

CD-D30/A



Land North-East of Junction 10 of the M42 Motorway: Proof of Evidence of Jeremy Smith BSc (Hons), DipLA, CMLI

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

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1.0 INTRODUCTION

Qualifications and Experience

- 1.1 I am Jeremy Smith, Director with SLR Consulting Limited (SLR). I am the founder member of SLR's landscape architecture practice, which now has over 120 landscape and masterplanning staff across the UK, Australia, New Zealand and USA. I am also a former Executive Director of SLR.
- 1.2 I am a chartered landscape architect with 33 years of professional experience. I have a first class degree in geography from the University of Nottingham and a post-graduate diploma in landscape architecture from Sheffield University.
- 1.3 Whilst working in landscape practice I have specialised in landscape planning and landscape and visual assessment. I have acted as an expert witness on landscape, visual and Green Belt matters at numerous appeals, giving evidence both for and against development proposals. I have written guidance for Local Authorities such as Oxford and Harrow on protected views, and for Haringey on their Tall Building Strategy. I was one of four landscape architects that recently co-authored new guidance on landscape value and what was then paragraph 174(a) of the NPPF¹ valued landscapes on behalf of the Landscape Institute ("*Assessing Landscape Value Outside National Designations*", Landscape Institute Technical Guidance Note 02/21, **CD G7**).
- 1.4 I have also specialised in the assessment of the effects of development upon the sense of separation between settlements, particularly in Green Wedges, Green Gaps and Strategic Gaps. I have given evidence at numerous appeals on this matter².
- 1.5 In August 2020 I was asked by Hodgetts Estates (the Client) if I would advise them on the design and assessment of a proposed new storage and distribution facility to the north-east of junction 10 of the M42. Being familiar with the site already, and after carrying out an additional review of the policy and character assessment context, I agreed that SLR would provide

¹ Now 180(a)

² Examples include Land South of Winterfield Lane, East Malling (APP/H2265/W/20/3256877); Posbrook Lane, Titchfield (APP/A1720/W/20/3254389); Land East of Gleneagles way, Hatfield Peverel (APP/Z1510/V/17/3180729); Land to the East of Braintree Road, Tye Green (APP/Z1510/W/22/3307493); Land South of Green Lane, Chesterton (APP/C3105/W/23/3331122), and also the allocation of 2500 homes in a Strategic Gap between Horsham and Crawley, Horsham Local Plan EIP.



assistance with the proposed conceptual design and parameters and would also provide a Landscape and Visual Impact Assessment (LVIA). The LVIA was prepared by Emma Jinks, an experienced chartered landscape architect from SLR, but I provided review of, and guidance for, the assessment.

- 1.6 In April 2021 I submitted representations to the North Warwickshire Examination in Public (EiP) on the wording of what was then draft policy LP5, relating to the “*Meaningful Gap*” between Tamworth and Polesworth and Dordon. My advice to the Inspector resulted in significant refinements to this policy, which is now Policy LP4, Strategic Gap, in the adopted North Warwickshire Local Plan (September 2021, **CD F1**). I also provided representations on landscape matters for the Dordon Neighbourhood Plan, and these reps also resulted in changes to the evolving policies.
- 1.7 On 31st January 2023 I joined a meeting with Emma Jinks of SLR, and representatives of North Warwickshire Council and LUC, to seek to agree common ground on landscape, visual and Strategic Gap matters, and also to agree the scope of further landscape work.
- 1.8 On 22nd December 2023 Hodgetts Estates submitted their appeal against non-determination. I was asked if I would give evidence on landscape, visual and Strategic Gap matters at the inquiry. Having already visited the site and its context, reviewed the parameter plan and LVIA, taken part in the meeting to find common ground with LUC, and been involved in the evolution and meaning of Policy LP4, I accepted the instructions.
- 1.9 The evidence which I have prepared and provide for this appeal in this proof of evidence is true and has been prepared and is given in accordance with the guidance of the Landscape Institute. I confirm that the opinions expressed are my true and professional opinions, irrespective of by whom I am instructed.

Scope of Evidence

- 1.10 Hodgetts Estates applied in December 2021 for outline approval for the development of up to 100,000m² of land for use classes B2 (general industry), B8 (storage and distribution) and E(g)(iii) (light industrial), as well as an overnight lorry parking facility and ancillary infrastructure and associated works (Application reference PAP/2021/0663).
- 1.11 North Warwickshire Council (the Council) has not determined this application, and in December 2023 Hodgetts Estates submitted their appeal on the grounds of non-determination.



1.12 On Monday 4th March 2024 the Council's Planning and Development Board resolved that, had they been able to determine the application, they would have refused it. Three putative reasons for refusal were decided at this meeting, of which Reasons 1 and 2 deal with Strategic Gap and landscape matters respectively, and Reason 3 addresses highway matters.

1.13 **Reason for Refusal 1** is set out below for ease of reference, since I have sought to address this Reason in my proof of evidence:

The proposal does not accord with Policy LP4 of the North Warwickshire Local Plan 2021 together with policies DNP1 and DNP4 of the Dordon Neighbourhood Plan 2023 in that it does not maintain the separate identities of Tamworth and Polesworth with Dordon. This is because its scale, character and appearance significantly reduces the physical and visual separation between these settlements. It is considered that the benefits of the proposal as outlined by the applicant do not outweigh this significant harm as the requirements of Local Plan Policy LP6 and LP34 are not fully demonstrated.

1.14 **Reason for Refusal 2** is also set out in full below, since this is also addressed in my evidence:

The application site lies outside of any settlement boundary as defined by Policy LP2 of the North Warwickshire Local Plan 2021 and is thus within the open countryside. The proposed development would result in a range of significant adverse landscape and visual effects which fail to respect or respond positively to the key characteristics of the surrounding area. The proposal is thus contrary to Local Plan policies LP1, LP14 and LP30 together with Policies DNP1 and DNP4 of the Dordon Neighbourhood Plan 2023 as supplemented by the National Planning Policy Framework 2023.

