extract below taken from the 'Reversing' section of this HSG136 Edition 3:

- 92. If reversing cannot be avoided:
- establish and clearly mark dedicated 'reversing areas' using longitudinal guides or white lines that are clearly signposted for both drivers and pedestrians;
- design or modify existing reversing areas, eg by making them larger, to improve visibility for both drivers and pedestrians;
  - exclude non-essential personnel from areas where vehicles are reversing; fixed mirrors or other visibility aids in the workplace to improve visibility around vehicles;
  - fit installing reversing aids on vehicles, such as CCTV and reversing sensors (see paragraphs 224–228 for more information);
  - use a trained banksman (signaller), but only when all other options have been exhausted.

There is no mention that audible systems <u>must be used</u> for HGV's reversing. <u>CCTV and reversing sensors</u> (both non-audible) appear to be the emphasised reversing aids through paragraphs 224 - 226.

Paragraph 228 mentions:

"IF reversing alarms are fitted they should be kept in good working order and be loud and distinct enough so they can be heard. Sometimes they may be drowned out by other noise, or may be so

common on a busy site that pedestrians do not take any notice. It can also be hard to tell exactly where an alarm is coming from."

This paragraph in fact points out the flaws in using audible alarms and only applies IF an audible alarm is fitted.

Therefore Condition 26 is not unnecessary duplication of the other conditions as mentioned in the Conclusion of the Cover Letter. As can be seen above, the recommendation form the referenced HSG136 Edition 3 document is that the reversing alarms be loud and distinct enough to be heard, presumably higher than the ambient noise omitted by the development? Therefore again, Condition 26 is included to safeguard the wellbeing of the neighbouring residents of the Ascot Drive estate and community. When I have previously spoken with InAccoustic (provider of the Noise Assessment) it was mentioned to me that the reversing alarms are not taken into account in the modelling of the simulated noise due to the short durations of the noise produced. Therefore the OdB increase to current ambient noise levels (especially at night) may not be an accurate representation of the noise that will actually be imposed following the build and occupation of the development.

5.

6. The cover letter states the following:

"The inclusion of these conditions was not discussed with the Council's Environmental Health Officer and purely offered on the basis of trying to appease the concerns of local residents. Despite these efforts, local residents continued to object to the proposals at Planning Committee." It should be noted that the applicant did not offer these conditions, they were requested by myself for all of the reasons outlined in this letter to safeguard the wellbeing of the local community which this development must integrate into. The applicant responded very quickly and was willing to include the two conditions prior to the Planning Board meeting, potentially in an effort to minimise the attendance of the local residence and community at the meeting? If the inclusion of the conditions was done so without the Council's Environmental Health Officer then this cannot be seen as a failing of the local residents. The local residents did indeed continue to object to the development proposals but on a number of other matters not necessarily relating these conditions.

7. It has once again been noted by the applicant that the PAP/2010/0292 is <a href="extant">extant</a>. It was yourself
Jeff, that made the entire room including the applicant aware that the 2010 application is <a href="note">not</a>
<a href="extant">extant</a> as the 5 years had lapsed in September 2015 and therefore expired, thus the reason for
PAP/2023/0188 existing. "It is important to note that outline planning permission was originally
granted at the site in 1997 (ref. OAP/1994/0232) for the industrial use of the land, with a
subsequent reserved matters application approved in 2008 (ref. PAP/2008/0088) to secure the
access, siting, design, external appearance and landscaping details. This permission was extended
under PAP/2010/0292. NWBC have confirmed the position that the permission remains extant as a
result of the construction of the junction onto the A51, together with the embankments for the spur
road extending eastwards."

I apologise for the lengthy email, however the cover letter contains a lot of detail that has needs to be responded to.



NORTH WARWICKSHIRE BOROUGH COUNCIL

RECEIVED 22/07/2025

PLANNING & DEVELOPMENT DIVISION PAP/2025/0091



Spring Lodge 172 Chester Road Helsby, Cheshire WA6 0AR, UK

www.rskacoustics.com

17 July 2025

Reference:RSK2063541-01-00-LT/DC
Planning Application Reference – PAP/2025/0091

Dear Adrian/Michael,

RSK Acoustics has been instructed by Adrian Barnsley & Michael Hargreaves to undertake a technical review of the application to remove noise-related planning conditions applied by Warwickshire Borough Council as part of permission reference PAP/2023/0188. This document has been prepared by Daniel Clare MIOA, Managing Director at RSK Acoustics.

Following review of the documents prepared by the Applicant in support of the application, we are concerned that there is insufficient technical justification for removal of Condition 25 and 26. This does not mean it may not be possible, just that we have not seen any evidence to support this.

Noise-related planning conditions are in place to protect nearby residents from excessive levels of noise from the development, and should not be removed unless it is demonstrated that the alternative would result in an acceptable environment in accordance with planning policy.

This document provides our view as technical specialists as to why we believe the application does not fully consider the noise implications of removing the conditions and the potential harm such a measure may have on nearby residential amenity. Furthermore, comments are provided as to the suitability of the existing conditions to adequately protect residents from noise arising from the development.

It is understood that the validity of the original application is not under consideration as part of this application. Where comments are made regarding the noise assessment report submitted as part if the 2024 planning application, this is limited to aspects directly referenced within the 2025 application to remove Conditions 25 and 26.

#### Condition 25

In the letter submitted by *inacoustic* containing the rationale for removing Condition 25, the Applicant fails to quantify the noise levels to which residents will be exposed as a result of the increased number of vehicle movements proposed. Instead, reliance is placed upon the findings of the noise assessment report submitted as part of the planning application (*inacoustic* report reference 22-431, version 3).

In our opinion no amendments should be permitted to the condition unless it is demonstrated that use of the access road would not give rise to significant adverse impacts upon residents. To assist in the decision-making process, we have undertaken calculations based on the parameters detailed by the Applicant within their letter and associated noise impact assessment. The results are summarised below.

RSK Acoustics Limited Reg. in England and Wales No.7102436 www.rskacoustics.com info@rskacoustics.com +44(0)1928 726006 Registered Office: Spring Lodge, 172 Chester Road, Helsby, WA6 0AR Bristol | Coventry | Dar Es Salaam | Dubai | Edinburgh Helsby | Hemel Hempstead | Kingsclere | Leeds | London | Manchester



#### **Predicted Noise Levels**

Source	Noise level (SEL)	Quantity	Approximate distance to receptor	Resultant sound level at receptor [2,3]
HGV passby	77 dB(A) @ 10m	24	30m	46 dB LAeq,1hr
LGV passby	68 dB(A) @ 10m	25	30m	37 dB L <sub>Aeq,1hr</sub>
Car passby	71 dB(A) @ 10m	126	30m	47 dB L <sub>Aeq,1hr</sub>
			Total:	50 dB LAeq,1hr

#### Notes

- The origin of the source levels in the assessment are not defined and while we would not expect a LGV to have a lower noise level than a car in most circumstances, this is replicated for consistency
- The single event level (SEL) is the sound level over one second which would have the same energy content as the whole event. To calculate The single event level (SEL) is the solution even over one second which would have the same and  $L_{larg} = SEL - 10 \log(T) + 10 \log(n)$  where T is time of the assessment period (one hour) in seconds, and n is the number of events.
- Based on a point source propagation model with no obstructions

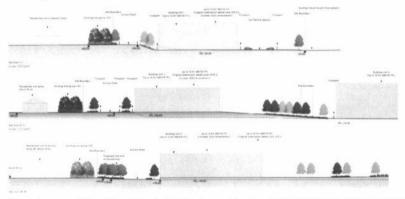
Predicted noise level at receptor from vehicle movements on access road

The predicted noise levels within the noise assessment report for equivalent vehicle numbers in the early morning range from 25 to 27 dB(A). This is significantly lower than would be expected based on standard calculation methods.

The Applicant references the existing embankment and garden structures as a measure to reduce noise at receptor, although the level of attenuation assumed to be provided is not quantified. These measures are discussed below:

**Intervening topography:** The evidence submitted states that "existing screening afforded by the leading edge of the existing embankment" is included within the assessment. From the site sections submitted as part of the planning application, this screening would be expected to be negligible as the access road is either at grade or within 0.5m of the ground level at adjacent dwellings. This will be particularly ineffective at first floor windows of the dwellings.

Although not specifically referenced as a mitigation measure, we note that the existing tree group is not of sufficient depth that it would be able to provide the substantial level of attenuation required for the assessment to return a 0 dB change in the ambient sound level.



Extract from "Illustrative Landscape Sections" (P23-0345\_EN\_0010\_B\_0001) Figure 1

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• Garden boundary structures: No evidence is provided as to the dimensions or acoustic integrity of the existing garden fences such that the attenuation assumed within the calculation can be reliably quantified. It is not reasonable to assume that garden fences are of sufficient scale, material density and free of damage that would enable them to act as an appropriate noise reduction measure. Fences on neighbouring land are not within the control of the Applicant therefore they cannot be relied upon as an acoustic attenuation measure for the site or maintained for the duration of the site operations (as required by Condition 10).

Based on the above, while the indicative noise predictions shown above do not consider attenuation due to topography or structures, the attenuation provided by these elements is likely to be negligible but should be included.

#### Comparison to Existing Ambient Level

According to the noise assessment report Figures 9 and 14, during the night-time the ambient sound level drops to approximately 39 dB(A). Based on the predictions above, the change in ambient noise level as a result of the proposed "probable worst case" is therefore likely to be up to +11 dB during the night-time.

In accordance with the significance criteria proposed by Table 2 of the same document, this would result in an impact of **major** significance, which subjectively relates to more than a doubling of loudness.

#### **Applicant Noise Assessment**

The predicted noise levels presented within the noise assessment report from vehicles travelling on the proposed access road are considered low in our experience. Following the calculation procedure in Table 1, a maximum of 8 HGV movements in any hour during the night could result in the Condition 9 noise limits being exceeded at nearby dwellings and would increase the existing hourly ambient noise level. As a result, it is possible that the condition is already lenient to ensure a 0 dB change in the ambient noise level, rather than "demonstrably excessive" as the Applicant asserts.

In our opinion the discrepancy between the results presented within the noise assessment and those calculated based on the presented input parameters requires justification by the Applicant.

The assessment does not consider the impact of the frequency and magnitude of maximum noise levels resulting from HGV movements on the access road, instead basing the assessment on an hourly average value. Instantaneous or irregular noise events are linked with sleep disturbance and are therefore of critical consideration for residential receptors during the night.

While the receptors currently experience noise from road traffic on surrounding highways, this will not be of an equivalent magnitude to HGVs travelling along an access road that is significantly closer to their property boundary, particularly for dwellings set back further from the A51. The use of an access road will result in an audible change to the environment and a condition limiting the number of vehicle movements serves to limit the impact of this change. If Condition 25 is to be removed, we would expect it to be demonstrated that introducing regular vehicle movements in close proximity to dwellings throughout the night would not result in unacceptable harm to residents.

#### Road Traffic Frequency

It is demonstrated in Table 1 above that the proposed vehicle movements on the access road would become a dominant noise source at the dwellings and would not be masked by road traffic noise on the main highway. The quantity of vehicles proposed as a maximum per hour would equate to a vehicle passing close to dwellings approximately every 20 seconds during the pight.

The Applicant refers in the noise assessment to the access road as an "ostensively anonymous sound source". We would disagree with this description, as HGVs travelling within 20-30 metres of a bedroom window where none previously existed would be clearly associated with the proposed development and not the wider highway network.

#### Summary

We would recommend that any application to modify or remove the condition should be based on an assessment which accurately demonstrates the potential noise impacts at receptors and provides a detailed description of any mitigation measures to be adopted. In absence of an appropriate assessment, we recommend that the condition be retained to the limit the impact of noise on residents as a result of the new development.

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#### Condition 26

#### **Comparison with Other Developments**

The Applicant states that other developments in the area are not subject to a limitation on reversing alarms. This fails to consider that the Applicant's site is in much closer proximity to the residential area than other sites, therefore reversing alarms will be more frequently audible at a higher level.

It is not unreasonable to assume that control measures can differ between sites as a result of operational practices, noise emission levels, and proximity to sensitive receptors. A one-size-fits-all control measure is not appropriate and all sites should be considered individually based on the outcome of a robust noise impact assessment.

#### **Assessment Methodology**

The Applicant states that the noise impact assessment includes tonal reversing alarms and refrigeration units, therefore represents "an <u>absolute worst-case</u>". This contradicts the assessment report, which states that as details are unknown, a "hypothetical operational scenario" is used, based on <u>"reasonable worst-case</u>".

The report provides no source data for refrigeration units, nor a breakdown of source contributions at the receptors which would enable review of potential tonal audibility from individual sources such as reversing alarms. Furthermore, the assessment fails to consider the uncertainty associated with the source data adopted not reflecting actual plant and equipment that will be installed. It is not therefore possible to validate from the information available whether or not the assessment represents an "absolute worst-case".

#### Interaction with Condition 9

Condition 9 provides a limit on noise from the site, however, it refers to specific sound levels, not rating levels. By setting noise limits based on a specific level, this ignores any applicable rating penalties for acoustic features which may increase the significance of impact (tonality, impulsivity, intermittency, or other readily distinctive characteristics). These features are present within reversing alarms, with tonal alarms potentially incurring multiple penalties.

As Condition 9 refers only to specific sound levels, this permits the site to comply with their limits while exceeding the background sound level beyond the magnitude at which BS 4142 indicates adverse impacts can occur. Removing Condition 26 will remove the main control measure for minimising the likelihood of significant impacts from tonal reversing alarms, therefore future occupants of the site can exceed the noise levels presented within the assessment report without breaching the condition requirements.

#### Additional Comments on Condition 9

While it is understood that the purpose of the application is specific to Condition 25 and 26, we are concerned that the wording of Condition 9 fails to adequately protect residents from significant noise impacts. As this condition is intrinsically linked to the other noise-related conditions and is referenced by the Applicant as justification for condition removal, we believe consideration of its suitability to be relevant to this case.

Our review of Condition 9 has identified the following:

- Scope of condition: The condition is not clear whether noise from the access road should be included within the
  noise limit.
- Assessment location: The daytime criteria requires assessment at ground floor only. This should also consider upper floor assessment locations, as bedrooms and other habitable spaces on the upper floors of dwellings are also sensitive to noise in the daytime.
- Metric used: As noted above, the condition relates to specific levels, not rating levels as would normally be expected for sites assessed in accordance with BS 4142. It is not unusual for sites of this nature to emit noise with tonal, intermittent and impulsive characteristics, which need to be taken into account when determining the impact.
- Limit apportionment: The information within to the decision notes clarify that the limit is to be applied for any individual unit. This creates a possibility where if all units operate up to the consented limit, the total noise level at receptors could be 6 dB above the Condition 9 value. This would be 6 dB above the existing background sound level, which BS 4142 states is indicative of adverse effects, even before the consideration of likely present acoustic features which can increase impact significance.

Page 4 of 5



Should the site emit noise levels which are equal to the background sound level, it would be expected that noise from the site would be audible at dwellings. As an example, this could incur acoustic feature corrections of +2 dB for just perceptible tonality and +3 dB for perceptible intermittent noise sources. This would result in a rating level of 11 dB above the background sound level, which BS 4142 states is an indication of a significant adverse impact, however the site would still be operating within the Condition 9 specific sound level limits.

In our opinion Condition 9 is therefore inadequate to protect residents from noise impacts arising from the development.

#### **Alternative Condition**

Based on the above, if the Applicant considers the noise assessment to represent an "absolute worst-case" with regards to the operational noise levels from the site, we recommend Condition 9 be revised to incorporate the below limits:

- During operation, the cumulative noise levels from the site shall not exceed the rating sound levels stated within Table 12 of the noise assessment report (22-431, version 3) at any time during the daytime (07:00 to 23:00), night-time (23:00 to 06:00) and early morning (06:00 to 07:00).
- During operation, noise from vehicles travelling on the site access road shall not exceed the specific sound levels within Table 16 of the noise assessment report (22-431, version 3) during the daytime (07:00 to 23:00), night-time (23:00 to 06:00) and early morning (06:00 to 07:00).

Should multiple occupants be proposed, lower limits can be apportioned to each unit by reducing the cumulative limit by a factor of  $10\log(n)$ , where n is the number of units proposed. Compliance with the limits should be determined through assessment in accordance with the methodology of BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound'.

Yours faithfully.

Managing Director – RSK Acoustics

On Behalf of RSK Acoustics Ltd





23<sup>rd</sup> July 2025

your reference

PAP/2023/0188

our reference

22-431

Pegasus Group 21 Ganton Street London W1F 9BN

RE:

Land at Rush Lane, Tamworth. Response to RSK Comments.

Further to several rounds of discussion and provision of supporting evidence, and a meeting held between Summix (and their acoustic consultant; Neil Morgan of Inacoustic), the local authority and two residents of Ascot Drive (and their acoustic consultant; Daniel Clare of RSK) held on Friday 18<sup>th</sup> July 2025, a further suite of comments has been submitted with regard to potential noise arising from the planned development.

These comments have been provided within a technical note dated 17<sup>th</sup> July, and prepared by Daniel Clare of RSK's acoustics team and are appropriately responded to below.

It should be noted that our commentary, the preceding reports, and technical notes have been prepared on an entirely objective basis, taking account of the proposed design of the development, traffic flow forecasts provided by the Applicant's transport consultant and robust assumptions on the operational profile of the site, which have been used on numerous other similar (speculative) commercial B1/B2/B8 developments, without adverse comment or question.

### Condition 25

Table 16 of the noise impact assessment report (inacoustic ref: 22-431 v3, dated 10<sup>th</sup> July 2023) that supported the successful outline planning application for the scheme sets out predicted noise levels from road traffic on the access road, at the façade of the closest dwellings within Ascot Drive, based upon the following input considerations:

- 40 HGV movements in a daytime 1-hour period (10:00-11:00), with 51 LGV movements and
- 59 car movements during the same period;
- 9 HGV movements in a night-time 1-hour period (04:00-05:00), with 7 LGV movements and
- 37 car movements during the same period; and
- 24 HGV movements in an early morning 1-hour period (06:00-07:00), with
- 25 LGVmovements and 126 car movements during the same period.

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nacoustic is a trading name of Inacoustic Ltd, registered in the UK 1087393



The highest predicted noise level at the dwelling façade, during the peak predicted period of operation; being 06:00-07:00 is L<sub>Aeq,1-hour</sub> 27 dB.

This level has been calculated within Cadna/A, utilising the known topography of the area and the prediction methodology set out in ISO9613.

Mr Clare makes several statements regarding cross-sections and the topographic relationship between the access road and the receptors, which may be relevant for the dwellings closest to Tamworth Road, but are certainly not the case for the dwellings further to the east, where the ground drops away, introducing an embankment of increasing height between the receptors and the access road level. Incidentally, the receptors closer to Tamworth Road also experience higher baseline noise levels, due to this proximal relationship.

It is acknowledged and accepted that the boundary fences of the residential properties are of unknown an acoustic performance, in terms of their mass and acoustic integrity; however, acousticians often place far too much emphasis on this in real world conditions.

Should a barrier be located immediately adjacent to a significant noise generator; where it is relied upon to mitigate the direct propagation path, which may be significant in terms of the sound travelling over it i.e. where the path difference is highly significant, then this is a key consideration; however, when only modest reductions are introduced to low impact sources, then it is not unreasonable to make an appropriate allowance. In a circumstance such as this, a barrier merely needs to ensure that the sound travelling through it is numerically insignificant to that travelling over it; something that is easy to achieve with small path differences, meaning that a barrier does not need to be constructed in an airtight manner, as the area of the sky above it is by far a greater weakness than small gaps caused by warping or a lower panel density.

Consequently, the predicted noise levels are considered to be robust. This was considered to be so during the planning application for the development, where the findings were reviewed, scrutinised and accepted. The only difference between then and now, is that those findings are now being used to provide evidence to support a s73 application for the amendment/removal of planning conditions applied to that approved planning permission.

With that in mind, the  $L_{Aeq}$  established by direct measurement between  $12^{th}$  and  $14^{th}$  April 2023 for the core night-time period is just over 45 dB at the eastern extent of Ascot Drive and just under 51 dB at the western extent, adjacent to Tamworth Road.

On the basis of comparing the measured core night-time baseline/ambient noise level to the worst-case predicted early morning specific sound level of road traffic on the access road, no measurable numerical increase in noise level will occur at the dwelling façade. Indeed, even if comparing that specific sound level to the established night-time L<sub>A90</sub> background sound level of 35 dB, the impact would still be considered low; being below the background sound level.

It is on this basis that it is considered that the restriction of vehicle movements during the whole of the 23:00-07:00 period is unnecessary and unreasonable. The wording of the condition does not even account for the findings of the submitted and accepted noise impact assessment report for the 06:00-07:00 period.

It is therefore suggested, on the basis of the above, that the predicted traffic movements set out for either the 06:00-07:00 or 10:00-11:00 periods within the original inacoustic report, and set out above, could be conditioned for any hour of the night, while still providing a comfortable level of amenity protection for residents of Ascot Drive.

22-431/Rush Lane, Tamworth/s73 Application - Response to RSK Comments on Noise



It should be noted that a low numerical level of noise impact i.e. a decibel impact, does not equate to inaudibility. In striking a balance between economic development and residential amenity, particularly in mixed industrial and residential areas, inaudibility cannot be assured, but the level of noise impact is governed by strict numerical criteria to ensure that no significant changes in receptor behaviour are caused. In this case, the existing sources of ambient noise in the area, particularly road traffic on Tamworth Road and rail traffic to the east would still govern the overall sound level, but a lower level of potentially slower-moving road traffic in a new area may introduce a change in audible characteristics.

The clarification set out above, coupled to the robust and accepted findings of the originally submitted planning-stage noise report, produced by inacoustic is considered to provide sufficient evidence of the potential road traffic noise impacts of the proposals and to justify the variation of Condition 25.

#### Condition 26

Mr Clare's comments are understood with regard to development proximity; however, they do not take account of the open and unscreened nature of the potential activities within existing commercial operations in the area, compared to the heavily self-screened nature of activities within the development subject to this s73 application.

The whole design ethos of the planned development has been to use the massing of the buildings to screen external activity areas. Therefore, while the potential exists for activity to occur in closer proximity to the dwellings on Ascot Drive than is currently the case, these activities will be on the screened side of substantial buildings, with service bays oriented away from the receptors.

This design ethos, coupled to the more stringent planning controls than are applied to existing uses in the area will ensure that the planned development has no more potential to give rise to noise impacts at the closest residential uses than the existing uses. Furthermore, as planning controls will exist, reliance upon informal agreements with operators that rely on a high level of goodwill, will not be required.

Furthermore, although not quantified or discussed at length during the existing noise information for the planned development, the massing discussed above, will also add screening between existing uses and Ascot Drive, by interrupting the line of sight between the residential uses and the activities within the Kingsbury Pallets and Hunnebeck sites.

Mr Clare's assertions of contradiction under the "Assessment Methodology" section of his technical note are merely semantics. The usage levels are a "reasonable" worst case assumption, but the source levels are an "absolute" worst case assumption, as they consider measured source noise levels from HGVs with tonal reverse alarms and on-board refrigeration units. No separate statistics are provided, as the source was measured as a whole unit i.e. the manoeuvre of a vehicle with such features being present and operational.

#### Condition 9

The wording of Condition 9 is not proposed to change. This wording was provided by the Local Planning Authority and is now applied to the outline planning permission, with variations only proposed to Conditions 25 and 26, which will not affect compliance with the criteria of Condition 9.

#### Summary

No operator will wish to take up occupancy of any unit within the planned development in such a manner that could lead them into noise-related litigation downstream.

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The noise assessment has been prepared in such a manner so as to consider the noise generation potential of all uses likely to become operational in such a hinterland location between heavy industry and residential uses. The iterative nature of our involvement in the evolution of the scheme has also borne this in mind; maximisation of operational flexibility, while also ensuring minimisation of potential impacts upon noise-sensitive neighbouring uses.

The proposed condition variations also take this into account, and we are confident that they will still ensure an adequate level of amenity protection, while making the eventual realisation of development on the former landfill site more likely.

#### LPA Feedback

Further to the above, feedback has also been provided by Robert Parkinson (Environmental Health Practitioner – contractor; presumed retained advisor to NWDC), within an e-mail to Jeff Brown dated  $22^{nd}$  July 2025. Most of the responses corroborate what has already been detailed above; however, there is one comment regarding residential amenity and maxima events i.e. typically achieving <45 dB  $L_{AFmax}$  within bedrooms with windows open.

Table 5 of the inacoustic planning stage report sets out the typical L<sub>AFmax</sub> levels and shows that night-time levels at the rear of Ascot Drive are already at or above 70 dB, with levels during the defined night-time reaching more than 75 dB (see Appendix B of said report). Even allowing the higher rate of attenuation for a partially open window (15 dB), the 45 dB(A) internal criterion would be significantly exceeded under the existing baseline conditions.

With regard to the predicted road traffic noise levels at the dwelling facades, arising from the use of the access road, the Cadna/A models for these have been re-checked, re-run and results found to be similar. The models have been run with a line source at 1 metre above the centre of the link road, a ground factor of 0.5 (partially absorbent ground), 2 orders of façade reflection and a 1.8-metre high barrier, to replicate the garden fences at the foot of each garden. The landform between the access road and the dwellings (and indeed the whole area) was sourced from an Environment Agency LiDAR survey, and is 1-metre height resolution data, so is considered very accurate.

I would imagine that differences in hand-calculated level would arise from the calculation of SEL data to 1-hour sound power level data. It should also be noted that back-calculating the quoted SEL data to a linear source would require a 10log calculation, rather than a 20log calculation, as used for a point source. This is an important consideration when using the quoted source level data as a linear source, rather than a series of point sources and a failure to make this differentiation would give rise to a circa 10 dB difference in source level and is likely to be how the stated discrepancy has occurred.

On the basis of the above, 24x HGV movements, 25x LGV movements and 126x car movements would equate to a 1-hour sound power level for a linear source of 77.1 dB(A), as modelled, whereas, it would equate to a 1-hour sound power level for a point source of 87.1 dB(A). This differential occurs as a result of point sources attenuating at a rate of circa 6 dB per doubling of distance, as opposed to line sources attenuating at a rate of 3 dB per doubling of distance. Back-calculating the sound power level using point source attenuation rates and then applying that level to a linear source, with the lower rate of distance attenuation would result in an over-prediction of noise at the receptor position.

6g/156

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While there are a lot of statistics to digest in the above paragraphs, it is hoped that this provides some clarity to the prediction and is deemed sufficient to remove any lingering doubt or ambiguity.

Authored by:



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APPENDIX J.

PAP/2025/0091 Application to remove conditions 25 (8no. HGV movements between 2300 and 0700) and 26 (non-audible HGV warnings between 2300 and 0700) of Planning Application PAP/2023/0188 dated 4/10/2024

# <u>Nuisance Comments on behalf of North Warwickshire District Council Environmental Health</u>

It is considered that there remain inconsistencies in the submitted InAcoustics report and rebuttal correspondence relating to the modelled noise levels from the access road. This is as highlighted by RSK and WRS's previous comments relating to the predicted noise levels being significantly lower than those from simple distance calculation. The suggested explanation of the difference being due to conversion to Sound Power Level does not explain the variance and was not part of the assessment used. The distance attenuation provided by InAcoustic for the Lmax levels appears more representative of expected levels. InAcoustic confirmed that existing Lmax levels are higher than these predicted levels and therefore in the context of existing noise levels, the impact is not significant with regards to sleep disturbance.

However, Condition 25 sought to control numbers of HGV movements during the night onto a multi-site estate as a noise control measure. A doubling of traffic only equates to a 3dB in the hourly levels and no difference in maximum levels. The current Condition 25 is on the balance of probabilities unenforceable and doesn't achieve a significant reduction in impact during the nighttime period, once the context of existing noise levels are considered. The condition is unlikely to be defendable and therefore should be deleted.

The revised conditions detailed below allow site specific noise assessments against BS4142 and provide protection from excessive site noise from future occupiers of the units affecting residential properties to the North. It allows consideration of specific controls over noise including use of reversing alarms and can be tailored to the end user. Their production will also promote early consideration of potential noise impacts by future occupiers.

#### **Revised conditions**

### **Condition 8**

- 8 (a) The proposed layouts in any reserved matters applications for Zone A, as defined on the Parameters Plan approved under Condition 5, shall contain full details of the finished floor levels of all proposed buildings within this Zone, above ordnance datum, in relation to existing ground levels. They shall show no service/loading and unloading areas along the northern edge of this Zone.
- (b) The proposed layouts in any reserved matters applications submitted for Zones B and C, as defined on the Parameters Plan approved under Condition 5, shall contain full details of the finished floor levels of all proposed buildings within these Zones, above ordnance datum, in relation to existing ground levels. They shall show no service/loading and unloading areas along the northern edge of Zone B. Additionally, any reserved matters applications for Zones B and C shall include a Noise Impact Appraisal to identify the internal and external noise impacts arising from occupation of that Zone. The scope for these Appraisals shall have first been agreed in writing by the Local Planning Authority and evidence of this shall be included in any submission.
- (c) The Noise Impact Appraisals submitted under 8(b) above, shall include mitigation measures, if appropriate, to ensure full compliance with the requirements of Conditions 9 and 10

- 9. The rated specific sound level from any individual unit arising from internal or external uses, including operational sources of an industrial/commercial nature within the development, the operation of fixed plant, machinery, plant and mobile plant including deliveries, heating, air handing and/or ventilation equipment shall not exceed the levels outlined below:
- i) 40dBLAeq,Ihr at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 1.5 metres above ground level at I metre from the facade containing a habitable room with an opening window, between 0700 and 2300 on any day. The measurements and/predictions should demonstrate the noise limits for daytime are within gardens of the nearest affected noise sensitive receptors at 1.5m above the adjacent ground level as a free field"" level as defined by BS 7445:2003 ""Description and measurement of environmental noise (parts 1 to 3)"" for an area of not less than 75% of any dwelling's garden.
- ii) 35dBLAeq15min at any residential property on Ascot Drive, Haydock Lane or Epsom Close. The specific sound level shall be measured or predicted at a height of 4.5 metres above ground level at I metre from the facade containing a habitable room with an opening window of any residential dwelling between 2300 and 0700 on any day.
- iii) Where the residential dwelling is a bungalow, all measurement heights for day and night time are 1.5 metres above ground level.

Measurement and calculation of the rating level shall be in accordance with BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound (as amended).

#### Cond 10

Within six months of the occupation of any of the new industrial/commercial units within the development hereby permitted, noise compliance monitoring shall be undertaken by a suitably qualified professional and the results of the noise measurements and/or predictions shall be submitted to the Local Planning Authority in writing. The submission should provide evidence that the specific sound level from the industrial/ commercial internal and external sources within that unit arising from its operation of the new development meets the levels as described in condition 9. If the specific sound level from these sources exceeds the limits set out in condition 9, additional mitigation measures are to be recommended and included in that submission. Any such measures that are approved in writing by the Local Planning Authority, shall then be installed or introduced to the written satisfaction of the Local Planning Authority. These measures shall be permanently retained and maintained in proper working order for the duration of the operational life of the development.

#### Condition 11

Following the vacation of any building within Zones B and C by an occupier, each subsequent occupier shall submit a Noise Assessment Impact Appraisal in respect of its use of that building, to the Local Planning Authority and occupation shall not commence until there is written consent from that Authority to the findings of that Appraisal and the implementation of any approved relevant mitigation measures.

#### R K Parkinson

**Environmental Health Practitioner** 

Worcestershire Regulatory Services on behalf of NWDC Env Health

# **General Development Applications**

(6/h) Application No: PAP/2025/0227

Land 290 Metres East off Hams Hall Electricity Sub Station, Hams Lane, Lea Marston, Warwickshire,

Proposed Battery Energy Storage System (BESS), for

# E.On UK Plc - C/O Agent

# 1. Introduction

- 1.1 The receipt of this application was referred to the Board's July meeting for information. The Board resolved to visit the site prior to making a determination. That introductory report is attached at Appendix A and a note of the visit is at Appendix B.
- 1.2 It is not proposed to repeat the content of Appendix A, but it should be treated as an integral part of this determination report. This report will first update Members on matters since consideration of that report.

### 2 Additional Information

- 2.1. The proposal is to use the site to accommodate battery storage of up to 98MW for a period of forty years. Its primary function is to provide standby electricity storage capacity for the local network at peak times through a connection to the existing network, with the existing power grid site opposite the site. The selection of this location is said to be entirely due to the proximity of this strategic substation.
- 2.2 There have been no changes made to the proposal since July, either in the extent of the application site or to the overall layout. This is illustrated at Appendix C.
- 2.3 A revised landscaping plan is at Appendix D and photomontages of the site can be viewed at Appendix E
- 2.4 There have been no changes to Local or National Planning Policies and Guidance.
- 2.5 By way of background, Members will recall that planning permissions were granted in March 2022 for a Battery Energy Storage System on land south-west of Dunton Hall reference PAP/2021/0473 and in 2025, on a site north of the Kingsbury Road by the HS2 works reference PAP/2024/0582.

# 3. Consultations

National Grid Asset Protection – No objection.

Environment Agency – No objection.

Environmental Health Officer – No objection subject to conditions Warwickshire County Council Forestry – No objection subject to conditions

Warwickshire County Ecologist – No objection subject to conditions and information.

Warwickshire County Council Archaeology – No objection subject to conditions.

Warwickshire County Council as Highway Authority – No objection subject to conditions.

Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions

Warwickshire Fire and Rescue Service (WFRS) – No objection. The applicant's papers that were the subject of this consultation are at Appendices F and G. The responses from WFRS are at Appendix H and I.

Historic England – No comments

# 4. Representations

- 4.1. Lea Marston Parish Council It has requested adequate screening and landscaping with no "industrial- type" fencing.
- 4.2. Two letters of objection have been received referring to concerns about fire safety and whether the National Fire Chiefs Council recommendations for BESS developments have been followed.

#### 5. Observations

# a) Introduction

- 5.1 The site is wholly in the Green Belt.
- 5.2 In these circumstances, Members will be aware that inappropriate development within the Green Belt, is harmful by definition to the Green Belt, and should not be approved except in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The NPPF provides definitions for when development might be inappropriate.
- 5.3 As a consequence, Members are first advised that the initial assessment in this case is to establish if this particular proposal is inappropriate or not. If it found to be inappropriate development, then the planning balance as set out in paragraph 5.2 will have to be assessed. If it found to be not inappropriate, then by definition it is not harmful to the Green Belt and thus there is no scope for a Green Belt refusal. The determination in these circumstances would be as for any non-Green Belt development.

# b) Inappropriate or not Inappropriate Development in the Green Belt

5.4 The changes to the NPPF in late 2024 introduced the concept of "grey belt land" within the Green Belt. In certain circumstances, development is defined in the

NPPF as being not inappropriate, if it "utilises grey belt land". The initial assessment therefore is to establish whether the application site is grey belt land or not, as the consequential assessment as to whether the development is inappropriate or not inappropriate differs as to whether it is or not.