1.15 In the Inspector's Case Management Conference Summary Note of 28th March 2024 (**CD D12**), the Inspector summarised the Main Issues at paragraph 14. Matters relating to landscape and visual effects and Strategic Gap were summarised as follows:

- *“the effect of the proposed development on the Strategic Gap between Tamworth and Polesworth with Dordon;*
- *the effect of the proposed development on the character and appearance of the surrounding area”.*



- 1.16 The Council's Statement of Case (**CD D9**) re-states the putative Reasons for Refusal and notes that the proposals would cause "*significant harms caused to the Strategic Gap and to the landscape*" (paragraph 5.1). Paragraph 5.1 also states that the appeal proposals "*will close this [Strategic] Gap physically, spatially and visually*".
- 1.17 The Rule 6 Party, Dordon and Polesworth Parish Councils and Birchmoor Community Action Team, notes in its Statement of Case (**CD D11**) that it is also concerned about "*the impact of this development on the character of the village of Birchmoor*". It also notes that "*this development is sited in the meaningful gap which was established to ensure that there was a gap between Tamworth and the communities of Polesworth, Birchmoor and Dordon*". The Rule 6 Statement of Case also notes that "*the St Modwen's development on the opposite side of the A5 is technically in the meaningful gap and it was stated by the Inspector who passed this development that this should not set a precedent. We are concerned that if this development goes ahead it will lead to further encroachment and the distinct nature of our communities will be lost*".
- 1.18 My evidence therefore considers the potential effects of the proposed development upon the Strategic Gap between Tamworth and Polesworth with Dordon. It also considers the potential landscape and visual effects of the proposed development, including the potential effects upon the character of the village of Birchmoor.
- 1.19 It is not my role to weigh the planning balance. That is a matter undertaken by planning professionals. My role is to appraise landscape and visual matters in order to inform that planning balance.
- 1.20 In addressing these issues I primarily rely upon the assessments within the LVIA and Gap Assessment prepared by SLR (chapter 10 of the ES, referred to as the SLR LVIA, **CD A8**), as well as subsequent SLR submissions prepared in response to requests by LUC, the Council's landscape consultants. However, I have included some additional drawings and commentary in my proof and appendices to provide further detail and clarity.
- 1.21 Issues relating to highways are addressed by Dr Nick Bunn of Tetrattech. Planning matters are addressed by Doug Hann of WSP, and need is addressed by David Binks, Jonathan Turner and Mike Hatfield. Evidence on economics is provided by Stephen Nicol and Jim Coleman.
- 1.22 My evidence specifically addresses the following issues:



- Review of the planning context relevant to this proof.
- Landscape design review of the proposed development.
- Review of the potential landscape and visual effects of the proposals, with reference to the methodology and findings of the SLR LVIA (chapter 10 of the ES, **CD A8 and A9.6**). Includes a review of the effects of the proposals upon the character of the village of Birchmoor.
- Review of the potential effects of the proposed development upon the Strategic Gap between Tamworth and Polesworth with Dordon, with reference to the Gap Assessment within the SLR LVIA.
- A comparative appraisal of the potential landscape and visual effects other alternative employment sites in the locality.
- Response to the landscape and visual aspects of Reasons for Refusal 1 and 2 and the Council's/Rule 6 Party's Statement of Case.
- Summary and Conclusions.

Definitions

- 1.23 The European Landscape Convention (ELC) defines landscape as “*an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors*” (see Guidelines for Landscape and Visual Impact Assessment, 3rd Edition (2013, GLVIA3, **CD G4**), paragraph 2.2). As GLVIA3 states, the ELC definition of landscape is inclusive, in that covers “*natural, rural, urban and peri-urban areas*”.
- 1.24 Townscape is the character and composition of the built environment, and forms one element of the landscape. Townscape focuses on the buildings and spaces that create character in urban landscapes.

Methodology

- 1.25 The terminology in this proof of evidence follows the guidance of GLVIA3. The methodology used in the SLR LVIA is set out at Appendix 10.1 of the ES.
- 1.26 In the SLR LVIA the threshold used for significant landscape and visual effects is anything above moderate, that is Major or Major/Moderate effects, with a concentration of moderate effects also having potential to be considered as significant in some cases.



- 1.27 It is important to note that it is common ground that it is best practice in LVIA to conclude that the introduction of a large scale built form to a rural or semi-rural context will result in negative landscape and visual effects, (LSoCG 26, **CD D15**).
- 1.28 It is also common ground between the parties that an appropriate methodology for assessing the effects of development upon the sense of separation between settlements is the application of the Eastleigh Criteria. Further details of these criteria are set out at section 5.0 of this proof and in the SLR LVIA (**CD A8**).

Structure of this Evidence

- 1.29 This document is my proof of evidence. New ZTVs and other drawings are included within my Appendices. I have also produced a separate summary of my evidence.

The Study Area

- 1.30 The Study Area used in the LVIA is defined on drawings LAJ-1 to LAJ-4 of the SLR LVIA. It is common ground between the parties that this Study Area is appropriate for assessing the landscape and visual effects of the proposals.



2.0 REVIEW OF THE LANDSCAPE PLANNING CONTEXT

Introduction

- 2.1 In this section of my proof I have briefly reviewed the relevant planning policy and history in order to understand the planning context for putative Reasons for Refusal 1 and 2. A full consideration of planning policy and history is included within the evidence of Doug Hann to whom I defer on matters of planning judgment; this section focuses only on those aspects relevant to the effects of the development upon character, views and the Strategic Gap.

National Policy

- 2.2 NPPF (December 2023) paragraph 10 states that “*at the heart of the Framework is a **presumption in favour of sustainable development***” (bold text as per NPPF).
- 2.3 Paragraph 135 of the Framework states that “planning policies and decision should ensure that developments (inter alia) “*are visually attractive as a result of good architecture, layout and appropriate and effective landscaping*”, “*are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)*” and “*establish or maintain a strong sense of place*”.
- 2.4 The NPPF states at paragraph 180 that “*planning policies and decisions should contribute to and enhance the natural and local environment by: (a) protecting and enhancing valued landscapes ... in a manner commensurate with their statutory status or identified quality in the development plan*” and *(b) recognising the intrinsic character and beauty of the countryside...*”. It is common ground (LSocCG 20, **CD D15**) that the appeal site and its context does not constitute a valued landscape in the sense of paragraph 180(a).

Designations

- 2.5 Relevant designations and rights of way are illustrated on drawing LAJ-1 of the SLR LVIA. In summary, **the appeal site is not included within a landscape or landscape-related designation.**
- 2.6 As drawing LAJ-1 illustrates, the site does form part of a Strategic Gap, the function of which is to maintain a sense of separation between Tamworth and Dordon/Polesworth (see



discussion of Policy LP4, below). This is not a landscape designation but is instead a strategic planning policy³.

2.7 The wider context of the appeal site is also important; over two thirds of the area of North Warwickshire is designated as Green Belt, (source: paragraph 7.12 of the adopted Local Plan), a considerably more onerous spatial planning designation than Strategic Gap. **Plate I**, below, illustrates the position of the appeal site in the context of the wider Borough and the extent of the Green Belt.