- 5.5 The NPPF provides a definition of "grey belt". The first consideration is whether the site is previously developed land (PDL) or not, and in this case, it is not as it does not meet the definition as set out in the NPPF, being wholly agricultural land.
- 5.6 The site would however be "other land", within the grey belt definition, and thus it is necessary to assess whether the site, satisfies the remaining conditions under the definition. The next condition is whether the land does or does not "strongly contribute to any of purposes (a), (b) or (d) of including land within the Green Belt" as set out in para 143 of the NPPF. This paragraph defines the five purposes of including land within the Green Belt. They are:
  - a) To check the unrestricted sprawl of large built-up areas;
  - b) To prevent neighbouring towns merging into one another,
  - c) To assist in safeguarding the countryside from encroachment,
  - d) To preserve the setting and special character of historic towns, and
  - e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 5.7 Hence an assessment has to be made as to whether the land "strongly" contributes to purposes (a), (b) and (d).
- 5.8 There is no definition of "sprawl" in the NPPF. Advice however on how to assess the matter of whether a site "strongly contributes to the purposes" is set out in the Planning Practice Guidance (PPG). In regard of purpose (a), the PPG is clear that this purpose relates to the sprawl of large built-up areas and thus villages are not to be considered to be large built-up areas. Sites that strongly contribute to purpose (a) are likely to be free from existing development and lack physical features in reasonable proximity, that could restrict and contain development. They are likely to be near larger built-up areas. In this instance, the nearest large builtup areas are Birmingham, Solihull and Sutton Coldfield. Additionally, the proposal is reversible – although with a lengthy time period of 40 years and it is small in comparison with the Green Belt as a whole. The site is considered to serve a weak contribution to checking the unrestricted sprawl of larger built-up areas as there is open land between it and all of these areas with motorway corridors in between. In these circumstances, the site is not considered to "strongly" provide protection from urban sprawl.
- 5.9 The point of purpose (b) is to maintain a clear physical separation between neighbouring towns in order to preserve the distinct identity and character of the individual towns. The PPG states this purpose relates to the merging of towns, not villages. Sites that strongly contribute to purpose (b) are likely to form a substantial part of a gap between towns and its development would likely result in the loss of the visual separation of large built-up areas. This is not the case here and as indicated above, the development is reversible, not being permanent and that the site is small. The site is therefore considered to serve a weak contribution in maintaining a clear physical separation between neighbouring towns.

- 5.10 Finally, with regards to purpose (d), sites that strongly contribute to purpose (d) are likely to form part of the setting of the historic town and make a considerable contribution to the special character of a historic town. This could be as a result of being within, adjacent to, or of significant visual importance to the historic aspects of the town. The site does not form part of the setting of an historic town, and it does not have any visual, physical or experiential connection to one. Therefore, the site is considered to serve a weak contribution to preserving the setting and special character of historic towns either.
- 5.11 It is thus considered that this site does not strongly contribute to these three purposes.
- 5.12 The final condition, is that a site is not grey belt land, where the application of the policies relating to the areas or assets in footnote 7 of the NPPF (other than Green Belt) would provide a strong reason for refusing or restricting development. The assets referred to relate to habitat sites and/or designated as Sites of Special Scientific Interest, Local Green Space, National Landscape, a National Park, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change. In this case, none of these would be applicable to the site. As such, the application of policies listed at footnote 7 would not give a strong reason for refusing or restricting development here and thus the land is not excluded from being grey belt.
- 5.13 The overall conclusion from the above assessment is that the application site is "grey belt" land within the Green Belt.
- 5.14 As indicated above in paragraphs 5.2 and 5.3, there is a different assessment to be undertaken as to whether development which is on grey belt land is inappropriate or not, than for non-grey belt land. That assessment is to be made under paragraph 155 of the NPPF and all four of the conditions have to be satisfied if the development is to be found to be not inappropriate.
- The first condition of paragraph 155 is that "the development would utilise grey belt 5.15 land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the Plan". Here therefore, it is necessary to assess whether the five purposes of including land within the Green Belt taken as whole – as per paragraph 5.6 - would be fundamentally undermined across the whole of the remaining Green Belt throughout the Borough. This condition therefore introduces purposes (c) and (e) in order that the Green Belt is looked at as a whole. It is considered that the proposal does not conflict with purpose (c) given the size of the site; it is close to an existing sub-station on the opposite side of the road where there is also a new National Grid development under construction, it has a railway line along one boundary, overhead power lines pass over it and to the other side of the railway line is Hams Hall Distribution Park. It is a distance away from Lea Marston Village. It is in all of these circumstances that it is considered that when taken together across the whole of North Warwickshire's Green Belt, the development of this site would not "fundamentally undermine" the five purposes of including land within the Green Belt.

- 5.16 The second is that "there is a demonstrable need for the type of development proposed". It is acknowledged that there is such a need as set out in the applicant's submission particularly in meeting renewable energy targets and to improve energy security. This has been recognised by the Council in the grant of planning permissions for both BESS developments and solar farms in the Borough.
- 5.17 The third condition is that "the development would be in a sustainable location". Whilst this is not a location within a settlement, the actual traffic movement arising once the site would be operational, is around one two-way movement a day. The nearby sub-station attracts far more traffic to this location, along with on-going traffic visiting Hams Hall. The operational traffic generation is thus considered to be immaterial, and it is considered that there would be no conflict with this condition.
- 5.18 The fourth condition only applies in residential cases.
- 5.19 As a result of looking at paragraph 155, it is concluded that the three applicable conditions are all met, and thus this proposal is not inappropriate development in the Green Belt.
- 5.20 Bringing this all together results in officers concluding that the development proposal does utilise grey belt land within the Green Belt and that in this case, that development is not inappropriate.
- 5.21 As indicated in paragraph 5.3 above, there is no Green Belt reason for refusal, if this course is to be recommended. The application is thus to be determined on whether the proposal gives rise to any adverse demonstrable impacts or harms that would outweigh the benefits of supporting the proposal.

# c) Other Harms

# i) Landscape

- 5.22 Local Plan policy LP14 says that development within the Landscape Areas identified in the 2010 Character Assessment, should "look to conserve, enhance and where appropriate restore landscape character". Additionally, "new development should as far as possible retain existing trees, hedgerows and nature conservation features such as water bodies and strengthen visual amenity through further landscaping".
- 5.23 The site lies in the "Tame Valley Wetlands" Landscape Character Area as identified in the 2010 Assessment referred to above. This is characterised as being a "flat highly modified river corridor landscape which has been extensively worked for sand and gravel which in part has resulted in new wetland landscapes. The southern section is set against the backdrop of the Hams Hall estate together with other urban influences the roads, railways, electricity sub-stations and overhead

- pylons. To this can now be added the HS2 works and the extensive HS2 site compound to the immediate west.
- 5.24 It is not considered that the proposal adversely affects the overall character of this Landscape Area due to its size and location. It can be absorbed into that area as a whole, without changing its character. This is because the level of impact would be almost visually contained in landscape terms by the existing boundary landscaping around most of the site, along with the overhead lines, pylons and the railway line and the extent and proximity of new built development. The impact would be very local and thus limited in scope and extent. This overall general conclusion would be mitigated too with new perimeter planting as set out in Appendix D and the fact that the proposal is reversible. In overall terms therefore it is concluded that there would be conflict with LP14 because of the introduction of a further urbanising influence into the area, but that this would be a limited conflict because of all of the matters raised above.

# ii) Visual Impacts

- 5.25 Local Plan policy LP1 says that all proposals must demonstrate a high quality of sustainable design that positively improves the environmental quality of an area. Policy LP30 says that all proposals should harmonise with both the immediate setting and wider surroundings.
- 5.26 Visually, the proposal would introduce an urbanised development into this location which still displays a rural and countryside appearance. The site currently is a former agricultural field. It would not positively improve the environmental quality of the area or harmonise with the immediate setting or surroundings. The visual impact would thus be adverse. However, given the size of the development and its overall "low" height, the degree of harm caused would not be significant. When neighbouring built development is added into the assessment of visual harm. together with the landscape mitigation proposed, the reversibility of the proposal. the limited number of residential receptors and the transitory nature of that impact by road and footpath users, the overall level of harm is considered to be "local" in extent and thus of limited harm. Appendix E provides some photomontages of the proposal. The Parish Council raised concerns over boundary treatment, however fencing to provide security is required but with details and landscaping, the impact will be reduced to an acceptable level. As such there would be limited conflict with policies LP1 and LP30.

# iii) Ecological Impacts

- 5.27 Local Plan policy LP16 seeks to protect and enhance the quality, character and local distinctiveness of the natural environment as appropriate to the nature of the development proposed. Additionally, a 10% net gain in bio-diversity is required either on or off-site, as this is a major development.
- 5.28 The proposal will lead to new landscaping, a pond, wetland areas, hedging, and planting to improve the ecological aspects of the area. The BNG habitat increase for the site is projected to be 27.53%. The landscaping as proposed can be viewed at Appendix D. The County Ecologist has confirmed that the landscaping as

proposed would lead to enhancement on the site which can be controlled by a suitable condition.

5.29 As a consequence, there is no conflict with Policy LP16.

# iv) Heritage Impacts

- 5.30. Local Plan policy LP15 says that "the quality, identity, diversity and local distinctiveness of the historic environment will be conserved and enhanced". An assessment of the impacts on the significance of any heritage assets and their setting therefore needs to be undertaken. Members will also be aware that heritage harms are defined in the NPPF as being "substantial", "less than substantial" or there being no harm. The Council is also under a statutory duty to pay special attention to the desirability of preserving or enhancing the character and appearance of a Conservation Area in the determination of an application. Additionally, the Council is also under a statutory duty to have special regard to the desirability of preserving a Listed Building, or its setting, or any features of special architectural or historic interest which it possesses. The assessment of the impacts of the proposal on local heritage assets has to be addressed in this context.
- 5.31. The nearest Conservation Areas are at Coleshill and Water Orton which are both several kilometres from the site. There is no intervisibility, physical or heritage linkages to, or with the site and thus there would be no harm on the setting of these two areas.
- 5. 32 One of the nearest groups of Listed heritage assets is at Lea Marston being a Church and monument which are to the east and some 600 metres away. Between the site and the heritage assets are a railway line, substantial vegetation and some of the Hams Hall warehouses. There is no intervisibility with the site and there is other built development between the two. These features, sever the assets' setting and disrupts the spatial, visual and cultural connections with them. As a consequence, there is no harm caused on this already significantly compromised setting by the development.
- 5.33 There is however, some potential for underground assets to be present and as such a relevant condition is proposed by the County Archaeologist.
- 5.34 It is in all of these circumstances that the proposal would not conflict with Policy LP15.

# v) Highway Impacts

- 5.35 Local Plan Policy LP29 at point 6 says that development should 'provide safe and suitable access to the site for all users.' Local Policy LP34 requires development proposals to have particular regard to adequate vehicle parking provision.
- 5.36 All vehicular access into the site would use an improved lawful access off Hams Lane, which is a C class road and serves as a link between Lea Marston and Hams Hall. The road also serves the established and soon to be expanded National Grid developments. The access to the site is existing but would need to be improved.

There would thus be increased HGV use of this arrangement during the construction period, but afterwards, the traffic using it would be very limited. The access will need to remain after construction to allow for suitable vehicles such as fire appliances or maintenance vehicles to enter and exit. However, a condition can seek to revise the arrangements such that they are appropriate to the rural setting. The Highway Authority has raised no objection in principle such that engineering matters can be "reserved". As a consequence, there is no conflict with Policy LP29.

# vi) Drainage and Flooding

- 5.37 Local Plan policy LP33 requires that water run-off from new development must be no more than natural greenfield run-off and that developments should hold any surplus water back in the development site through the use of high-quality sustainable drainage systems.
- 5.38 The Flood Risk Assessment and Drainage assessment was set out in paragraph 3.11 of Appendix A. This has been verified by the Local Lead Flood Authority as it has no objection subject to conditions.
- 5.39 As Members are aware from the content of the NPPF, that existing flooding concerns are not a matter to be resolved through a proposed development. That proposal has to resolve the surface water disposal arising from the development itself, either through on-site or off-site mitigation measures. In other words, the drainage issues are self-contained such that any surplus drainage does not make any existing matters any worse. As indicated above it is of substantial weight that the Lead Local Flood Authority has not objected.
- 5.40 As a consequence there is no conflict with Policy LP33.

# vii) Fire Safety

- 5.41 This is not a matter that is explicitly referred to in the Local Plan or indeed the NPPF, but clearly the risk from fire arising on the site or from any other incident could impact on the residential amenity of neighbouring occupiers as well as impact on ground water discharges as a consequence of fire-fighting measures taken. It is considered that this is a material planning consideration which should be given significant weight, given the nature of the proposal. It has also been raised in the representations received.
- 5.42 Notwithstanding this, Members will be aware that it is not within the duty of the Council as a Local Planning Authority to replicate or to interfere with other Regulatory Legislative regimes. As such, a planning permission can be granted for a development, but for that same development to fail to meet other Regulatory requirements, and vice-versa. Such a situation is not helpful and so it is important that the determination of this application should have regard to other relevant regulatory regimes as far as that might affect planning considerations for instance if that would influence the layout, design or appearance of the proposal. In this case that regime is covered by the National Fire Chiefs Council (NFCC) 2022 "Grid Scale Battery Energy Storage System Planning Guidance for FRS"

(Fire Rescue Services), and the relevant Approved Documents under the Building Regulations.

- 5.43 The applicant has submitted a Fire Safety Briefing note and a document covering fire safety and response measures as covered by Appendices F and G. As a consequence, this was the subject of full consultation with the Warwickshire Fire and Rescue Service (WFRS). The consultation responses are copied at Appendices H and I. It can be seen that there is no objection. The site has in the case of fire-fighting water supply Appendix H the Service is satisfied that there would be sufficient capacity on site. The fire safety document sets out the following 'The site will include a SUDs/fire water retention pond is designed with a capacity to hold approximately 1,657m3 of water, which could also be used for Local Authority Fire & Rescue Service to use for firefighting operations.'. This can be conditioned. In respect of there being sufficient access and facilities on site, then the requirements as set out in Appendix I. Some of the specifications would be better placed in an updated Battery Safety Management Plan, which can be conditioned at pre-commencement stage.
- 5.44. The applicant has shown that he has fully taken account of current standards and requirements in respect of the relevant legislation in respect of minimising the risk of fire and that the application layout and content. From a planning perspective substantial weight should be given to its formal response of there being no objection. Notwithstanding this, the Briefing Note identifies a number of other cases which have been the subject of planning appeals and quotes from those decisions. As is the case in assessing other matters which are more generally dealt with under other legislation, Inspectors need to have "compelling evidence" to substantiate claims that a development would pose an unacceptable risk. Additionally, as Members are aware, the use of planning conditions is one of the ways in which potential risks can be mitigated. Substantial weight is to be given to the WFRS responses as they provide objective technical expert guidance from the appropriate Agency that would be involved in fire-fighting at the site. It is agreed that an updated Battery Safety Management Plan should be conditioned at the pre-commencement stage and that that would include fire-fighting water supply. The WFRS can be consulted on that Plan.
- 5.45 Because of the matters set out in paragraph 5.42 above, the Board is advised to take a proportionate approach, so as to remain within its planning remit. It is considered that in all of the circumstances, set out above, that there is sufficient evidence available to the Board for it to be satisfied that it has properly assessed its remit here through the combination of submitted plans and planning conditions which are acceptable to the relevant Regulatory Service. The Board is also advised that the imposition of planning conditions covering the submission of a Battery Safety Management Plan is the approach that has been replicated throughout the country, where BESS applications have been granted planning permission both by Planning Authorities and by the Secretary of State at appeal.

# viii) Loss of Farm Land

5.46 It is agreed that the land here would be taken out of arable agricultural production. Appendix A at paragraph 3.8 indicated that some 84% of the site would be Grade 2 land and 16% would be Grade 3a. This would be a harmful impact to be

considered in the final planning balance. However, the land would not be permanently lost, and the soils would be allowed to "rest" and thus improve. As such, the temporary nature of the land use would allow for future agricultural uses.

5 47 As such there is limited harm caused

# ix) Other Matters

- 5.46 Members should be aware that there has been no objection from the Environmental Health Officer, in respect of potential noise emissions or contamination. No relevant conditions are therefore proposed.
- 5.47 Given the separation distances to the nearest residential properties, along with, the intervening topography and vegetation together with the landscape mitigation proposed, it is not considered that there would be material harm on the amenity of nearby residential occupiers.
- 5.48 A representation asked for consideration to be given to boundary fencing and the details of this can be reserved by condition, but the security of the site is a significant consideration in the design of that fencing. Given the response from the LLFA in respect of surface water and the on-site sustainable drainage proposals, it is not considered that there would be a harmful impact on adjacent woodlands.
- 5.49 Members will be aware that there is no statutory requirement for an Alternative Site Assessment to be submitted and that there is neither a planning policy requirement for such an Assessment. The Board will have been aware from other renewable energy proposals that the prime consideration on site location is the proximity to a point of connection to the Grid where there is capacity. In this case that connection is at the sub-station in Hams Lane at Hams Hall, which is over the road, and therefore considered as a suitable location. Alternative sites in proximity to that location will inevitably be in the Green Belt. see paragraph 2.1 above. It is not recommended that a refusal reason based on the lack of an alternative site assessment, would carry any weight here.

# d) The Harm Side of the Planning Balance

5.50 From the above, it can be seen that the harm side of the planning balance here comprises the limited landscape and visual harms together with the limited harm arising from the use of the land.

# e) The Applicant's Planning Considerations

5.51 These were summarised within paragraph 3.17 of Appendix A. The most significant consideration put forward by the applicant relates to the need to increase renewable energy generation and to ensure the security of its supply. The evidential background to this is set out within the documentation identified in Section 5 of Appendix A. In a planning context, he points out that the NPPF at paragraph 161 says that the planning system should support renewable and low

carbon energy and associated infrastructure. Additionally, paragraph 168 says that when determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future. Within the Green Belt, he refers to paragraph 160 where "very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources". He also refers to Local Plan policy LP35 which says that "renewable energy projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them". It is his view that this is the case here. As a consequence of all of these matters, it is considered that this overall consideration carries substantial weight.