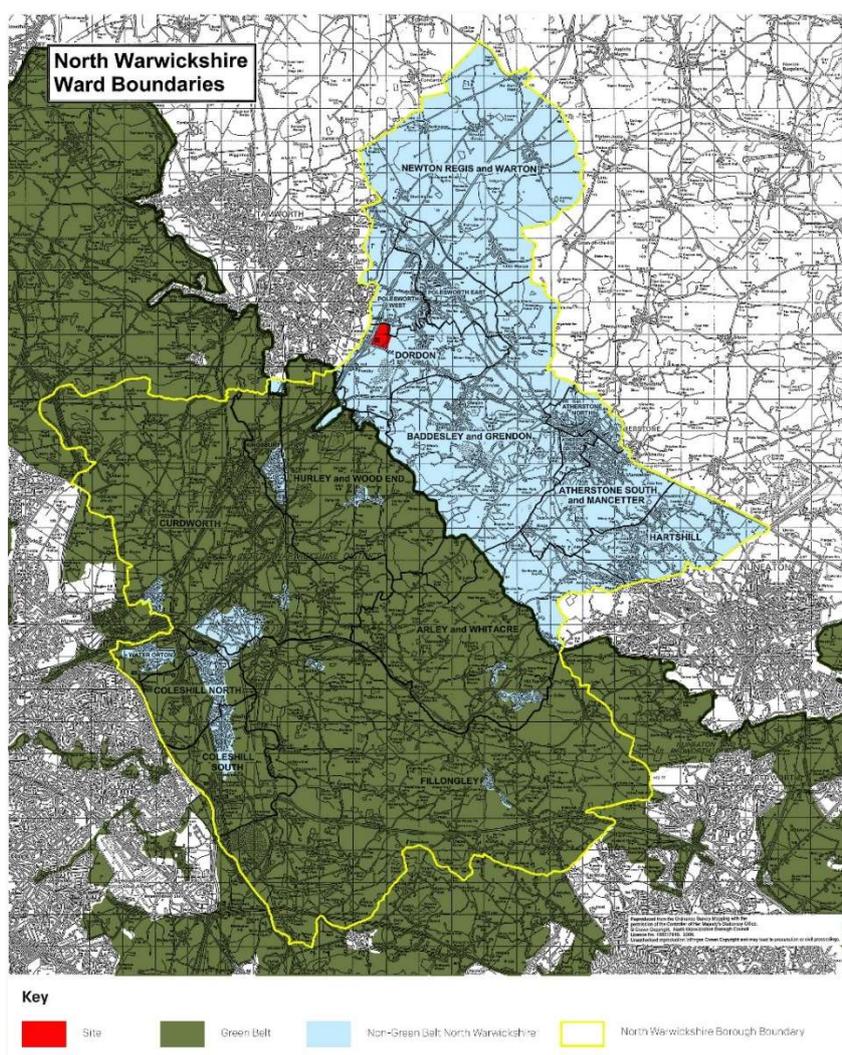


Plate I: Extent of North Warwickshire Borough (defined by yellow boundary) with appeal site shaded in red. Green Belt is shown with green shading.

³ TGN 02/21 (CD G7) states at page 12 that “landscape function can influence value, but the presence of a spatial designation (e.g. Green Belt or Green Gap) is not in itself an indicator of high landscape value”.



- 2.8 There is no formal public access to the majority of the appeal site, but bridleway AE45 passes along the eastern edge of the site, and footpath AE46 passes from the eastern boundary to the site towards the south-east.

Relevant Policies in the Development Plan

- 2.9 This section sets out those policies within the adopted North Warwickshire Local Plan and adopted Dordon Neighbourhood Plan that are cited in Reasons for Refusal 1 and 2 and which are of particular relevance to the scope of this proof of evidence.

Adopted North Warwickshire Local Plan 2021, (CD F1)

- 2.10 The appeal site is not currently allocated for development in the adopted Local Plan.
- 2.11 However it is important to note that Policy LP6 (which is cited in Reason for Refusal 1) states that “**significant weight** will be given in decision making to supporting economic growth and productivity, particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within area A on Figure 4.10 of the West Midlands Strategic Employment Sites Study of September 2015 (or successor study) which cannot be met via forecast supply or allocations”, (my emphasis).
- 2.12 It is notable in this context that the West Midlands Strategic Employment Sites Study (May 2021, **CD I2**), prepared by Avison Young and Arcadis, includes the appeal site within Area 2, one of the “key locations” of sites (see **Plate II**, below) which the report recommends should form “the focus for identifying strategic employment sites” (paragraph 6.56). Furthermore, the study states at paragraph 6.32 that “it is our view that Strategic Employment Sites are best delivered in locations that are accessible to the strategic highway network, with sites located close to motorway junctions being prioritised by developers and occupiers”. Whilst it is not within the scope of this evidence to address matters of need, it is salient to note that **LP6 provides an important mechanism for obtaining permission for unallocated employment sites, and that the appeal site is within a location that is recognised in the Council’s own evidence base as being a focal point for the development of further employment uses.**



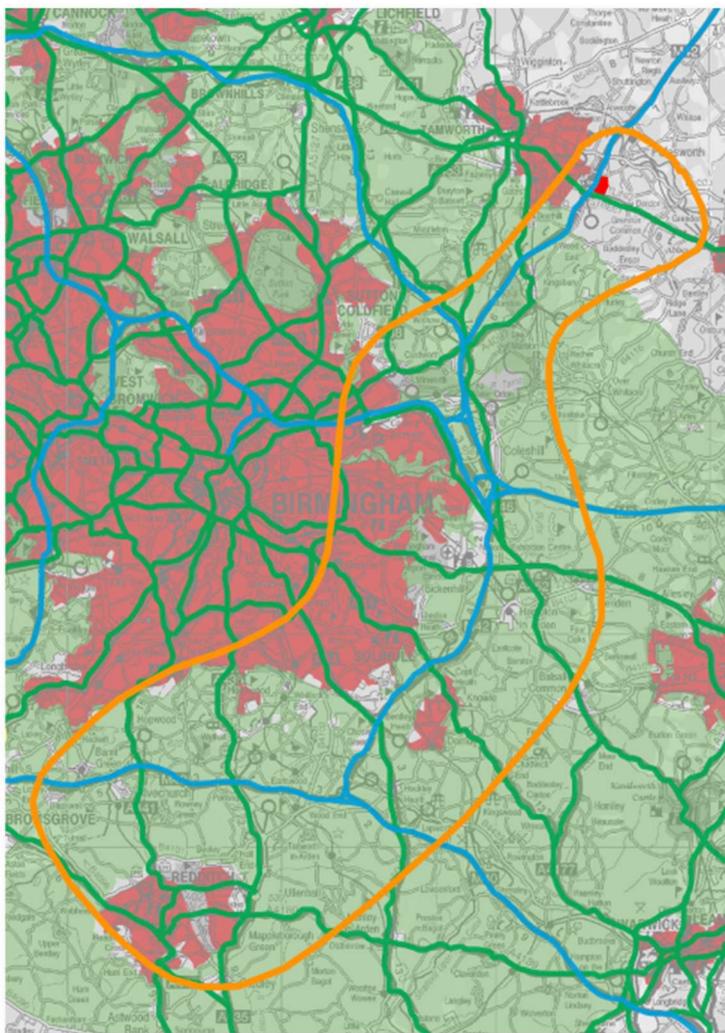


Plate II: Extent of Area 2 (orange line) as defined in the West Midlands Strategic Employment Sites Study, figure 6.4, page 68. The appeal site is shown in red, with Green Belt shown as green.

2.13 Policy LP4 states that “in order to maintain the separate identity of Tamworth and Polesworth with Dordon, a Strategic Gap is identified ... in order to prevent their coalescence.” The policy goes on to state that “development proposals will not be permitted where they significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon” (my emphasis). **It is notable that Policy LP4 does not, therefore, preclude all development, but only development that would significantly affect the separate characters of Tamworth and Polesworth with Dordon.** LP4 is thus clearly less restrictive than Green Belt, for example, which as NPPF paragraph 142 states aims “to prevent urban sprawl by keeping land permanently open”.



- 2.14 Paragraph 7.28 provides further clarification as to how a fully functional Strategic Gap can be defined: “*the Strategic Gap seeks to retain and maintain the sense of space, place and separation between these settlements so that **when travelling through the Strategic Gap (by all modes of transport) a traveller should have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering a second settlement***”.
- 2.15 Appendix 2 of Mr Hann’s proof sets out a chronology of Meaningful Gap and Strategic Gap policy. It is notable that in an earlier draft of the Local Plan the Council proposed that “*all new development within this gap should be small in scale*”, but the Local Plan Inspector concluded that this was unjustifiable, with the result that this requirement is omitted in LP4.
- 2.16 Policy LP14 states that “*within landscape character areas as defined in the Landscape Character Assessment (2010), Arden Landscape Landscape Guidelines (1993) and the Historic Landscape Characterisation project (June 2010)... development should look to conserve, enhance and where appropriate, restore landscape character as well as promote a resilient , functional landscape able to adapt to climate change*”. It is worth noting in this context that all of these character assessments and landscape guidelines cover the whole of the Borough; **LP14 is not, therefore a Policy focused upon the more valued landscapes in the Borough, but upon all landscapes in the Borough**. It is also worth noting that there is some tension between this policy and paragraph 180 of the NPPF (*op.cit.*), (and the previous iteration of this paragraph, 174(a)), since 180(a) states that valued landscapes should be conserved and enhanced, whereas for other landscapes there is a requirement to **recognise** the *intrinsic character and beauty of the countryside*”. As I have noted above, it is common ground in this case that the appeal site does not form part of a valued landscape.
- 2.17 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*”. I address the design of the proposals at section 3.0 of this proof.

Adopted Dordon Neighbourhood Plan 2023-2033, CD F9

- 2.18 Policy DNP1 states that “*development should be located so that it can make a positive contribution towards the achievement of sustainable development*”. It is noted that development will be supported where it is (*inter alia*) “*of a density, layout and design that integrates and is compatible with the character, appearance and amenity of that part of the Parish in which it is located*” (I address the design of the proposals in section 3.0 of this proof).



DNP1 also states that development proposals should “*maintain the sense of space, place and separation on land to the west of the parish taking into account the amenity of Dordon residents*”.

- 2.19 Policy DNP4 (1) states that “*development proposals ... should be designed to take account of the landscape, landscape character and topographical setting of the neighbourhood area and its urban environment which contribute to the distinctive character of the Parish*”. This policy is compatible with NPPF 180(b) since “*take account of*” is very similar to “*recognise*”.
- 2.20 DNP4 (2) states that “***where possible, development proposals should take account [of] the key views on map 5 in their location and layout***” (my emphasis). The wording of this policy was refined considerably through the consultation process for the Neighbourhood Plan, and it is notable that the final form of this part of policy does not accord the highest level of protection to these views, but instead requires that *where possible* they should be taken into account.
- 2.21 Map 5 of the Neighbourhood Plan shows that there are three key views orientated towards the appeal site, Viewpoints 1, 2 and 3. Viewpoint 1 is located at Kitwood Avenue recreation ground, looking west towards Tamworth across the Strategic Gap; its position is similar to viewpoint 6 in the SLR LVIA. Viewpoint 2 is at the western end of Barn Close, a residential cul de sac with no connection to the local right of way network; its location is very similar to viewpoint 20 in the SLR LVIA. Viewpoint 3 is a glimpsed view from a pedestrian crossing at junction 10, looking eastwards towards Dordon; this is to the east of SLR LVIA viewpoint 13.
- 2.22 DNP4 (4) states that “*development should take account of the way in which it contributes to the wider character of the neighbourhood area. The layout, scale, and boundary treatment of any applicable development should seek to retain a sense of space, place and (where relevant) separation*”. Footnote 41 to this part of the policy states that “*this is subject to LP4 Strategic Gap and LP6 Additional Employment Land*”.
- 2.23 DNP4 (5) states that “*where appropriate, development proposals should demonstrate the way in which they have taken account of the actions identified in the landscape management strategies recommended for the landscape Character Area in the NWBC Landscape Character Assessment...*” The two relevant character areas are listed, with the appeal site being located in LCA 5, Tamworth Fringe Uplands (see for example SLR LVIA drawing LAJ-2B).



- 2.24 DNP4 (6) states that “*as appropriate to its scale, nature and location, development proposals ... should demonstrate they are sympathetic to the landscape setting as defined in the NWBC Landscape Character Assessment*”. This part of the policy goes on to note that “*however, the provisions of strategic Local Plan Policies LP4 (Strategic Gap), LP6 (Additional Employment Land) ... shall have priority*”.