- 5.52 Another consideration is the delivery of significant bio-diversity net gain, improved soil health and no permanent loss of the best and most versatile agricultural land. Together these would carry significant weight as they are policy compliant in respect of the ecological benefits and policy compliant in respect of Local Plan policy LP11 on the rural economy.
- 5.53 It is acknowledged that given this evidential background, this consideration carries substantial weight.
- 5.54 The applicant has confirmed that he has a live grid connection offer for this site and scheme.

# f) The Balance

- 5.55 The final planning balance is thus coming to a planning judgement on whether the weight to be given to the applicant's case, as set out above in paragraph 5.51 above, outweighs the cumulative weight of the harms identified in paragraph 5.50.
- 5.55 Overall the actual level of cumulative harm here is considered at most to be limited in degree. The other side of the balance carries substantial weight. As such it does appear that there is a difference here. However, it is necessary to "test" this conclusion over one matter the overall content of Local Plan policy LP35 on Renewable Energy. As already recorded above, the impact on agricultural land is not considered to carry weight, and no heritage harm has been identified.
- 5.56 Paragraph 168 of the NPPF says that when determining planning applications, "significant weight should be given to the benefits associated with renewable energy generation and the proposal's contribution to a net zero future". Paragraph 165 says that Plans should provide a "positive strategy for energy to help increase the use and supply of renewable and low carbon energy whilst ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts)". Local Plan policy 35 provides that "strategy". It says that such projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them. In particular, they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites of buildings of historic or cultural importance,

residential amenity and local economy". It is considered that following on from the conclusions in paragraph 5.50 above in respect of the matters raised in this Policy, that the proposal can be "accommodated" at this location. As such there would be no conflict with it. As such in this case, the planning balance falls on the side of supporting the application.

5.57 As the proposal has been found to be not inappropriate development in the Green Belt, the requirements of the 2024 Direction do not apply and the case need not be referred to the Secretary of State if the Board is minded to grant planning permission. It can also refuse planning permission without referral.

### **Conditions**

The recommendation below includes the use of pre-commencement condition(s) (this is a condition imposed on a grant of planning which must be complied with before any building or operation comprised in the development is begun or use is begun). The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 provide that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition. In this instance the applicant has given such written permission.

### Recommendation

That the application be **GRANTED** subject to conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

**REASON** 

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans:

Hams Lane BESS CTMP Final Issue 1A LTP 5654 P1 01 01 Proposed Access Preliminary Design LTP 5654 P1 01 02 Proposed Access Preliminary Design SPA received by the Local Planning Authority on 16 July 2025

81-489-L1-1 Badger Walkover Letter Statement - Hams Hall BESS 81-489-L2-1 Preliminary Roost Assessment Letter Statement - Hams Hall BESS received by the Local Planning Authority on 24 July 2025

EP Fire Safety Briefing Note August 2025 Hams Lane BESS - HFR Solutions - July 2025 V0.3 received by the Local Planning Authority on 5 August 2025 LTP 5654 T1 02 01 - HGV & Low-Loader Turning SPA received by the Local Planning Authority on 14 August 2025

81-489-R2-3 Statutory Biodiversity Metric Report - Hams Hall BESS The Statutory Biodiversity Metric Calculation Tool - Hams Hall BESS UG\_2339\_LAN\_GA\_DRW\_01 UG\_2339\_LAN\_SL\_DRW\_02 UG\_2339\_LAN\_SL\_DRW\_03 received by the Local Planning Authority on 28 July 2025

17-148-R1 - Phase 1 GSA Hams Hill Birmingham - December 2023 50-970-R1-2 - Noise Impact Assessment - Hams Hall 81-489-R1-1 Preliminary Ecological Appraisal - Hams Hall BESS - Revised 70114912-WSP-EON-DR-001 70114912-WSP-EON-DR-003 70114912-WSP-EON-DR-004 70114912-WSP-EON-DR-005 70114912-WSP-EON-DR-006 70114912-WSP-EON-DR-007 AlA for Hams Lane\_Birmingham GON.0286.0198\_Hams\_Hall\_FRDA Report\_v1 GON.0286.0198\_Hams\_Hall\_FWMP\_Report\_v1 HAMS\_4425\_v2\_compressed Soils and Agricultural Report Hams Hall 25 full

received by the Local Planning Authority on 20 May 2025

### **REASON**

To ensure that the development is carried out strictly in accordance with the approved plans.

# **Defining Conditions**

The storage capacity of the development hereby approved shall not exceed 98.0 MW.

### **REASON**

In order to define the scale of the development.

4. The planning permission hereby granted shall be for a temporary period only, to expire 40 years after the date of the first commercial export of electrical power from the development. Written confirmation of this date shall be provided in writing to the Local Planning Authority within seven days after this event.

## **REASON**

In order to confirm that this permission is for a temporary period only and so as to define the extent and scope of the development.

5. If the development hereby permitted ceases to operate for a continuous period of twelve months, or at the end of the 40-year period referred to in condition 4, then a scheme for the de-commissioning and removal of the development and all of its ancillary equipment shall be submitted in writing to the Local Planning Authority within six months of the cessation period. The scheme shall make provision for the removal of all of the battery storage structures including all CCTV cameras and poles, switch gear, access tracks, security lighting, fences, lights and associated buildings, plant and equipment together with all surface and below ground works approved under this permission. The scheme shall also include the details of the management and timing of the decommissioning works, together with a traffic management plan to address any likely traffic impact issues during the decommissioning period together with the temporary arrangements necessary at the access onto the Kingsbury Road and an environmental management plan to include details of the measures to be taken during the de-commissioning period to protect wildlife and habitats as well as details of site restoration measures. For the avoidance of doubt, the landscape planting and biodiversity improvements approved under this permission shall be excluded from this condition.

### **REASON**

In order to confirm the scope of the permission and to confirm that it is for a temporary period only.

6. The scheme as agreed in writing by the Local Planning Authority under condition 5 shall be implemented in full, within twelve months of the cessation of the site for the commercial export of electrical power, whether that cessation occurs under the time period set out in condition 4, but also at the end of any continuous cessation of the commercial export of electrical power from the site for a period of twelve months.

# **REASON**

In order to ensure the satisfactory re-instatement of the land.

### **Pre-Commencement Conditions**

7. Notwithstanding the plans hereby approved in Condition 2, no development shall take place until full details of the final locations, designs, finishes and materials to be used for the storage units, access tracks, switchgear, substations, CCTV cameras, fencing, external lighting and any other structures required for the operation of the site as a Battery Energy Storage System, have first been submitted to and approved in writing by the Local Planning Authority. Subsequently, this development shall be carried out in accordance with the approved details and retained for the life of the development.

# **REASON**

In the interests of the appearance of the area.

8. No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site

during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority. The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
- b) Measures taken to prevent siltation and pollutants from the site entering any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

### **REASON**

To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue surface water flood risk on-site or elsewhere during any construction phase in accordance with Paragraph 173 of the National Planning Policy Framework.

9. No development shall take place until a detailed final surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall: 1. Undertake infiltration testing in accordance with the BRE 365 quidance to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site. 2. Where infiltration is demonstrated to not be feasible, limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm to the QBar Greenfield runoff rate. 3. Where the drainage scheme proposes to connect into a 3rd party asset, for example a ditch course or watercourse, further information should be provided regarding the ownership, purpose, location and condition of this asset along with confirmation of the right to connect into it. This could take the form of land ownership plans showing riparian ownership or land drainage consent. 4. Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design. 5. Provide detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753. 6. Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include: a. Suitable representation of the proposed drainage scheme, details of design criteria used (incl. consideration of a surcharged outfall), and justification of such criteria where relevant. b. Simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events c. Results should demonstrate the performance of the drainage scheme including attenuation storage, flows in line with agreed discharge rates, potential flood volumes and network status. Results should be provided as a summary for each return period. d. Evidence should be supported by a suitably labelled plan/schematic (including contributing areas) to allow suitable cross checking of calculations and the proposals. 7. Provide plans such as external levels plans, supporting the exceedance and overland flow routeing provided to date. Such overland flow routing should: a. Demonstrate how runoff will be directed through the development without exposing increasing flood risk on or off site. b. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no floodina.

### **REASON**

To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity.

- 10. The commencement of use of the development shall not be permitted until a site-specific Operation and Maintenance Manual for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. The details of the manual to be submitted for approval shall include, as a minimum:
  - a) A timetable for its implementation;
  - b) Details of the maintenance, operational and access requirement for all SuDS components and connecting drainage structures, including all watercourses and their ownership;
  - c) Pro-forma to allow the recording of each inspection and maintenance activity, as well as allowing any faults to be recorded and actions taken to rectify issues;
  - d) The arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme in perpetuity;
  - e) Details of financial management including arrangements for the replacement of major components at the end of the manufacturer's recommended design life;
  - f) Details of whom to contact if pollution is seen in the system or if it is not working correctly; and
  - g) Means of access for maintenance and easements.

Thereafter the drainage system shall be retained, managed, and maintained in accordance with the approved details.

### **REASON**

To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the sustainable drainage system is subsequently maintained pursuant to the requirements of Paragraph 175 of the National Planning Policy Framework.

11. The commencement of use of the development shall not be permitted until a site-specific verification report, pertaining to the surface water sustainable drainage system, and prepared by a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority.

The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings, and copies of all statutory approvals such as Land Drainage Consent for Discharge. The scheme shall thereafter be maintained in perpetuity.

### **REASON**

To ensure that surface water flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property, and ecological systems, and to ensure that the development as constructed is compliant with the requirements of Paragraphs 173 and 175 of the National Planning Policy Framework.

- 12. Notwithstanding the requirements of Condition 9, no development shall take place until a scheme to dispose of foul drainage, surface water and any contaminated drainage from fire suppression has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a) Details of any fire prevention systems
  - b) Evidence of discussions with the fire service to confirm the expected volume and nature of contaminated water which would need to be managed in the event of a fire on site
  - c) Details of the nature of any contaminants which could be present from a failure and leak from the batteries and/or transformers on site
  - d) Details of fire water containments systems and how these will be designed to prevent infiltration and/or isolated to prevent direct discharges of contaminants to surface water
  - e) Details of SUDS features and how these will be constructed to prevent the infiltration of contaminated water to ground (e.g. the proposed permeable hardcore will need to be lined to prevent infiltration)
  - f) Details of how the drainage system will be designed such that it is resistant to damage and corrosion that may occur during a fire incident
  - g) A management and maintenance plan to ensure that all drainage features, including penstock valves are maintained and functional throughout the life of the development. This should include plans for replacement and repair of elements that may be damaged as a result of a fire incident
  - h) Evidence that a plan is in place to remove and safely dispose of any contaminated water store on site in the event of an incident.

The development shall be implemented in accordance with the approved scheme.

#### **REASON**

To ensure appropriate safety measures are in place for the lifetime of the development.

13. Notwithstanding the plans approved under condition 2, no development shall commence on site until full details and specifications for the landscaping of the whole site have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be implemented on site.

#### **REASON**

In the interests of the visual amenities of the area.

14. The development hereby permitted shall not commence (including ground clearance works) until details of all external lighting (to include location, height from ground level, lux level contour plan, and hours of operation) have been submitted to and approved by the Local Planning Authority. External lighting proposed should conform to the protocols set out in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). The development shall be carried out in full accordance with such approved details. In discharging this condition, the Local Planning Authority expects lighting to be restricted in proximity to key habitats, trees, hedges, and the proposed bat boxes and to be kept to a minimum at night across the whole site to minimise impact on emerging and foraging bats. This could be achieved in the following ways:

Narrow spectrum lighting used to avoid the blue-white wavelengths Lighting directed away from vegetated areas
The brightness of lights will be as low as legally possible Lighting timed to provide some dark periods
Connections to areas important for foraging will contain dark corridors. Lighting shielded to avoid spillage onto vegetated areas

#### **REASON**

In the interests of the residential amenity of neighbouring occupiers and to enhance landscape character.

15. No development shall commence on site until a detailed Battery Storage Safety Management Plan (BSMP) to facilitate safety during the construction, operation and de-commissioning of the battery storage system has first been submitted to and approved in writing by the Local Planning Authority. The BSMP shall include details of the following;

- a. the specific installation, test methods and certification standards for all elements of the BESS cabinets, batteries and other components, and how these demonstrate compliance with safety requirements in the UK. This information should include the rack layout and setup of the batteries within the chosen cabinet. b. detail of the detection system specification, its operation and details of the thermal management system. This should include the specific operating parameters of the detection system, how they are monitored and the response to the detection event e.g. the identification of a potential fault or issue within the system that could lead to a safety hazard, such as thermal runaway.
- c. identification of the specification/duration of the fire resisting design provided by partitions between battery cabinets and by the enclosure of the battery unit.
- d. details of the suppression system specification and operation. This should include the specific suppression technology and product, as well as evidence demonstrating that the suppression system will be effective for any fire involving the chosen battery.
- e. details of design methodology for the ventilation system, deflagration vents and explosion prevention measures. The detail should include the location, size and operating pressures/methodology for each vent.
- f. a Fire Communication Framework with Warwickshire Fire and Rescue Service (WFRS).
- g. details of the emergency, environmental and recovery plan, including the mitigation measures for pumping out the tanks during an incident, loss of containment and potential environmental damage in the event of a failure.
- h. a detailed Risk Management and Emergency Response Plan. This plan should cover, as a minimum, hazard information, response procedures, environmental impact mitigation, post-incident operations, communication and notification, command and control, training and exercising, and site specific information.

The approved BSMP shall be adhered to at all times throughout the construction, operational and decommissioning periods as approved under conditions 4, 5 and 6 above.

#### **REASON**

In the interests of public safety.

No development shall commence on site until a detailed Fire Risk Management Plan (FRMP) to show how fire risk is to be minimised at the site during construction, operation and de-commissioning of the battery storage system, has first been submitted to and approved in writing by the Local Planning Authority. The FRMP shall also include details of the measures and procedures that will be in place in the event of a fire. The approved FRMP shall remain in place at all times throughout the construction, operational and decommissioning periods as approved under conditions 4, 5 and 6 above.

# **REASON**

In the interests of public safety.

17. No development other than demolition to existing ground levels shall take place until:

- a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work shall be submitted to and approved in writing by the LPA.
- b) the programme of archaeological evaluative work and associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken. A report detailing the results of this fieldwork shall be submitted to the planning authority.
- c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the LPA. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

#### **REASON**

To ensure the recording of any items of archaeological interest.

- 18. No development shall commence including any site clearance, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to through the construction period. The approved plan shall provide for:
  - i. The routing and parking of vehicles of HGVs, site operatives and visitors;
  - ii. Hours of work:
  - iii. Loading and unloading of plant/materials.
  - iv. Storage of plant and materials used in constructing the development. The erection and maintenance of security hoarding.
  - vi. Wheel washing facilities to prevent mud and debris being passed onto the highway.
  - vii. A scheme for recycling/disposing of waste resulting from construction works. viii. Emergency contact details that can be used by the Local Planning Authority.
  - Warwickshire County Council and public during the construction period.

## **REASON**

In the interests of the amenities of the area and safety on the public highway.

# **Pre-Operational Use Conditions**

- 19. There shall be no commercial export of electricity from the site until a Landscape and Ecological Management Plan ("LEMP") has first been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be in general accordance with the approved Landscape Strategy Plan SPP06D approved under condition 2 The LEMP shall include:
  - a. a description and evaluation of the features to be managed;
  - b. ecological trends and constraints on site that might influence management,
  - c. the aims, objectives and targets for the management, and for the avoidance of doubt this shall include measures to minimise runoff during construction whether by vegetation or otherwise,

- d. descriptions of the management operations for achieving the aims and objectives,
- e. prescriptions for management actions,
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a forty-year period),
- g. Locations and numbers of bat and bird boxes, reptile ad amphibian refugia and mammal gaps in fencing.
- h. Details of the monitoring needed to measure the effectiveness of management,
- i. Details of each element of the monitoring programme,
- j. Details of the persons or organisations(s) responsible for implementation and monitoring,
- k. Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve the required aims, objectives and targets,
- I. Reporting procedures for each year 1, 2, 5, 10, 20 and 30 with biodiversity net gain reconciliation calculated at each stage,
- m. The mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery.
- n. How contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (I) above shows that the conservation aims and objectives set out in (c) above are not being met so that the development still delivers the full functioning bio-diversity objectives of the originally approved scheme.

The details in this Plan shall then be implemented on site and be adhered to at all times during the lifetime of the development.

#### **REASON**

In the interests of enhancing and protecting bio-diversity.

20. The development shall not be occupied until the proposed parking and turning facilities have been laid out and constructed in accordance with the approved plans and thereafter be set aside and retained for those purposes.

# **REASON**

In the interests of the amenities of the area and safety on the public highway.

21. The development shall not be occupied until the existing vehicular access has been resurfaced with a bound material for a minimum distance of 15 metres as measured from the near edge of the public highway carriageway.

#### **REASON**

In the interests of the amenities of the area and safety on the public highway.

22. A Habitat Management and Monitoring Plan (HMMP) for a minimum 30-year timeframe shall be submitted to, and be approved in writing by, the local planning authority prior to the commercial operation of the site. The content of the HMMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including annual work plan capable of rolling forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.
- i) The completed statutory metric applied to the application site to demonstrate that a biodiversity net gain will be achieved.
- j) Locations and numbers of bat and bird boxes, reptile and amphibian refugia, and mammal gaps in fencing.
- k) Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where results from monitoring show that conservation aims and objectives of the HMMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

#### REASON

In the interests of enhancing and protecting bio-diversity.

23. Within three months of the first commercial export of electricity from the site, an updated noise assessment shall be prepared on the basis of the equipment that has been installed, demonstrating that noise arising from the development shall not exceed the typical background sound level at the closest residential receptors to the site, when assessed in accordance with the methodology and principles set out in BS4142:2014 +A1.2019 "Methods for rating and assessing industrial and commercial sound."

#### REASON

In the interests of reducing the risk of noise pollution.

24. There shall be no commercial export of electricity from the site until such time as the parking, turning and holding bay facilities as shown on the approved plan have been constructed, laid out and fully completed to the written satisfaction of the Local Planning Authority. They shall thereafter be treated solely for these purposes.

#### **REASON**

In the interests of highway safety.

#### Other Conditions

25. The landscaping scheme as approved under condition 13 shall be carried out within the first planting season following the date when electrical power is first exported, or as otherwise agreed within the approved scheme. If within a period of five years from the date of planting, any tree, shrub hedgerow, or replacement is removed, uprooted, destroyed or dies, then another of the same species and size of the original shall be planted at the same location within the next planting season.

#### **REASON**

In the interests of ensuring that the approved landscaping scheme is maintained throughout the lifetime of the development.

26. No gates, barriers or means of enclosure shall be erected across a vehicular access within 6 metres of the highway boundary. All such features erected beyond that distance should be hung to open inward away from the highway.

### **REASON**

In the interests of highway safety.

27. The development shall not be occupied until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4 metres and 'y' distances of 120 metres in a Southern direction and 215 metres in a Northern direction measured to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

## **REASON**

In the interests of highway safety.

## **Notes**

- 1. The Local Planning Authority has met the requirements of the NPPF in this case through engaging with the applicant and a number of statutory agencies in order to result in a positive outcome.
- 2. Whilst the applicant has demonstrated the principles of an acceptable surface water management strategy, the LLFA advises that the details are submitted are the minimum required. At the discharge of conditions stage, it expects details to be approaching a level of detail suitable for tender or construction.
- 3. Attention is drawn to Sections 149, 151, 163and 184 of the Highways Act 1980, the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice.

- 4. Advice and Guidance on the content of the Battery Fire Safety Management Plan required by conditions should be sought from the Warwickshire Fire and Rescue Service.
- 5. When considering condition 8 the LLFA has set out the following:

Notice to LPA / Applicant regarding the conditions - Whilst the applicant has demonstrated the principles of an acceptable surface water management strategy at the site, further information is still required as detailed above.

The applicant may prefer to provide these additional details at a later date during the detailed design stage and therefore we have recommended an appropriate pre-commencement condition to ensure that these details will be provided for review and approval by the LPA and LLFA before the development commences.

Alternatively, the applicant may wish to avoid any pre-commencement conditions therefore the information set out above should be provided at this stage prior to the determination of the planning application. Subject to the approval of such details, the LLFA would subsequently seek the agreed plans to be included within any 'built in accordance with' type condition. Informatives for the next stage of design.

As outlined within the condition, the strategy should be treated as a minimum at this stage of the design.

Further consideration should be given during the next stage of the design to incorporate additional, localised source control SuDS such as green roofs, raingardens and tree pits as part of a 'SuDS management train' approach to provide water quality, amenity and bio-diversity benefits and increase the resilience within the design. Reference is also made to our Flood Risk Guidance for Development (updated June 2023) with more details and examples of SuDS which can be incorporated at later stages of design.

At the 'discharge of condition' stage proposals for surface water drainage should be approaching a level of detail suitable for tender or construction. Documentation should show the drainage scheme including SuDS features, specific details (e.g. standard details or cross sections) and demonstrate the performance and of the system through calculations and exceedance management respectively. Such scheme should be in line with the original planning application/permission and where significant changes are made, justification should be provided.

- 6. The applicants, developer and operator, must work with Network Rail during the life of the proposal.
- 7. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not

- authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
- 8. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <a href="https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance">https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance</a>
- 9. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.
- 10. The applicant / developer is advised to consider Construction Logistics and Community Safety (CLOCS), when formulating construction plans. The development works undertaken shall consider the Construction Logistics and Community Safety (CLOCS) Standard as set out under <a href="https://www.clocs.org.uk/">https://www.clocs.org.uk/</a>.
- 11. Before carrying out any work, you are advised to contact or check on the Line search before you dig website https://Lsbud.co.uk to which you are able to check potential proximity of pipes / cables or utility infrastructure below or over ground. It is the developer's responsibility to contact relevant providers before work commences. You can register on the LSBUD website to carry out a free search on postcode or spatial area.
- 12. The applicant is advised that to comply with the condition relating to the standard of works to trees, the work should be carried out in accordance with British Standard BS 5837:2012 "Trees in relation to design, demolition and construction Recommendations".
- 13. There may be bats present at the property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).
- 14. HS2 related The applicant is advised to follow ongoing progress of the HS2 project at: Building HS2 HS2 as the construction phase continues. If you should have any queries regarding these comments, then please do not hesitate to contact me at this mailbox address: <a href="mailto:town.planning@hs2.org.uk">town.planning@hs2.org.uk</a>.
- 15. National Grid has no objections to the above proposal which is in close proximity to a High Voltage Transmission Overhead Line provided the statutory clearances from our lines indicated on the drawings previous provided and are maintained at

all times. Information has been provided to the agent during the application process.

16. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at http://shop.bgs.ac.uk/georeports/, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.

For further information and advice on radon please contact the Health Protection Agency at www.hpa.org.uk. Also if a property is found to be affected you may wish to contact the Central Building Control Partnership on 0300 111 8035 for further advice on radon protective measures.

17. With regards to BNG - WCC Ecology have set out the following; Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:(a) a Biodiversity Gain Plan has been submitted to the planning authority, and (b) the planning authority has approved the plan. This permission will require the submission and approval of a Biodiversity Gain Plan before commencement of development including any site clearance. For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: Submit a biodiversity gain plan - GOV.UK (www.gov.uk) Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply. Statutory exemptions and transitional arrangements. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at https://www.gov.uk/guidance/biodiversity-net-gain. Irreplaceable habitat If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. Effect of Section 73(2D) of the 1990 Act Un-der Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where - 1. a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and 2. the conditions subject to which the planning permission is granted: 1. do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and 2. in the case of planning permission for a development where all or any part of the on-site habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such

effect) as specified in the earlier bio-diversity gain plan- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

- 18. Following notification of the Planning Consultation, Warwickshire Fire and Rescue Authority offers no objection to the application, subject to the below criteria being met, as required by Approved Document B, Volume 2, Requirement B5 Access and Facilities for the Fire Service:
  - Minimum width of the access road is 3.7 metres along the entire length
  - Minimum width of any gateways is 3.1 metres
  - Minimum height clearance is 3.7 metres
  - Minimum carrying capacity is 12.5 tonnes
  - A fire appliance to gain access to within 45 metres of all points within the footprint of each building
  - or in accordance with table 15.1 of ADB, Volume 2.
  - Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.
  - Dead-end access routes longer than 20m require turning facilities
  - Turning circles should be a minimum of 16.8m between kerbs or 19.2m between walls.

Battery Energy Storage Systems (BESS) are increasingly being installed around the country, and these give rise to fire hazards which need to be considered in the planning and design of the site. The following recommendations issued by the National Fire Chiefs Council apply to BESS sites, in addition to the requirements specified in previous sections.

- At least 2 separate access points to the site to account for opposite wind conditions/direction.
- At least 6 metres between BESS units and access for firefighters to operate unimpeded between units.
- An initial minimum distance of 25 metres from any occupied buildings, prior to any mitigation such as blast walls.
- Areas within 10 metres of BESS units should be cleared of combustible vegetation and any other vegetation on site should be kept in a condition such that they do not increase the risk of fire on site.
- As a minimum, hydrant supplies for boundary cooling purposes should be located close to BESS containers (but considering safe access in the event of a fire) and should be capable of delivering no less than 1,900 litres per minute for at least 2 hours.
- Any static water storage tanks designed to be used for firefighting must be located at least 10 metres away from any BESS container/cabinet, and the location determined as part of a risk assessed approach.
- Consideration should be given, within the site design, to the management of water run-off (e.g. drainage systems, interceptors, bunded lagoons etc.).

Further planning advice in relation to BESS sites is detailed in Grid Scale Battery Energy Storage System planning - Guidance for FRS issued by the NFCC. Please include an advisory note drawing the applicant's attention to the need for the development to comply with Approved Document B, Volume 2, Section B5 - Access and Facilities for the Fire Service.

Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc. regarding this can be found at; <a href="https://www.warwickshire.gov.uk/fireguidancecommercialdomesticplanning">www.warwickshire.gov.uk/fireguidancecommercialdomesticplanning</a>

Where compliance cannot be met, please provide details of alternative measures you intend to put in place.

Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles. For Consideration:

Warwickshire Fire and Rescue Authority fully endorse and support the fitting of Sprinkler installations, in accordance with the relevant clauses of BS EN 12845: 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

Warwickshire Fire and Rescue Authority ask you to consider and ensure that access to the site, during construction and once completed, are maintained free from obstructions such as parked vehicles, to allow Emergency Service vehicle access.

19. Condition number 21 and 27 may require works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team.

This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant/developer.

The Area Team may be contacted by telephone: (01926) 412515. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice.

Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days' notice will be required. For works lasting longer than 10 days, three months' notice will be required.

20. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

# **BACKGROUND PAPERS**

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

Planning Application No: PAP/2025/0227

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	20/05/2025

Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

General Development Applications (5/a) Application No: PAP/2025/0227 Land 290 Metres East Of Hams Hall Electricity Sub Station, Hams Lane, Lea Marston, Warwickshire,

# Proposed Battery Energy Storage System (BESS), for E.On UK Plc - C/O Agent

#### 1. Introduction

1.1. The receipt of this application is reported to the Board for information in advance of a full determination report.

#### 2. The Site

- 2.1. The application site extends to approx. 2.5ha and is located to the northwest of the existing Hams Hall Industrial Estate. It lies approximately 2.1 km north of Coleshill Parkway Station and 700 metres to the southwest of the village of Lea Marston. The site is accessed via a private gate along Hams Lane, as shown in the aerial image below. The site is generally flat and currently comprises agricultural land. To the east of the site is a railway line in cutting and one overhead pylon line runs along its western edge. The Hams Hall Substation lies on the opposite side of Hams Lane where the new National Grid building is to be constructed.
- 2.2 The aerial photograph below shows that the site is set back from Hams Lane behind a significant tree planted corridor. There is a further similar corridor alongside the railway cutting and more substantial woodland to the north between the site and Lea Marston.
- 2.3 There are no public footpaths running through or close to the site.



#### 3. The Proposal

3.1. This seeks to use the site to accommodate battery storage of up to 98 MW over a forty-year period. Its primary function is to provide standby electricity storage capacity for the local network at peak times through a connection to the existing network, with the existing power gird site opposite. The selection of this location is entirely due to the proximity of this strategic substation.

- 3.2. The site layout in essence is a collection of battery container units with electrical cabinets. The containers would be in two rows running north-east to south-west down the site, parallel to the railway line. The proposed development would comprise of the following equipment housed within a 2.4m high palisade fenced compound:
  - 40no. Battery containers
  - · 20no. Electrical cabinets
  - 1no. Switchgear and control room
  - 1no. Power Transformer with Bund
  - 1no. Area Reserved for Harmonic Filter
  - 1no. Area Reserved for Reactive Power Compensation
  - 1no. Control and welfare room
- 3.3. The compound would be accessed from Hams Lane with an internal access road that splits into two in front of a 'staging area'. The access road runs in between the two rows of battery containers and electrical cabinets. The access road then loops back and provides access to the other side of the site which is further surrounded by a 2.5m high welded mesh fence, containing car parking space and a temporary lay down area.
- 3.4. The site would have 24 hours CCTV in operation. The vehicle tracks would contain permeable gravel. Water run off would be to an onsite attenuation pond to the north which would allow sustainable discharge into an existing drainage ditch. New landscaping is proposed to the north and west.
- 3.5. The proposed layout is at Appendix B. Appendix C, shows the landscaping and Appendix D illustrates a series of sections through the site. Appendix E shows the power transformers layout.
- 3.6. Supporting documentation has also been submitted. The various reports are summarised below.
- 3.7. A Preliminary Ecological Appraisal has been undertaken. It shows a site of low ecological value with the perimeter tree corridors providing the most valuable habitats. No further surveys were deemed necessary, and mitigation measures can be put into place e.g. bird and bat boxes together with other refugia. The accompanying Biodiversity Metric Report confirms that the development would enable a 36.38% gain in habitat units and a 100.00% gain in hedgerow units based on the current plans.
- 3.8. An Agricultural Land Assessment concludes that the soils within the site are deep permeable coarse loams. As such, the site is a combination of Grade 2 (84% of the land) and Subgrade 3a agricultural quality (16% of the land).
- 3.9 A Landscape and Visual Impact (LVA) to assess the impact of the proposals on landscape character and visual amenity has been submitted. There are no national or local landscape designations which cover the site or its immediate setting. It lies within a wider tract of land to the north of Coleshill and south the Ancient Woodland known as Sych Wood that is around 200m to the north-east. The site is located in a broadly flat area with rising land to the northwest. It is also currently part of a wider field parcel of rough grassland, surrounded by mature tree belts and woodland, accessed from Hams Lane. There are a number of electricity pylons in close proximity to the site serving Hams Hall Substation to the west. It is therefore visually well contained by existing mature tree belts and woodland. Views into the site are limited to a small section of Hams Lane to the immediate west; a short section of Footpath M16/1 to the north-west in close proximity to Hams Lane and potential, partial views from limited areas of Hams Hall Distribution Park to the east. At greater distances, further views are truncated by

the intervening layers of mature vegetation or existing built form. The proposed development has been laid out to retain the existing landscape features including the mature vegetation to the site boundaries. Areas to the west of the BESS will be enhanced with additional native tree planting, native shrubs, hedgerows and wildflower meadow. A new drainage basin is also proposed which will be planted with suitable native wetland species. Concerning landscape effects, the proposed development of the site is anticipated to result in minor adverse effects and negligible effects on landscape character. Concerning visual effects, the potential development of the site is considered to have a range of neutral, negligible and minor adverse effects on a limited number of visual receptors within the study area, primarily for those using the road or employed at the Substation. Many of the impacts identified above would be anticipated to further reduce over time as the proposed planting matures.

- A Highways and Transport Statement has been submitted. Vehicular access to the site 3.10 is to be provided via an existing field access connecting with Hams Lane on the site's western boundary, which is expected to be widened to accommodate the largest construction vehicle movements. The junction is expected to be utilised during the construction, installation, and maintenance period. Vehicle parking for site workers during all stages of construction and operation will be accommodated on-site with no vehicles allowed to park or wait on the adjoining highway network during any stage of the development. The proposals should not have a detrimental road safety impact on the local highway network and should not adversely affect the safety of other road users. Swept path analysis has been undertaken to establish whether the largest vehicles to access the site, an Abnormal Indivisible Load Vehicle (AILV) (a low loader) and Heavy Goods Vehicle (HGV), can adequately navigate the access junction and Hams Lane. The results of the swept path analysis demonstrate that an AILV and standard articulated HGV can adequately access/egress the site via the access junction with Hams Lane. It is considered that the projected operational vehicle trip generation associated with the BESS does not represent a significant amount of movement, with between 10 and 20 vehicle trips per month generated by the BESS associated with site operations and maintenance activities, and a low number of daily/peak hour movements associated with construction. The proposed development should therefore only have a negligible impact on the operation of the local highway network. It is concluded from the assessments of this Statement that the proposed development would not be expected to have a detrimental impact in terms of road safety and traffic impact. A Construction Traffic Management Plan (CTMP) has also been submitted. It details construction traffic access arrangements, the anticipated construction programme and various traffic management measures to be implemented to minimise the effects of traffic travelling to and from the site during the construction period.
- A Flood Risk and Drainage Assessment Report has reviewed the Environment Agency's Flood Map indicating that the development site is situated within Flood Zone 1. This 'Screening Assessment' is used to identify if any sources of flood risk are required to be investigated in more detail i.e., a 'Technical' more detailed assessment which may include consideration / specification of bespoke flood mitigation measures for the site development if considered necessary. The Screening Assessment shows that all flood risk sources are considered 'Low Risk' or less and therefore require no further consideration / assessment. The proposed drainage / SuDS scheme for the development has been developed to manage the surface water runoff from the battery storage development area. The development area will be constructed with permeable materials (e.g. crushed gravel) to allow rainwater to infiltrate into the underlying makeup where it will be intercepted by perforated pipework and allow runoff from semipermeable / impermeable surfaces to be conveyed into a controlled storage structure. The internal access tracks will be drained via a combination of a perimeter filter drains and by grading track surfaces towards crushed gravel areas where it will be collected via the subsurface perforated pipework. All internal access tracks within the

development area will have a nominal crossfall towards the areas of granular material to avoid ponding on the track surfaces. The perforated pipework and perimeter filter drains will convey runoff to an attenuation basin located to the north of the development area. The attenuation basin will provide suitable treatment and attenuation prior to discharge to the adjacent drainage ditch to the north. It is considered there is no impediment to the development proposals being granted planning permission on the grounds of flood risk and drainage provision. The proposed development will remain safe and sustainable in flood risk terms for the lifetime of the development