Relevant Planning History

- 2.25 There have been no previous planning applications on the appeal site itself. However, two appeal decisions were attached to the Committee Report considered by the Planning and Development Board in March 2024, and it is therefore important to consider these.
- 2.26 Permission for the Tamworth Logistics Park, developed by **St Modwen** to the south-east of junction 10, was secured on appeal (reference APP/R3705/W/15/3136495, **CD K2**), and this is of some relevance to this appeal due to its proximity to the appeal site and some of the issues discussed. The Inspector’s Decision Notice (28th November 2016) notes at paragraph 9 that one of the key issues at the appeal was that the proposals would “*undermine the meaningful gap between Polesworth and Dordon and Tamworth*”; the Inspector does not state that concerns were expressed regarding the potential landscape and visual effects of the development on the appeal site and its context.
- 2.27 The Meaningful Gap is the precursor to the Strategic Gap, had a wider extent than the Strategic Gap and was supported by a different policy context. As the Inspector sets out at paragraph 13 of his decision Core Policy NW19 at that time⁴ stated that proposals “*to the west of Polesworth and Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them*”. Critically, unlike current Policy LP4 there is no statement in NW19 that developments “*will not be permitted where they significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon*”; equally importantly, there was no equivalent of paragraph 7.28 in the previous Core Strategy, which clearly states that the critical test for assessing the effectiveness of a gap between settlements should be “*a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering a second*”

⁴ North Warwickshire Local Plan Core Strategy, Adopted October 2014.



settlement”. Without these important clarifications the meaningful gap lacked the clear function and development management clarity which the Strategic Gap now has.

2.28 At paragraph 14 the Inspector notes that:

*“Dordon and Tamworth are two clearly separate towns. Tamworth is located predominantly to the west of the M42 and is a considerably larger urban area. Dordon is approximately 1–1.7km to the east and is situated on higher ground rising up from the motorway. It is physically and visually divorced from Tamworth. This relationship is particularly evident from the A5 looking northeast, and from the public open space off Kitwood Avenue facing west/southwest. **From both locations the expanse of farmland between the M42 and the main body of the settlement north of the A5 differentiates each settlement”**, (my emphasis).*

2.29 The Inspector concluded that the retention of a large area of open farmland between the two settlements, combined with the very different character of the two settlement edges (the more elevated position of Dordon and its more residential character, compared to the more industrial character of Birch Coppice and Tamworth) would continue to respect the separate identities of the settlements.

2.30 In making his decision as to whether a meaningful gap between the settlements would be maintained if the proposals were to be permitted, the Inspector notes at paragraph 25 that **“relying solely on a ‘scale rule’ approach to maintaining separation between settlements should be avoided, and the character of place, and the land in between, needs to be taken into account”**, (my emphasis). In this context the Inspector acknowledged that although the proposals would be *“highly visible”* when viewed from the Kitwood Avenue Recreation Ground (paragraph 30), there would remain an *“expanse of farmland”*, which would remain open, contain no built form, and be notably lower than Dordon, and for these reasons **“residents on the western edge of Dordon would continue to experience an unequivocal sense of separation from Tamworth”**.

2.31 In summary, whilst the St Modwen appeal decision was made within a different policy context it still contains some valuable guidance. The separation of settlements is not simply a function of distance, nor is the sense of separation necessarily undermined by the visibility of the proposals; instead it is primarily conditioned by the character and topography of land between settlements, and the nature of the two settlement edges. Crucially, it is the sense of leaving one place, travelling through an intervening landscape and then arriving somewhere else.



- 2.32 **Taylor Wimpey** proposed the development of 150 homes to the south of Tamworth Road and west of the M42, and this proposal was dismissed on appeal (Appeal reference APP/R3705/W/18/3196890, **CD K1**). In the Inspector's Decision (dated 1st April 2019), the main issues include "*whether the proposals would adversely affect the character and function of the planned gap between the settlements of Tamworth and Polesworth*".
- 2.33 In this case the proposals would reduce the existing gap between Tamworth and Polesworth from 800 to 850 metres to "*some 500m*" (paragraph 19). However, referring to the earlier St Modwen appeal decision the Inspector agrees at paragraph 20 that "*a 'scale rule' approach to evaluating separation between settlements should be avoided, and that an assessment of the impact of any proposed development must look at the character of the places affected not merely the physical dimensions*".
- 2.34 Referring to the relatively elevated topography of the site, (the northern edge of the site is over 105m AOD), the Inspector notes that "*the site is seen as a prominent termination of the rising land*" (paragraph 26). As a result, the Inspector concluded that the appeal proposals would cause visual change over a wide area which would cause a perception of "*the further extension of Tamworth and of the reduction in the gap*" (paragraph 28).
- 2.35 The Inspector concluded that the appeal proposals "*would not significantly affect the identity of Tamworth, but would result in a major reduction in the space between settlements, to the extent that there would no longer be an adequate 'meaningful gap' and the separate rural identity of Polesworth with Dordon would be weakened*" (paragraph 33).
- 2.36 In overview, this case also pre-dates the current Local Plan by more than two years and therefore the decision was again made in a different policy context. There is once more, however, some useful guidance to be drawn from this decision. Again, the point has been emphasised that the separation of settlements is conditioned by much more than linear distance, although in this case the proposal was within the narrowest part of the gap between Tamworth and Polesworth with Dordon and consequently distance was a consideration. This is particularly the case as the remaining gap would have included the M42, and existing buildings at The Hermitage, to the east of the M42; effectively the proposed development could have therefore linked existing developments to take the perceived edge of Tamworth to around 370 metres from the western edge of Dordon at its narrowest point, a reduction in the previous meaningful gap of nearly 60%.



- 2.37 Visibility of the proposed development was defined as a consideration in the Inspector's decision, particularly since in this case the prominence of the new homes, on relatively high ground, could have resulted in a further reduction in the perception of separation between the settlements.

Committee Report for 4th March 2024 Planning and Development Board meeting (CD E59)

- 2.38 In relation to the potential effects of the appeal proposals upon the Strategic Gap, paragraphs 10.10 and 10.11 refer to the 2015 **Meaningful Gap Assessment** (updated in 2018, **CD G2**), stating that the appeal site is within Parcel 8 and that this parcel performed "*very strongly*" in performing the role of separating settlements. This is then re-stated at paragraph 10.21.
- 2.39 As I have noted, the Meaningful Gap was defined in a different policy context, and there is now a much clearer definition of functionality of the Strategic Gap both in Policy LP4 and paragraph 7.28 of the Local Plan.
- 2.40 It is also useful to briefly consider the methodology used in the Meaningful Gap Assessment to understand whether it can be of use for this appeal. In the Meaningful Gap Assessment, the appeal site is located in Parcel 8, which, it was concluded performs "*very strongly*" as part of the gap between settlements. It is firstly important to note that Parcel 8 extends from the M42 to the west to Dordon in the east, and from Birchmoor Road at the north to the A5 to the south. On this basis there is no possibility of considering that any subsection of this large area might have more capacity to accept development without undermining the overall functionality of the gap, since only the whole gap between the settlements is assessed. Secondly, it is notable that there are only two assessment criteria used for defining the functionality of a parcel within the meaningful gap: the distance between settlements measured by a straight line, and the contribution made by the whole parcel to the sense of separation between settlements (the latter is explained at paragraph 3.5 of the 2018 assessment as being "*views into or across the parcel from the settlements and key viewpoints*"; on this basis any parcel that has intravisibility to the settlement edges, or where there is intervisibility between the edges across a parcel, would be highly functional, and yet this ignores the fact that it is perfectly possible to have visibility over a parcel of land between two settlement edges and still have a clear sense of separation, a fact which the Inspector for the St Modwen appeal completely understood (see paragraph 2.29, above). In this context it is unsurprising that five



out of the six assessment parcels north of the A5 received exactly the same score (4), with only parcel 1 – a narrow parcel on the western settlement edge of Polesworth – scoring 2.

- 2.41 It is notable in this context that a review of the Meaningful Gap Assessment prepared by Nicholas Person Associates (NPA) in 2018 (**CD G24**) - another registered landscape practice with a strong reputation for landscape planning and design – concluded that the Meaningful Gap Assessment is “*fundamentally flawed*” since (*inter alia*) it uses inappropriate criteria for its assessment, and fails to sub-divide some of the large assessment parcels, such as area 8. As a result of the latter, NPA notes that the Meaningful Gap Assessment did not even consider the possibility of accommodating development between Polesworth with Dordon and Tamworth, even though Core Strategy Policy NW19 did not preclude such development but stated that development to the west of Dordon needed to “*respect the separate identities of Polesworth and Dordon and Tamworth*”.
- 2.42 Importantly the NPA review also states that “*a far more appropriate assessment*” to assess the functionality of the Meaningful Gap would have been to use the Eastleigh criteria (see for example paragraph 1.9).
- 2.43 It is also notable that the 2015 version of the Meaningful Gap Assessment included parcel 4, on the eastern edge of Tamworth, which the study concluded should be part of the gap due to its “*landscape sensitivity and development impact*”. However, the 2018 version of the report omits parcel 4, since this now formed part of allocation H5 for housing in the new Local Plan. This indicates that notwithstanding the Meaningful Gap Assessment, the principle of allowing some development between Tamworth and Polesworth with Dordon has been accepted.
- 2.44 **I conclude that this study is now out of date due to the adoption of policy LP4, and that it contains insufficient detail both in terms of the size of the assessment parcels and the vagueness of the assessment criteria to be of use in this appeal.**
- 2.45 At 10.19 the Committee Report states that “*the proposal will screen and reduce the views across and from within the parcel, thus altering the perception of openness and separation*”. This analysis of the role of parcels in providing a sense of separation seems to lean heavily on the visual approach taken in the LUC Meaningful Gap Assessment.
- 2.46 At 10.21 it is noted that the “*sense of space, place and separation by travelling through this part of the gap would not be retained or maintained. **There would be no clear sense of having left the first settlement, having travelled through an undeveloped area, then***”



entering a second settlement". This later phrase is taken from paragraph 7.28 of the Local Plan, but does not appear to be underpinned by any study, assessment or analysis; the Meaningful Gap Assessment certainly does not use this as one of its criteria.

- 2.47 In terms of the potential landscape effects of the proposal, I note that paragraph 10.34 concludes that the proposals would result in "**moderate landscape harm**".
- 2.48 In terms of visual effects, paragraph 10.35 states that "*as with the landscape character issue, visual amenity impacts would be local in extent*". Paragraph 10.38 also states that "**the proposal will have moderate visual harm**".

Appeal Documents: Council's Statement of Case (CD D9)

- 2.49 At paragraph 5.1 of this document the Council states that "*the proposal will close this [Strategic] Gap physically, spatially and visually*". In contrast, paragraph 5.9 states "*the proposed development would have a significant adverse impact on the Gap*" and that the proposals would "**significantly reduce the physical and visual separation between the named settlements**". The suggestions that the effect would be to both *close* and *significantly reduce* the gap are mutually inconsistent.
- 2.50 Paragraph 5.1 also states that "*the Council will evidence the significant harms caused to the Strategic Gap and to the landscape*". With regards to the harm to the landscape and views, as I have noted above the Committee report stated that the harm to both landscape and views would be "*moderate*".

Appeal Documents: Local Third Party Statement of Case (CD D11)

- 2.51 This document notes several concerns of relevance to the scope of this evidence. Firstly, concern is raised about the effects of the development upon the character of the village of Birchmoor. I will address this matter in sections 4 and 7 of this proof.
- 2.52 Concern is also raised regarding the effects of the development upon the "*meaningful gap ... between Polesworth/Birchmoor and Dordon*". It is important to note in this context that Policy LP4 aims to protect "*the distinctive, separate characters of Tamworth and Polesworth with Dordon*", rather than Birchmoor, but I will address the effects of the proposals on the Strategic Gap at section 6 of this proof.



Summary and Conclusions of Planning Context

- 2.53 The appeal site is not within a landscape or landscape-related designation. The appeal site is within a Strategic Gap but this is a spatial planning designation and therefore does not reflect any particular landscape value.
- 2.54 It is Common Ground that the appeal site does not constitute a valued landscape in the sense of paragraph 180(a) of the NPPF. The NPPF therefore requires that proposals recognise the intrinsic character and beauty of the countryside (180(b)) as opposed to protect and enhance valued landscapes (180(a)).
- 2.55 The appeal site is not allocated in the development plan. However, Policy LP6 in the adopted Local Plan states that significant weight should be given to supporting economic growth, *particularly where evidence demonstrates an immediate need for employment land*. The West Midlands Strategic Employment Sites Study identifies a pressing need for employment land, and identifies the locality of the Appeal site as being within one of the key locations for such development.
- 2.56 The Strategic Gap aims to maintain the separate identities of Tamworth and Polesworth with Dordon. Policy LP4 does not preclude all development within this gap, only those proposals which *significantly adversely affect the distinctive, separate characters* of the two settlements. LP4 is therefore a less onerous designation than Green Belt, since all land within that designation must be kept *permanently open*. In this context it is notable that the Local Plan Inspector rejected a contention that the policy should be limited to small scale development (paragraph 241 of **CD F15**).
- 2.57 There have been no previous planning decisions on the appeal site itself. However, there have been two appeal decisions on nearby sites within the former Meaningful Gap, which preceded the adoption of the latest Local Plan. Whilst these decisions were made in a different policy context it is important to note that both recognised that the sense of separation between settlements relies on much more than a “*scale rule*” approach to measuring distance between settlements, since the character of the places and the intervening land needs to be taken into account. The Inspector for the St Modwen appeal also accepted that whilst that development would be “*highly visible*” there would remain “*an unequivocal sense of separation*” between the settlements due to the “*expanse of farmland*” between the two settlement edges.