- 3.12 A Firewater Management Plan has also been produced in order to demonstrate how firewater runoff volume would be controlled and managed at the site, in light of the release of National Fire Chiefs Council (NFCC) guidance for Fire Rescue Services with respect to BESS. It is noted that new draft NFCC guidance has recently been released however this strategy is based on the 2023 adopted guidance. Comparison of both versions of the guidance indicates that the adopted 2023 version is considered more conservative given the updates indicated within the draft guidance in terms of water supply volumes etc. This FWMP Statement is based on the minimum requirement for water supply of 2 hours at 1900 l/minute noted in the NFCC Guidance. There will be continuing liaison with Warwickshire Fire and Rescue Service (WFRS) throughout the development and construction phases to ensure the proposed FWMP is in compliance with the latest best practice guidance. The proposed strategy to manage the firewater runoff generated is for Full Containment within the proposed SuDS Attenuation Basin which has an available storage volume of 1,657m3. The storage capacity is equivalent to over 14 hours of firewater storage without intervention. A pre-development enquiry was submitted to Severn Trent Water (STW) to determine whether a suitable connection to the local water mains would be available to provide the firefighting flow rates required as stipulated by NFCC guidance (approximately 32 l/s). STW confirmed that a connection to the existing 4-inch water main along Ham Lane would be permitted to serve the development. STW also noted however that they cannot guarantee any firefighting flow requirements but propose to supply 8 l/s for fire-fighting hydrants. To address any potential flow limitations from the existing public mains, it is proposed that a water supply tank is provided within the site to provide an initial 228.000 litres of supply (as required by NFCC guidance) and is fed by the existing water mains (via a new connection into the site).
- 3.13 A Noise Impact Assessment shows that a full weekday and weekend background and ambient sound survey has been undertaken in a position representative of the closest receptors. Noise modelling of the proposed sound sources, based on available information and worst-case assumptions has been under-taken. The predicted rating level from the site has been compared to the background sound level. The assessment has shown that the predicted rating level falls below the typical measured background sound level during the daytime and night-time periods. As such, no mitigation measures are required.
- 3.14 A desk-based Heritage Assessment has been provided to assess the predicted impacts of the construction and operation of the proposed development on cultural heritage interests. The site does not contain any designated heritage assets, and no designated heritage assets will be physically affected by the proposed development. The assessment identified the presence of a former parkland and estate, that of the 18th-century Hams Hall, of which the site was a peripheral part. Evidence from historic mapping indicates that the site was arable farmland from at least the 19th century, likely as a means of supporting the occupants of Hams Hall. The site has remained in agricultural use into the 21st century, with no archaeological features associated with Hams Hall or its parkland having been recorded within the site boundary. Taking into account evidence for land use apparent in historic maps, as well as data supplied by the Warwickshire HER, it has been assessed that the site has a low potential for the

survival of hitherto undiscovered, buried archaeological remains, A Geophysical Survey has also been conducted by CFA Archaeology. The geophysical survey recorded several anomalies which were located across the survey area, that mostly relate to services, field drains and other modern disturbances. Linear anomalies are interpreted as former field boundaries and strong archaeological potential. It is considered that the geophysical survey has been successful in identifying the subsurface archaeological potential of the site, and it is therefore assessed that there is low potential for the survival of hitherto undiscovered, buried archaeological remains. Any such remains are likely to relate to agricultural activity, although it cannot be ruled out that evidence relating to former designed parkland landscape could be present. Further archaeological evaluation comprising a programme of archaeological trial trenching may be required to confirm the results of the geophysical survey. The scope and timing of any such works will be agreed with the Warwickshire County Council Archaeology Team and outlined within an agreed Written Scheme of Investigation. It is expected that the requirement for trial trenching could be treated as a planning condition, postconsent

- 3.15 A Geoenvironmental phase 1 Geoenvironmental Site Assessment report was undertaken in December 2023. The site is relatively flat, is not located in a groundwater protection zone and there are not considered to be any geological restraints of the site. Due to the local topography, it is likely that any shallow groundwater if present will flow in an easterly direction towards the River Tame which is located approximately 300m. from the site. No current landfill sites are located within 250m of the site. The presence of made ground is not anticipated. No significant sources of ground gas are present. Given the undeveloped nature of the site, there are unlikely to be any significant sources of contamination present that would pose a significant risk to human health or prejudice the development of the site for a BESS. In the absence of any occupiable structures, there exists no critical receptor and in the absence of complete pollutant linkage the site is not considered to pose an unacceptable level of risk to human health. The Initial Conceptual Site Model has not identified any potentially significant on-site sources of mobile contamination, as such the site is deemed to pose no unacceptable level of risk to controlled waters. No significant sources of hazardous ground gas have been identified. Furthermore, in the absence of any proposed permanent structures, there are not considered to be any sensitive receptors and therefore no residual risk. The report concludes that a detailed Phase II intrusive Geoenvironmental Ground Investigation should be undertaken in order to confirm the findings of the initial conceptual site model and value engineer a development solution.
- 3.16 An Arboriculture Impact Assessment (AIA) has been undertaken. The construction of the development will require the removal of one tree at the site entrance in order to construct the proposed access road with suitable visibility splays. The tree in question was recorded as part of A-category group G4, which extends between the site and Hams Lane and contains a number of high-quality oak trees. The tree requiring removal, to the right of the entrance gate, is evidently a twin-stemmed, semi-mature beech that has been subject to pruning works to lift the crown from over the existing access. As an individual, this tree should be considered low quality (C-category) rather than the wider group allocation of A-category due to its relatively young age and small stature. Preliminary tree works have been recommended for G4, including pruning to lift crowns to create a 4m ground clearance over site access. Proposed works within the root protection areas (RPA) of retained trees will include construction of access road within RPAs of G4. Operations within tree RPAs must be carried out in accordance with the preliminary arboricultural method statement and general tree protection requirements as detailed under section 5 of the AIA report, which includes tree protection fencing.

3.17 A Planning Statement draws all of the matters together and places the proposal in the overall national and local planning policy context. The applicant acknowledges that the proposal is inappropriate development in the Green Belt and thus the benefits of the scheme have to clearly outweigh the cumulative weight of the Green Belt harm caused together with any other harms identified. The applicant considers that this is the case and has identified the following matters that in his view do outweigh that level of harm and thus provide the very special circumstances necessary to support the proposal – the need to increase renewable energy generation; the present climate emergency, the need to secure energy security, the reversible nature of the proposal, together with the bio-diversity net gain and residual landscape and visual enhancements. It is considered the site falls is "grey belt" but that it meets the conditions set out in the NPPF to conclude that the development is not inappropriate within the Green Belt. Overall, the proposal would aid security of energy supply. The site is owned by E.ON and sits adjacent to the substation to which the BESS will be connected. To this end, the applicant concludes that there is no more suitable a site for this form of development.

# 4 Development Plan

The North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP3 (Green Belt), LP13 (Rural Employment), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP29 (Development Considerations), LP30 (Built Form), LP33 (Water Management) and LP35 (Renewable Energy)

# 5 Other Material Planning Considerations

The National Planning Policy Framework 2024 – (the "NNPF")

National Planning Practice Guidance – (the "NPPG")

Noise Policy Statement for England 2010
Climate Change Act 2008 and the 2019 Addendum UK Solar PV Strategy 2014
Clean Growth Strategy 2017 Energy Security Strategy 2022
National Battery Storage Strategy 2023 UK 25 Year Environment Plan 2018
National Planning Statement for Energy – EN1 - 2024

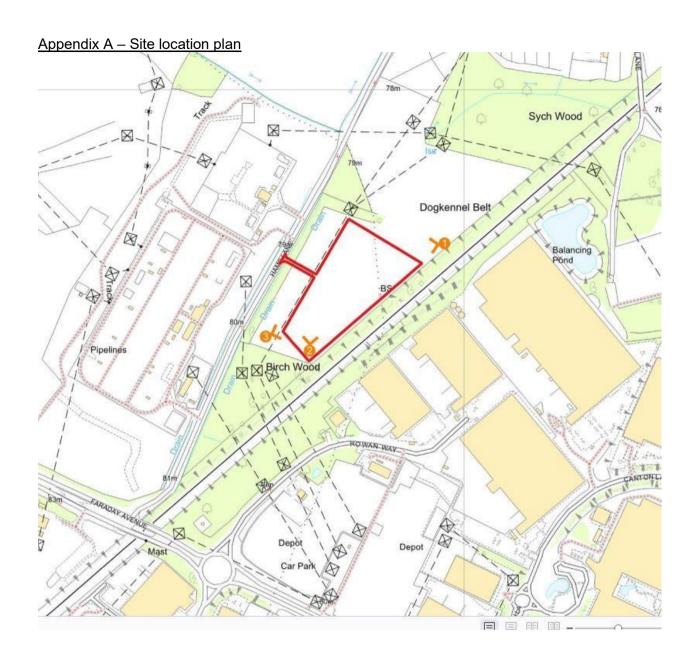
National Planning Statement for Renewable Energy – EN3 – November 2023 The North Warwickshire Landscape Character Assessment 2010

#### 6 Observations

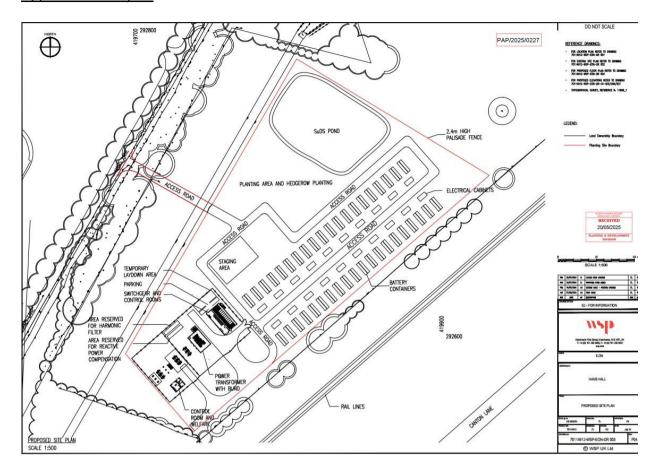
- 6.1. Other similar applications have already been determined in this locality at Dunton Hall, east of Water Orton and at Marston Fields Farm. The key issues will be assessments of the potential landscape and visual impacts as well as understanding the impact on the openness of the Green Belt and whether it conflicts with the purposes of including land within it. The likelihood be any flooding or traffic consequences will also need consideration. The final planning balance will assess the weight of the cumulative Green Belt and other harms against the benefits of the proposal as put forward by the applicant.
- 6.2. It is advised that as with the other cases, the Board should visit the site.

# Recommendation

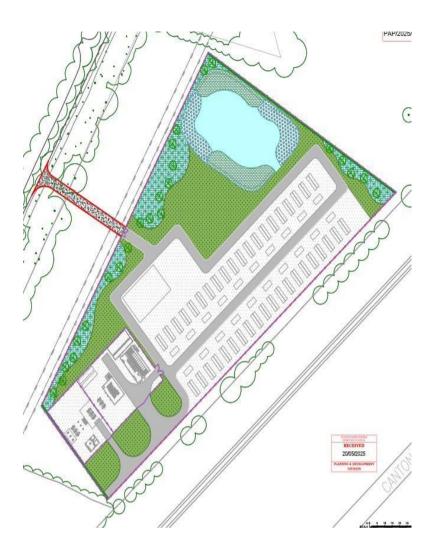
That receipt of the report is noted and that Members visit the site prior to determination of the application.

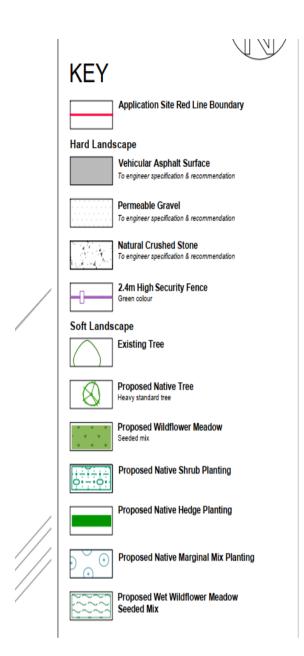


# Appendix B - Layout

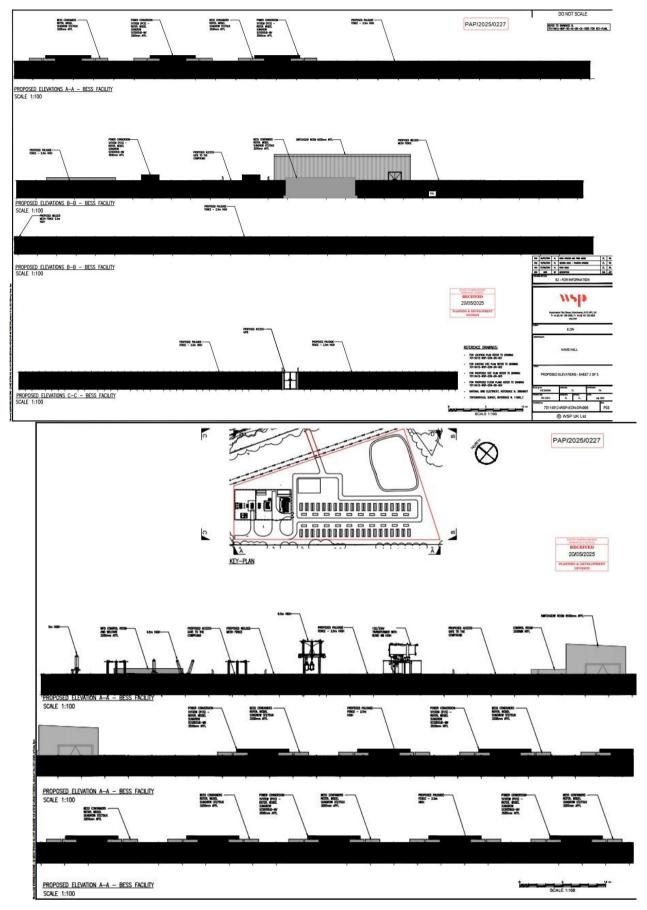


# Appendix C



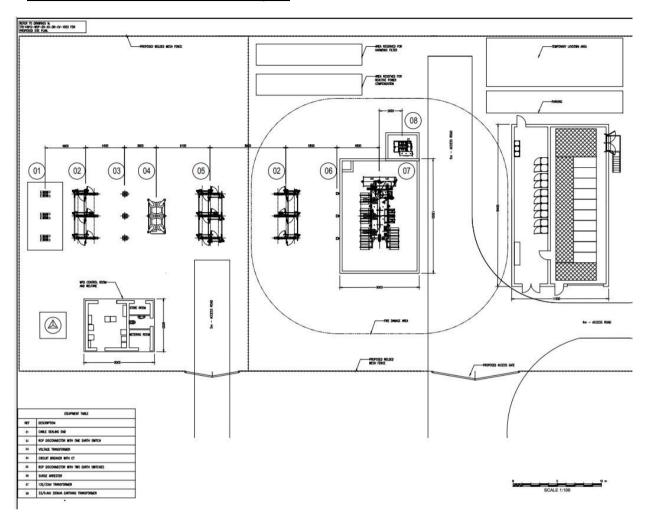


# Appendix D – Sections and elevations



6h/200

# Appendix E – Power transformers layout



#### PAP/2025/0227

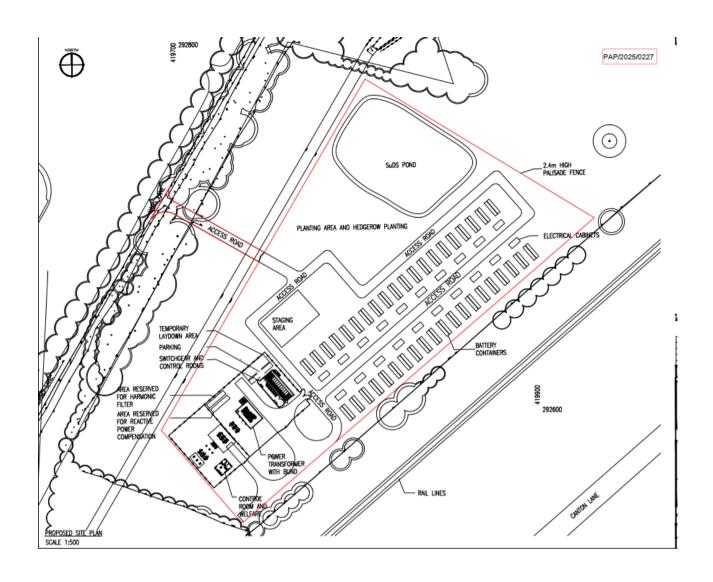
# Proposed BESS, Hams Lane, Lea Marston --- Site Visit

#### Saturday 20 September 2025 at 1030

Present: Cllr's Bell, Fowler, Guilmant, Phillips, Ridley, Simpson and Watson together with A. Collinson and J Brown

- 1. Members met at the site of the proposed access onto Hams Lane.
- 2. Here they were shown a location plan, together with one showing the proposed layout.
- 3. Members were able to note the nature of Hams Lane, particularly its width and straight carriageway together with the significant tree corridors either side.
- 4. The National Grid developments on the other side of the Lane were noted one of which was in the course of construction.
- 5. Members then walked through the tree corridor onto the site.
- 6. Here they noted the ground levels and the surrounding woodlands.
- 7. The railway line was pointed out as well as the overhead lines and the rear of several of the units at Hams Hall on the other side of the railway line.
- 8. The general location of Lea Marston and of Sych Wood were noted.
- 9. The locations of the items shown on the layout plan were identified the containers, the sub-station and the water storage area.
- 10. The visit concluded at around 1050.

APPENDIX C – Site layout





**APPENDIX E – Photomontages** 



Point 2 – current view





Project	Hams Hall BESS
Title	View 2 - Existing
Visualisation Type	AVR Level 3 Type 4
Projection	Cylindrical
Date and Time	14/07/2025 11:59
Lens, FL, max aperture:	Canon EF 50mm f/1.4 USM
Camera:	Canon EOS 5D MkII
Panoramic Head:	Nodal Ninja 6
Height above ground:	1.62m
Horizontal field of view:	120 Degrees
Vertical field of view:	38 Degrees

OS X (Eastings)	419603.671	
OS Y (Northings)	292570.517	
OS Z (Height)	79.889	
Distance to Site	90m	
Direction of View	NE	
Location	Hams Lane	





Point 2 – view after year 1 and 10





Project	Hams Hall BESS
Title	View 2 - Year 1
Visualisation Type	AVR Level 3 Type 4
Projection	Cylindrical
Date and Time	14/07/2025 11:59
Lens, FL, max aperture:	Canon EF 50mm f/1.4 USM
Carnera:	Canon EOS 5D MkII
Panoramic Head:	Nodal Ninja 6
Height above ground:	1.62m
Horizontal field of view:	120 Degrees
Vertical field of view:	38 Degrees

OS X (Eastings)	419603.671	
OS Y (Northings)	292570.517	
OS Z (Height)	79.889	
Distance to Site	90m	
Direction of View	NE	
Location	Hams Lane	





Point 3 – current view





Project	Hams Hall BESS
Title	View 3 - Existing
Visualisation Type	AVR Level 3 Type 4
Projection	Cylindrical
Date and Time	14/07/2025 11:59
Lens, FL, max aperture:	Canon EF 50mm #1.4 USN
Camera:	Canon EOS 5D MkII
Panoramic Head:	Nodal Ninja 6
Height above ground:	1.62m
Horizontal field of view:	120 Degrees
Vertical field of view:	38 Degrees







Point 3 – year 10 view





Project	Hams Hall BESS	OS X (Eastings)	419693.759
Title	View 3 - Year 10	OS Y (Northings)	292712.124
Visualisation Type	AVR Level 3 Type 4	OS Z (Height)	79.291
Projection	Cylindrical	Distance to Site	60m
Date and Time	14/07/2025 11:59	Direction of View	SE
Lens, FL, max aperture:	Canon EF 50mm #1.4 USM	Location	Hams Lane
Camera:	Canon EOS 5D MkII		
Panoramic Head:	Nodal Ninja 6		
Height above ground:	1.62m		
Horizontal field of view:	120 Degrees		
Vertical field of view:	38 Degrees		





Point 4 - existing



Project	Hams Hall BESS	OS X (Eastings)
Title	View 4 - Existing	OS Y (Northings)
Visualisation Type	AVR Level 3 Type 4	OS Z (Height)
Projection	Cylindrical	Distance to Site
Date and Time	14/07/2025 11:59	Direction of View
Lens, FL, max aperture:	Canon EF 50mm f/1.4 USM	Location
Camera:	Canon EOS 5D MkII	1
Panoramic Head:	Nodal Ninja 6	
Height above ground:	1.62m	7
Horizontal field of view:	120 Degrees	7
Vertical field of view:	38 Degrees	1







roiect	Hams Hall BESS
tle	View 4 - Year 1
isualisation Type	AVR Level 3 Type 4
rojection	Cylindrical
ate and Time	14/07/2025 11:59
ens, FL, max aperture:	Canon EF 50mm f/1.4 USM
amera:	Canon EOS 5D MkII
anoramic Head:	Nodal Ninja 6
eight above ground:	1.62m
orizontal field of view:	120 Degrees
ertical field of view:	38 Degrees

OS X (Eastings)	419821.863	
OS Y (Northings)	292959.381	
OS Z (Height)	78.876	
Distance to Site	180m	
Direction of View	S	
Location	Hams Lane	





Point 4 – Year 10 view



roject	Hams Hall BESS
tle	View 4 - Year 10
sualisation Type	AVR Level 3 Type 4
ojection	Cylindrical
ate and Time	14/07/2025 11:59
ns, FL, max aperture:	Canon EF 50mm f/1.4 USM
amera:	Canon EOS 5D MkII
noramic Head:	Nodal Ninja 6
eight above ground:	1.62m
orizontal field of view:	120 Degrees
ertical field of view:	38 Degrees

OS X (Eastings)	419821.863
OS Y (Northings)	292959.381
OS Z (Height)	78.876
Distance to Site	180m
Direction of View	S
Location	Hams Lane





# Point 5 – current view



roject	Hams Hall BESS
itle	View 5 - Existing
isualisation Type	AVR Level 3 Type 4
rojection	Cylindrical
late and Time	14/07/2025 11:59
ens, FL, max aperture:	Canon EF 50mm f/1.4 USM
amera:	Canon EOS 5D MkII
anoramic Head:	Nodal Ninja 6
leight above ground:	1.62m
lorizontal field of view:	120 Degrees
ertical field of view:	38 Degrees

OS X (Eastings)	419862.251	
OS Y (Northings)	293048.909	
OS Z (Height)	78.258	
Distance to Site	270m	
Direction of View	s	
Location	Hams Lane	





Point 5 - view after year 1 and 10



Project	Hams Hall BESS
Title	View 5 - Year 10
Visualisation Type	AVR Level 3 Type 4
Projection	Cylindrical
Date and Time	14/07/2025 11:59
Lens, FL, max aperture:	Canon EF 50mm #1.4 USM
Camera:	Canon EOS 5D MkII
Panoramic Head:	Nodal Ninja 6
Height above ground:	1.62m
Horizontal field of view:	120 Degrees
Vertical field of view:	38 Degrees

OS X (Eastings)	419862.251	
OS Y (Northings)	293048.909	
OS Z (Height)	78.258	
Distance to Site	270m	
Direction of View	s	
Location	Hams Lane	





# **APPENDIX F – Application Fire Briefing Note**

PAP/2025/0227





# Fire Safety Briefing Note

# Hams Hall BESS

July 2025

2 Lockside Office Park Lockside Road Preston PR2 2YS

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#### **Executive Brief**

EON share the same priorities as the communities they work alongside - safety and peace of mind. The notion of a fire at one of their sites is not only unacceptable to the public but also to them as developers, owners, and operators. Their interests are directly aligned: they go to great lengths to ensure the safest possible designs are implemented, because they're ultimately responsible for their performance and safety long into the future.

The fire risk at modern Battery Energy Storage System (BESS) sites is extremely low. Advances in safety engineering, battery chemistry, and regulatory guidance have transformed how such systems are designed, monitored, and managed. EON's proposal considers the latest NFCC guidance and industry standards. There have been no UK injuries or community impacts from operational BESS fires, and all evidence confirms that risks are both containable and declining.

This overarching briefing note outlines the background to BESS, safety measures, regulatory context, and precedent. It also sets out, in clear and specific terms, why the proposed location is a suitable and policy-compliant location for this development.

Drawing on technical standards, and relevant appeal decisions, the note provides a structured overview of BESS fire safety, site design and emergency preparedness. It concludes that, together, these measures provide a multi-layered approach to safety, significantly reducing the likelihood and severity of any potential incident.



PWA Planning, Energy Planning and CT Planning are trading names of PWA Planning Limited (PWA), a company registered in England with number 8606706 Registered office address Stoneleigh House, Stoneleigh Park, Stoneleigh, Kenthrorth CV8 2TZ.



#### Background on BESS

- 1.1 Battery Energy Storage Systems (BESS) store electricity using lithium-ion cells similar to those in a phone or Electric Vehicle (EV), but on an industrial scale. Like all energy systems, there's a theoretical fire risk, but in reality, fires are extremely rare, and modern technology is designed to prevent, contain and control them.
- 1.2 Modern BESS are rigorously engineered with multiple layers of safety, including thermal management systems, early warning diagnostics, and automatic fire suppression. They are installed under strict international and national standards and are subject to detailed risk assessments during the planning and installation stages.
- 1.3 Currently, all BESS developments are designed in accordance with the National Fire Chiefs Council (NFCC) Guidance, which was published in 2021 and sets out the design requirements and standards expected for all proposals put forward.

#### 2. How often do BESS fires actually occur?

- 2.1 A 2023 study from DNV and IEA estimates that fewer than 50 BESS fire incidents have occurred globally since 2017 across tens of thousands of installed systems. That equates to a fire rate of approximately 0.001% annually, or 1 in 10,000 installations per year.
- 2.2 By comparison, petrol and diesel vehicle fires occur at a rate of 1,530 per 100,000 vehicles. EV fires occur around 25 per 100,000 vehicles. Comparatively, in nearly all cases, BESS fires have been contained within a single container.
- 2.3 Whilst we understand the local impact of the 2020 Carnegie Road fire, the fire was extinguished, with no injuries reported. This site accounted for just 0.4% of the UK's total installed BESS capacity of 4.7GW, the vast majority of which has operated for thousands of hours without incident.
- 2.4 Two recent UK fires in 2025 Thurrock and Cirencester both occurred during construction, not operation. These happened before safety systems (like suppression and ventilation) were live. No injuries occurred, and both sites resumed construction within days.
- 2.5 The Victorian Big Battery fire in Australia (2021) lasted longer due to wind and access issues but again, no injuries, no community risk, and fire crews managed the event effectively.
- 2.6 In the UK there has been no off-site evacuations, no community impacts, and no fire service casualties as a result of a BESS fire.
- 2.7 Just as air travel carries inherent risk but is widely recognised as one of the safest forms of transport due to rigorous engineering standards, operational protocols and continual improvement, BESS also carries a theoretical fire risk - but one that has been comprehensively addressed through advanced design, international standards, and stringent safety testing.
- 2.8 As with aviation, where layers of safety are built in to prevent incidents and protect lives, modern BESS are subject to detailed risk assessments, certifications (see list under Section 7) to prevent, contain and safely manage even the most unlikely thermal events.



#### Why is this site suitable for BESS?

- 3.1 The Site benefits from substantial spatial separation from sensitive receptors, with all nearby occupied structures lying at distances that exceed those typically advised for thermal hazard buffers within UK fire safety best practice, including the National Fire Chiefs Council (NFCC) guidance. This level of separation— alongside the site's standalone layout and embedded mitigation features— significantly reduces the potential for off-site impacts in the highly unlikely event of a thermal incident.
- 3.2 While there is no prescribed statutory separation for public safety, current UK fire safety guidance, including that from the NFCC, typically expects buffer distances of 50–100m between BESS infrastructure and occupied buildings or sensitive receptors, depending on technology type and mitigation measures.
- 3.3 The site is visually well-contained by existing mature tree belts and hedgerows, particularly along its northern, northeastern, eastern, southeastern and southern boundaries. This landscape enclosure acts as a natural barrier and helps limit public access or incidental interaction with the infrastructure. The land itself is relatively flat, with no steep gradients or drainage paths that could transmit thermal effects or contaminants off-site in the event of fire or equipment failure.
- 3.4 Access to the BESS area is restricted via locked gates located off a privately controlled access track. The absence of any public rights of way through the BESS compound ensures that members of the public will not be in proximity to the infrastructure under normal circumstances. This is a key difference from more urban or publicly accessible installations.
- 3.5 All BESS units are pre-engineered, sealed containers with integrated suppression and monitoring systems. These are self-contained systems, meaning that in the unlikely event of thermal runaway, the fire is confined to one unit. The site's layout ensures that this is not only technically true but spatially enforced through container spacing and directional venting away from boundaries.
- 3.6 The site lies within immediate reach of Warwickshire Fire & Rescue Service, with the nearest full-service fire station located at Coleshill, approximately 3.5 miles (10 minutes by road) from the site. This is well within NFCC-advised thresholds for rapid response to low-frequency, high-safety infrastructure. In addition, support could be mobilised from Nuneaton or Rugby stations if required, ensuring geographic redundancy and consistent response coverage. This proximity ensures that in the unlikely event of an incident, response teams can attend the site quickly with full knowledge of the container layout and on-site fire mitigation systems, which they reviewed at both the pre-application and application stages of the proposal. They will then review it a third time at the discharge of condition stage.
- 3.7 The BESS compound is accessed via the A446 to the south providing direct and uncongested connection to the regional highway network. This allows fire appliances and emergency services to reach the site without delay or the need to navigate narrow rural lanes, residential estates, or gated infrastructure.

## 4. Appeal Decisions of Relevance

4.1 APP/C3240/W/22/3293667 – East End BESS, Telford, Shropshire (March 2023)

In this case, the Inspector acknowledged past concerns about battery fire risks but noted advancements in technology and safety measures. The decision outlined:

"Battery fire risk had been a concern some years ago; however, technology has moved on, and battery storage is recognised in national policy and guidance."

The appeal was allowed, with conditions requiring the submission and approval of a detailed Battery Safety Management Plan (BSMP) in consultation with the local fire and rescue service which we have already agreed upon.

#### 4.2 APP/V4630/W/24/3347424 – Great Barr, Walsall (January 2025)

A non-determination appeal whereby the Inspector allowed the appeal. The inspectorate likewise awarded costs to the applicant on this basis. The decision noted:

- The local fire and rescue service raised no objections.
- Fire safety concerns could be adequately addressed through planning conditions requiring a comprehensive BSMP.

The Inspector found no compelling evidence to substantiate claims that the development would pose unacceptable fire risks.

## 4.3 APP/Q4625/W/24/3343977 - Solihull (2024)

The appeal was allowed but is primarily in relation to Green Belt and Opening. However, in the other matters section with regard to BESS the Inspector states:

"Whilst there was significant local concern regarding topics including fire safety, they had not been presented with compelling evidence to substantiate this claim."

The decision highlights the importance of evidence-based assessments over speculative concerns.

## 4.4 APP/B3438/W/24/3351328 - Staffordshire (2024)

The appeal was allowed with key matters primarily focused on Green Belt, Noise and Character and Appearance. However, in the other matters section with regard to BESS the Inspector states:

"I have considered consultation responses from the Police, Fire and Rescue Service (FRS), and the views of interested parties in respect of the potential fire risk and crime. The FRS expect a robust Emergency Response Plan should be developed and has set out the detailed evidence it would expect, having regard to the National Fire Chiefs Council Grid Scale Battery Energy Storage System planning guidance. The proposal would be subject to a Fire Safety Order, and the design benchmarked against onerous measures in the NFPA85517 Standard, to develop detailed design, layout, operation, testing, environmental protection measures and an Emergency Response Plan. Preparation of the details of which, as well as crime prevention measures, can be secured by suitably worded planning conditions. This gives me assurance risks would be managed to acceptable levels."

The decision highlights the importance of Fire Risks and Emergency Response Plans, and acceptance that these can be secured by suitably worded conditions.

#### 5. Approach to Planning Conditions

- 5.1 As a developer, owner and operator of BESS sites, E.ON strive to ensure that we are building facilities that maintain public safety and security as the highest of priorities.
- 5.2 Considering other BESS developments within this Local Authority area, we would be happy with a condition along the following lines,

No development shall commence on site until a detailed Battery Safety Management Plan (BSMP) to facilitate safety during the construction, operation and decommissioning of the battery storage system has first been submitted to and approved in writing by the Local Planning Authority. The BSMP shall include details on the location and capacity of on-site fire- fighting water supplies as well as a disaster recovery plan. The approved plan shall be adhered to at all times throughout the construction, operational and decommissioning periods as approved under conditions 4, 5 and 6 above.

- 5.3 Likewise, if the case officer or committee otherwise deem it appropriate and with regard to the 6 planning condition tests established within the PPG, we are open to the further inclusion or amendment of conditions to reflect on the matter of fire safety.
- 5.4 The two conditions below are examples of conditions imposed on other projects we have recently been successful with. These can of course be amended accordingly to suit the Local Planning Authority.
  - 10 Upon commencement of the development, a Risk Management Plan and Emergency Response Plan shall be submitted to and approved in writing by the Local Planning Authority. These plans shall be developed using the best practice guidance as detailed and required in the published Grid Scale Battery Energy Storage System planning Guidance for FRS published by NFCC National Fire Chiefs Council. Where the aforementioned guidance cannot be adhered to in full, an explanation of why should be provided within the Risk Management Plan and Emergency Response Plan. Once approved, these plans shall be implemented thereafter and for the duration of the developments lifetime.

    Reason: In the interests of public safety and ensuring any risks associated with the proposed development are suitably identified and mitigated in accordance with Local Plan Policy POLL1.

20

Prior to the commencement of any above-ground works pursuant to the development hereby permitted, an emergency response plan shall be submitted to and approved in writing by the local planning authority. The emergency response plan shall be developed using best practice guidance as detailed and required in the published Grid Scale Battery Energy Storage System planning - Guidance for FRS published by NFCC National Fire Chiefs Council. The development shall be carried out and thereafter operated only in accordance with the approved emergency response plan.

## Reason

To ensure appropriate emergency procedures are in place for the lifetime of the development.

#### 6. Guidance, Standards and Certifications

- 6.1 Both within the remit of planning legislation and beyond, E.ON will follow an extensive set of UK & global safety guidance, standards and certifications, bother within the design of the facility and also the equipment to be installed.
- 6.2 National Fire Chiefs Council (NFCC) guidance
  - Authoritative UK fire safety guidance, providing the most widely adopted UK-specific guidance for the safe development and operation of BESS, helping developers align with fire service expectations and best practices.
  - Focused on prevention and containment: The guidance outlines measures to minimise the risk
    of fire starting, and ensure that if an incident does occur, it can be effectively contained and
    managed without harm to people or property.
  - Promotes early collaboration and risk mitigation: It encourages close engagement with fire and rescue services during the planning and design stages to ensure site-specific risks are properly assessed and addressed, fostering safer, more resilient installations.
  - Supports public and stakeholder confidence: Adhering to NFCC guidance shows a clear commitment to safe, responsible development, which should be considered a valuable reassurance to planning authorities, local communities, and emergency responders.
- 6.3 Health and Safety Guidance for Grid Scale Electrical Energy Storage Systems (March 2024) -UK Gov
  - A best-practice document to help developers, operators, planners, regulators, and other stakeholders understand and apply appropriate health and safety (H&S) standards throughout the lifecycle of grid-scale battery energy storage systems (BESS).