3.0 LANDSCAPE DESIGN REVIEW OF THE PROPOSALS

Introduction

- 3.1 In this section of my proof I provide a brief review of the elements of the proposals that have the potential to result in landscape and visual effects.
- 3.2 Whilst the application is in outline, there is a considerable body of information within the application documents that describes the development and defines parameters. In the following paragraphs I initially consider elements of the appeal proposals that are fixed, followed by those elements that are shown indicatively in the application documents.
- 3.3 The overall design of the proposals – comprising the substantial screening landforms and woodlands around the proposed buildings and the extensive area of retained and enhanced farmland between the eastern edge of the appeal site and the western edge of Dordon – was shaped with input from SLR’s landscape architects at the outset of the project.

Access, Areas and Heights Defined in the Application Documents

- 3.4 **The appeal site covers an area of 32.36ha, with other land under the control of the Appellant (the Offsite Mitigation Area) extending to 41.66ha.** Based upon the parameter plan, 11.51 ha (35.6%) of the appeal site area would comprise new green infrastructure, with the remaining 20.85 ha (64.4%) comprising hardstanding, roads and new buildings.
- 3.5 The proposals would include **up to 100,000m² of warehousing and industrial uses**, as well as **up to 150 spaces of overnight lorry parking and a 400m² amenity building**; the submitted Parameter Plan (**CD B37**) sets out the maximum heights of the buildings.
- 3.6 The **maximum elevation of the development would be to 117.8m AOD** at the western edge, closest to the M42, falling to a maximum of 113m AOD at the northern edge, closer to Birchmoor, and between 111.5m AOD and 102m AOD at the eastern edge, closest to Dordon, For comparative purposes, **the permitted maximum building height is 118m AOD and 121.5m AOD at Tamworth Logistics Park and Core 42 Business Park** respectively. The maximum height of buildings from Finished Floor Level would be 21 metres.
- 3.7 It is important to note in this context that based upon recent developments in the locality it is unlikely that the buildings would reach the maximum height of 21 metres. An appendix



included within the evidence of David Binks indicates that **of the 25 commercial developments built out in the past 5 years in the same market area as the appeal site only 3 have been just over 21 metres, with 76% being 18 metres or less. This clearly indicates that the SLR LVIA is based upon a worst-case scenario of the largest buildings possible.**

- 3.8 The Parameter Plan also defines the extent of the landscape buffer zones around the proposed new buildings, and the LSoCG (**CD D15**, paragraph 14) provides maximum and minimum widths for these buffers. I will not set these out in full here, but it is particularly important to note that **the eastern buffer, facing Dordon, would be between 46m and 106m wide**, and the northern buffer, facing Birchmoor, would be **between 75m and 134m wide**.
- 3.9 Access would be from a point on the northern edge of the A5 as illustrated on the Parameter Plan (**CD B37**). On 2nd May 2024 National Highways also accepted the design of improvements to junction 10 and the eastbound A5, including a new cycle lane along the eastern edge of the junction (and to the north of the A5), widening of the A5 to incorporate a new left turn lane into the appeal site, and re-grading of the embankment at the eastern side of junction 10 to accommodate the widening of the carriageway to accommodate the new 3m cycle lane. **Plate III**, below, illustrates with blue shading areas within which existing vegetation would need to be removed.
- 3.10 **Plate IV** focuses on the area to the south of the appeal site, where the new access would be located. Again, blue shading indicates areas within which existing vegetation would need to be removed.
- 3.11 New planting would be implemented on the newly regraded embankments, and this would broadly accord with the planting design shown in outline in the DAS (for example figure 69, section 7.14, **CD B34**, and pages 43 and 44, section 4.3 of the Design Guide, (**CD B35**). However, the precise form of this new planting would be agreed through forthcoming work with National Highways to ensure that it complies with highways safety requirements.