#### 6.4 Certification UL 9540A

- A rigorous certification standard specifically designed to assess thermal runaway risk in battery energy storage systems. It tests the exact system configuration proposed for deployment, evaluating how thermal runaway could occur and how it might propagate through the system.
- The certification also verifies the effectiveness of safety systems intended to limit or halt this
  propagation.
- In the unlikely event that thermal runaway does occur, UL 9540A testing establishes the necessary safeguards to prevent explosion and determines the appropriate deflagration venting measures required as a last resort.
- Recognised by Department for Energy Security & Net Zero.

## 6.5 Standard NFPA 68

- The recognised standard for explosion protection through deflagration venting. It governs the
  design, placement, installation, and ongoing maintenance of systems that safely vent
  combustion gases and overpressure resulting from a deflagration event within an enclosed
  space.
- By providing a controlled release path, NFPA 68-compliant systems prevent catastrophic structural damage and protect surrounding equipment and personnel.
- The adoption of NFPA 68 in BESS design has significantly improved safety by ensuring that, in the unlikely event of thermal runaway leading to gas ignition, the energy is safely managed

and directed away from sensitive areas. This has become a critical element of modern BESS fire safety engineering.

#### 6.6 Standard NFPA 69

- Internationally recognised standard that sets out the requirements for systems designed to
  prevent and control explosions in enclosures where flammable gases, vapours, mists, or dusts
  may be present. Modern BESS are engineered with integrated safety systems that comply
  with NFPA 69, ensuring that the risk of explosion is actively mitigated through design.
- These systems may include gas detection, inerting, suppression, or control devices that
  prevent conditions that could lead to deflagration. By adhering to NFPA 69, developers ensure
  that modern BESS installations incorporate best-practice engineering to minimise explosion
  risk—making them significantly safer and more reliable than legacy systems or unregulated
  technologies.

## Conclusion

- 7.1 The proposals at Hams Hall BESS incorporate all the relevant UK and international safety standards and guidance referenced above. In addition to this regulatory compliance, further mitigation measures have been included to ensure the highest level of safety. These include:
  - Comprehensive inspection and maintenance regimes to monitor system integrity and performance over time.
  - Careful technology and equipment selection.
  - Incorporation of Advanced Battery Management Systems and Thermal Management Systems for real-time monitoring and control of temperature, voltage and current across individual cells.
  - Robust, weatherproof and blast-resistant enclosures to contain thermal or mechanical incidents.
  - Integrated fire detection and suppression systems, activated automatically in the event of abnormal thermal conditions.
  - Appropriate separation distances between units to reduce propagation risk.
  - · Remote monitoring and control allowing operators to intervene quickly in case of anomalies.
  - Emergency response planning, including coordination with local fire services and clear site
    access for first responders.
- 7.2 Together, these measures provide a multi-layered approach to safety, significantly reducing the likelihood and severity of any potential incident.

## Appendix 1 - Sources

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### F. Risk Mitigation in Design - Thermal Runaway and Fire Suppression

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- J. GLVIA Reference for Landscape and Visual Impact Best Practice

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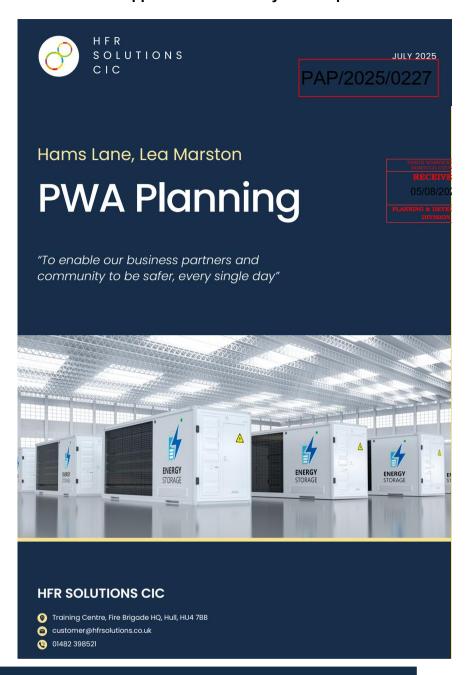
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**APPENDIX G - Application Fire Safety and response measures** 



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## 1. Introduction

- 1.1 This report has been compiled by HFR Solutions and Fortifire and includes a summary of the main proactive fire safety and response measures, relating to the proposed installation and operation of the battery energy storage system (BESS) with associated infrastructure including battery units, transformer, switchgear, fire water storage, access tracks, fencing and landscaping on Land at Hams Lane, Lea Marstons.
- 1.2 We have reviewed the scope of the planning proposal relating specifically to the BESS element of the proposal, the current fire safety measures incorporated into the existing plans for the BESS and the proposed additions to these fire safety measures and detailed the appropriate mitigation measures to ensure the development remains as safe as reasonably practicable, including the environmental impacts. This report is based on our professional fire consultancy work within the industry, and our previous and current experience working as fire officers within local authority fire & rescue service.

# 2. Background on HFR Solutions

- 2.1 HFR Solutions and Fortifire work across the UK specialising in Specialist Fire Risk Assessments, Fire Mitigation, Fire Response and Emergency Planning, and work closely with some of the leading insurance companies to ensure fire mitigation is achieved to satisfy legislative and insurance risk compliance.
- 2.2 HFR Solutions and Fortifire employ serving and retired fire officers with extensive years of experience in operational command and dynamic risk assessment who are qualified to incident command level 3. The assessors have many years of experience in fire safety and fire risk assessment in a variety of commercial and industrial environments. They were also specialist fire investigators producing reports for both high value losses and criminal investigations.
- 2.3 By way of background, HFR Solutions and Fortifire also conducted the Fire Risk Assessment on Harmony Energy's Pillswood site (application references: 17/01993/STPLF & 19/01449/STPLF), which at the time was Europe's largest BESS and working closely with Harmony Energy, Tesla, East Riding Council, and the Local Authority Fire & Rescue Service (Humberside Fire & Rescue Service for this site) achieved a safe and satisfactory outcome.

## 3. Project & Developer Overview

- 3.1 The BESS development is for a relatively small sized, clean and sustainable, utility-scale energy storage site totalling 98MW, enabling resilience into the National Grid while having minimal or no long-term impact on the local community or environment.
- 3.2 Clean, sustainable energy for the UK, is the key focus for the UK Government, and EON are an experienced developer, owner, and operator of BESS installations across the UK operating multiple sites across the UK within their BESS portfolio.

# 4. Embedded Technology Fire Mitigation

- 4.1 The BESS element of the proposed development incorporates multiple factors to mitigate the risk of fire, starting with the battery containers, which will be hermetically sealed lithium-ion iron phosphate (LFP) battery cells, inverters and associated electrical equipment, thermal management systems (coolant and refrigerant) and thermal insulation, designed to avoid any propagation of fire beyond an individual battery container. The main fire risk associated with a battery container is a thermal runaway event where the battery cells generate more heat than can be dissipated by their surroundings, eventually leading to fire. The main mitigation to thermal runaway is careful management of the cells, in terms of voltage levels, temperatures and charge states.
- 4.2 Battery containers include a sophisticated battery management system designed to monitor the cells and ensure they are kept within safe operational limits with the addition of cooling fans embedded within the battery container design. Battery containers are monitored 24/7 which would detect if there was any fault within the battery and this would be immediately taken offline to prevent the risk of a thermal runaway event.
- 4.3 The battery management systems used will be compliant with international safety standards encompassing both UL and IEC codes and are rigorously scrutinised by EON during procurement and the project insurers prior to insuring the project.
- 4.4 Coupled with only using equipment from reputable manufacturers with excellent safety track records and continued 24/7 monitoring, the risk of a thermal runaway event is considered extremely 'low'. Each battery is in a pair and separated by circa 25 cm, and each pair is separated by 3m in line with battery supplier Health & Safety design and insurer requirements.
- 4.5 In the unlikely instance of a thermal runaway event leading to a fire, battery containers and the cells within them are designed to ensure fires do not spread to neighbouring units. The design also includes a unique over-pressure vent and spark (igniter) system. In the event of a

- thermal runaway event, flammable gases are ignited early to mitigate any risk of pressure or gas build-up and pressure vents open.
- 4.6 Whilst the risk of a thermal runaway event is extremely low, EON take the risk very seriously and as well as thermal probes inside the battery containers, designs include CCTV cameras on lighting columns which surround the site and monitor the battery system 24/7. Any sudden change would alert the control room operators and the system would be immediately shut down.
- 4.7 It should be noted that all equipment is rigorously tested prior to the installation onsite, and sites are tested to check their compliance against NFPA 855, which is US standard and an adopted industry standard for the installation of energy storage systems developed to define the design, construction, installation, commissioning, operation, maintenance and decommissioning of energy storage systems.

# 5. Additional Fire Mitigation Proposals

- 5.1 The BESS manufacturers clearly state that their products are designed to control burn in the event of a component failure or other issues leading to thermal runaway or fire, so any firefighting actions required to be taken by Local Authority Fire & Rescue Services should be defensive operations only to assist in containing the fire and protecting the remaining assets, they should not be attempted to be extinguished in an offensive firefighting attack. Any fire would be contained within the section of the battery pack. The unit should be allowed to burnout and cool as any application of firefighting media will only slow the combustion period and prolong the incident. Surrounding units should be cooled on exposed surfaces using spray/fog jets only once isolations have been confirmed. Units should be monitored using thermal imaging cameras. Water runoff from cooling jets should not contain any harmful products regarding environmental protection.
- 5.2 In acknowledgment of the requirements, EON have considered previous concerns raised during the planning phase of BESS sites and are committed to ensure all areas of proactive fire mitigation, and firefighting capability are effective and were reasonably practicable, installed. To this end, the following measures have been reviewed, and further measures will be installed.
  - a) The site plans allow a single access road to the BESS compound, which then has a dual approach periphery track running around the internal security fencing for any fire intervention activities. Access surrounding the BESS is suitably designed to allow surround access without the need of accessing the BESS compound through provision of a perimeter track. Nevertheless, adequate access is also provided into the

compound itself for any firefighting mitigation. With regard to NFCC guidance request for two separate access point, this is not considered necessary as BESS sites are not deemed high risk sites unlike COMAH sites. Additionally, it is considered the risk/chance of the access point to the BESS site being obstructed (that EON have responsibility and control over), is extremely unlikely due to minimal vehicle movements onsite once operational, and even in such a rare occurrence, firefighting hose can still be deployed to the site manually, allowing firefighting activities to be implemented in the event of an incident with the BESS. Overall, the access arrangements are satisfactory from an emergency response perspective.

- b) The site will include a SUDs/fire water retention pond is designed with a capacity to hold approximately 1,657m3 of water, which could also be used for Local Authority Fire & Rescue Service to use for firefighting operations. Additionally, a specific water storage tank for firefighting intervention activities will be installed giving approximately 228,000 litres of permanent water supply. A standard fire service branch using 700 LPM of water equates to 325/5.4 minutes/hours of defensive firefighting (with protective spray) and 45mm lay flat hose. The likelihood is two branches would be used and therefore the minutes of available water would be 162/2.7 hours. These calculations are using maximum flow rates for standard hand-held branches; this flow rate is unlikely to be used and the usage time for the supplied water can be considerably extended. The water available does not include any water contained in the SuDS or carried on the fire appliances and would allow time for water to be supplemented from local hydrants, via a HVP or water bowser. Overall, the scheme is entirely compliant with NFCC Guidance in terms of water supply onsite.
- c) A fire hydrant has been located on Hams Lane approximately 80m from the site which equates to 4 lengths of fire hose (25m) which is additional to the above onsite water supply. This will be available in an emergency scenario and could be utilised by the Fire Services if required. It is not uncommon for Fire Services to make use of fire hydrants at this distance, and it should be noted that the Fire Service have specialist hose vehicles to accommodate moving fire water up to a 1-mile (1600m) distance.
- d) EON will liaise fully with Warwickshire Fire and Rescue Service in their gathering of information on the risk in line with Fire Services Act 2004 section 7.2d and with liaison with specialist HMEPOs (Hazardous Materials and Environmental Protection Officers) as necessary.

# 6. Summary

6.1 The in-built safety features within the BESS system plus the 24-hour monitoring of the site and the system make the **risk of an incident low** in the first instance. In the unlikely event of an incident occurring the fire would be confined to one unit which should be allowed to burn out. Nonetheless, to assist local Fire Service responders EON are providing the following:

- a substantial quantity of firefighting water to be used on site for cooling of surrounding units if required.
- A perimeter track would be installed which would allow safe approach for LGV vehicles from an upwind direction for crews.
- EON will be able to fully engage with Warwickshire Fire and Rescue Service to share information on procedures and incident safety and to conduct site visits as necessary.

To conclude, in HFR Solutions/Fortifire experience both as active Fire Officers with a minimum of 34 years of active service and more specifically our experience as Fire Consultants with BESS developers, owners and operators on their sites, we would consider that the scheme poses an overall **low** risk with the suitable fire mitigations provided and in accordance with NFCC guidance.

Report compiled by: HFR Solutions CIC/Fortifire

Date: July 2025

## **APPENDIX H - WFRS - consultation response**

From: lan Griffin

Sent: 07 July 2025 12:32

To: planappconsult – Planning Support Team

Subject: FW: Consultation - Stat Consultee - PAP/2025/0227

Categories: Mandy

wCC fire comments

Sent: 07 July 2025 12:08

To: Ian Griffin Cc: Fire Safety

Subject: Re: Consultation - Stat Consultee

Caution: Warning external email

**OFFICIAL** 

Thank you lan.

Our Fire Safety team have confirmed that BESS sites are being managed adequately through the building regulations process and as such I have no comment on this application.

Best wishes

Warwickshire Fire and Rescue Service

Water Department Nuneaton Fire Station Newtown Road

Nuneaton CV11 4HR

Web: http://www.warwickshire.gov.uk

## APPENDIX I - WFRS - consultation response

Your ref:

Our ref: 02/040247/GM0275/MH

For the attention of Ian Griffin North Warwickshire Borough Council The Council House South Street ATHERSTONE CV9 1DE

Email: lanGriffin@NorthWarks.gov.uk

06 August 2025

Dear Sir,

THE BUILDING REGULATIONS 2010

Planning Application Number: PAP/2025/0227

Development: PROPOSED BATTERY ENERGY STORAGE SYSTEM (BESS) - HAMS HALL,

HAMS LANE, LEA MARSTON, BIRMINGHAM, B46 1AW

Unique Property Reference Numbers (UPRN's) are the cornerstone of the built environment's data and search criteria. These are used in all systems relating to property and are allocated at the inception (planning stage) of a building's life. Therefore, all future consultations must have the UPRN of the premises included in the documentation.

Following notification of the Planning Consultation, Warwickshire Fire and Rescue Authority offers no objection to the application, subject to the below criteria being met, as required by Approved Document B, Volume 2, Requirement B5 – Access and Facilities for the Fire Service:

- . Minimum width of the access road is 3.7 metres along the entire length
- · Minimum width of any gateways is 3.1 metres
- Minimum height clearance is 3.7 metres
- Minimum carrying capacity is 12.5 tonnes
- A fire appliance to gain access to within 45 metres of all points within the footprint of each building or in accordance with table 15.1 of ADB, Volume 2.
- Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.
- Dead-end access routes longer than 20m require turning facilities
- Turning circles should be a minimum of 16.8m between kerbs or 19.2m between walls.

Battery Energy Storage Systems (BESS) are increasingly being installed around the country, and these give rise to fire hazards which need to be considered in the planning and design of the site. The following recommendations issued by the National Fire Chiefs Council apply to BESS sites, in addition to the requirements specified in previous sections.

- At least 2 separate access points to the site to account for opposite wind conditions/direction.
- At least 6 metres between BESS units and access for firefighters to operate unimpeded between units.



Warwickshire Fire & Rescue Service

Gabriella Mackenzie

Fire Protection Department Service HQ, Warwick Street Leamington Spa CV32 5LH Tel: 01926 466 263

firesafety@warwickshire.gov.uk www.warwickshire.gov.uk

> FPP2 Rev. Oct 2018

- An initial minimum distance of 25 metres from any occupied buildings, prior to any mitigation such as blast walls.
- Areas within 10 metres of BESS units should be cleared of combustible vegetation and any other vegetation on site should be kept in a condition such that they do not increase the risk of fire on site
- As a minimum, hydrant supplies for boundary cooling purposes should be located close to BESS
  containers (but considering safe access in the event of a fire) and should be capable of delivering
  no less than 1,900 litres per minute for at least 2 hours.
- Any static water storage tanks designed to be used for firefighting must be located at least 10
  metres away from any BESS container/cabinet, and the location determined as part of a risk
  assessed approach.
- Consideration should be given, within the site design, to the management of water run-off (e.g. drainage systems, interceptors, bunded lagoons etc.).

Further planning advice in relation to BESS sites is detailed in <a href="Grid Scale Battery Energy Storage">Grid Scale Battery Energy Storage</a> System planning - Guidance for FRS issued by the NFCC.

Please include an advisory note drawing the applicant's attention to the need for the development to comply with Approved Document B, Volume 2, Section B5 – Access and Facilities for the Fire Service. Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc. regarding this can be found at; <a href="https://www.warwickshire.gov.uk/firequidance-commercialdomesticplanning">www.warwickshire.gov.uk/firequidance-commercialdomesticplanning</a>

Where compliance cannot be met, please provide details of alternative measures you intend to put in place.

Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles.

#### For Consideration:

Warwickshire Fire and Rescue Authority fully endorse and support the fitting of Sprinkler installations, in accordance with the relevant clauses of BS EN 12845: 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

Warwickshire Fire and Rescue Authority ask you to consider and ensure that access to the site, during construction and once completed, are maintained free from obstructions such as parked vehicles, to allow Emergency Service vehicle access.