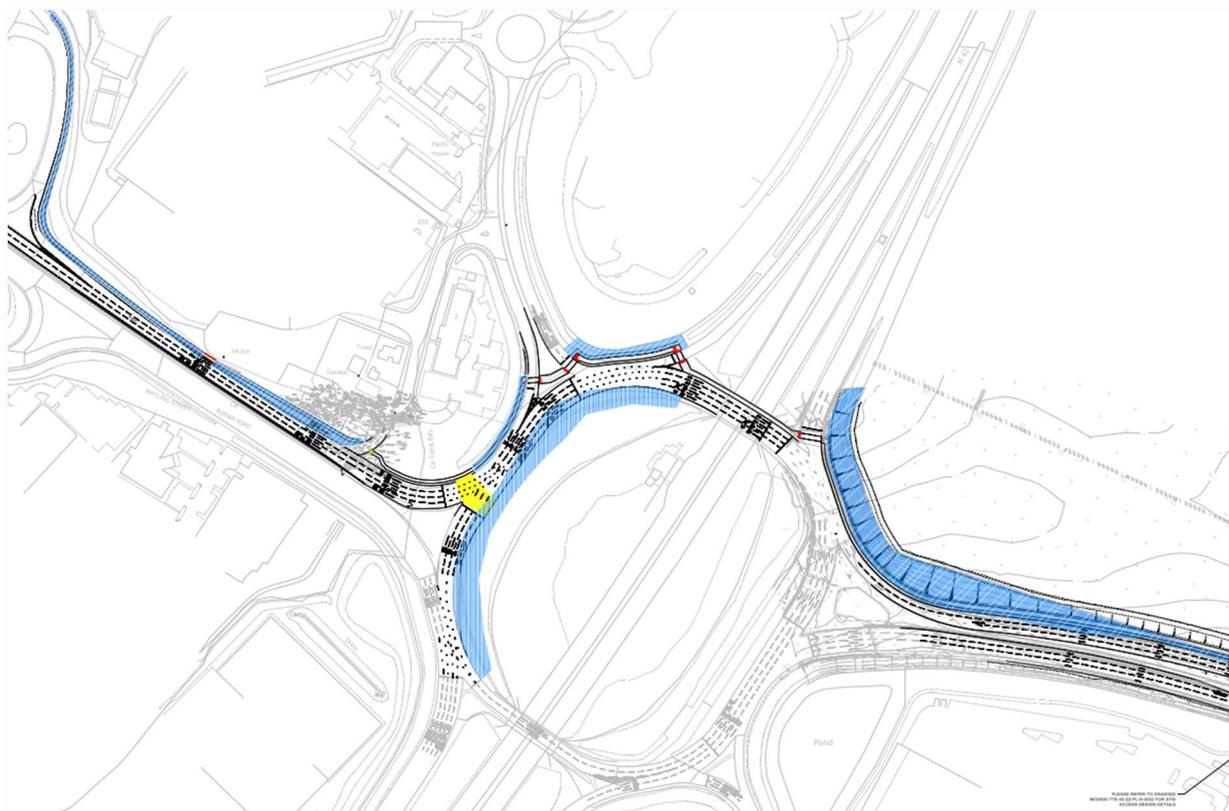


Plate III: Extract from drawing B033920-TTE-00-ZZ-SK-H-8001 revision P01 by Tetra Tech. This proposal was agreed with National Highways on 2nd May 2024.

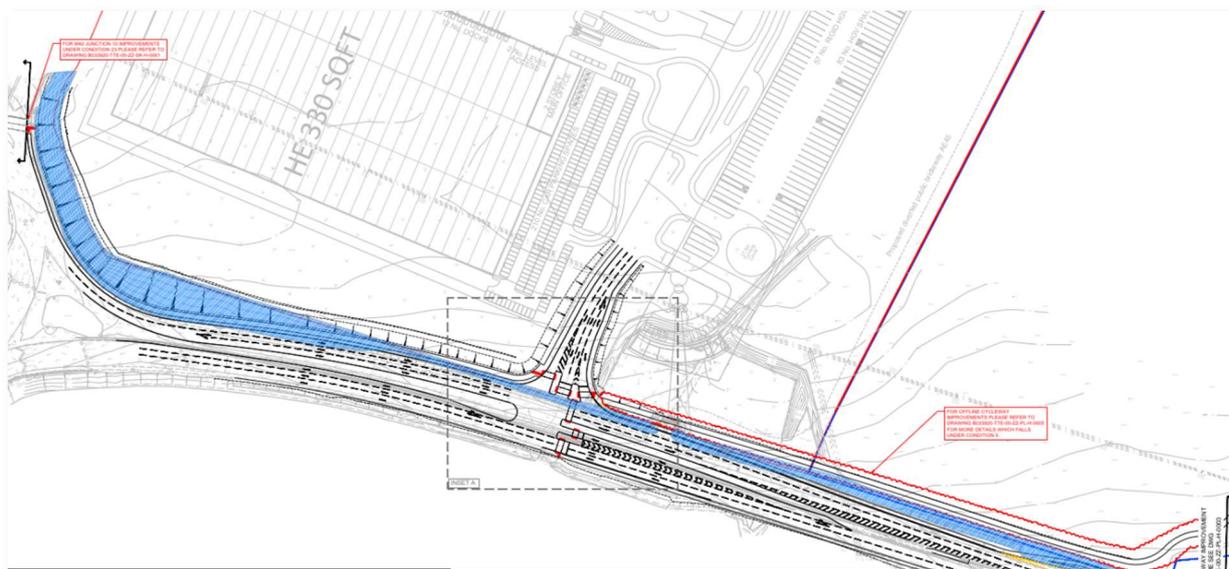


Plate IV: Extract from drawing B033920-TTE-00-ZZ-PL-H-8002 revision P01 by Tetra Tech. This proposal was agreed with National Highways on 2nd May 2024.

3.12 In total the junction 10 and A5 improvements would require the removal of existing grass verge, scrub and/or hedgerow from approximately a 500 metre length of the eastern edge of



junction 10 and the northern edge of the A5. As I have noted above this planting would be largely replaced by new native planting on the regraded slopes, but it would take approximately 5 years for the new hedgerows to achieve a height of around 2 metres, and up to 15 years for planting to reach 7 to 8 metres.

- 3.13 It is important to note in this context that the Strategic Traffic Assessment that formed part of the evidence base for the Local Plan assumed that further works would be required to junction 10, including a dedicated left turn lane onto the eastbound A5 (see “*Strategic Transport Assessment Modelling Analysis and Overview*” report (STA) prepared by Vectos Microsim (October 2017), CD **H24**). I provide further analysis of the potential loss of vegetation that could occur as a result of this work in section 4.0 of my proof, in the section that addresses “*How the Landscape of the Appeal Site and its Context may Evolve in the Future*”.
- 3.14 One further matter which has evolved since the ES was prepared is the production of the proposed Connectivity Plan, prepared by Chetwoods (CD **B15**). This drawing, prepared in July 2022, indicates that a new 3m wide cycle route would be provided to the north of the A5, and that this would have a tarmac surface (albeit this is still to be agreed with National Highways). This cycle path would require the removal of approximately 2, 5 to 6m sections of existing hedgerow to facilitate connection with the existing cycle route along the A5. The drawing also indicates that a number of the other footpaths to the east of the appeal site that could also become cycle paths as well as footpaths, and which would therefore also be surfaced, potentially with tarmac. However, the precise design of these routes would be subject to agreement with North Warwickshire and the Highways Authority and other surface materials may be agreed, for example as resin bound gravel.
- 3.15 I note that Dr Nick Bunn concludes that there would be no need to light these cycle routes, particularly since an alternative cycle route between Tamworth and Dordon, with street lighting, is available along the A5.
- 3.16 It is important to note in this context that the Warwickshire Local Cycling and walking Infrastructure Plan (the LCWIP, CD **H30**) also proposes that several of the paths that cross the strategic gap between Tamworth and Dordon, and I again provide further detail on this matter in section 4.0 of my proof in relation to how the site and its context might evolve in the absence of the proposals.



Other Elements of the Appeal Proposals which are Illustrated in the Application Documents

- 3.17 The detailed design of the buildings would be a Reserved Matter, but the Design and Access Statement (**CD B34**) and Design Guide (**CD B35**) provide indicative images showing how the development could look: in these documents the main buildings are shown as having parapets and pitched roofs. An alternative, curved roof is illustrated in the Type 3 Photomontages (**CD B31**) and the illustrative cross sections (**CD B30**). Importantly, the ZTVs, wirelines and sections all show the building reaching a maximum height of 117.8m AOD in accordance with the Parameter Plan. As **Appendix D** explains, the Type 3 montages exaggerate the height of the development, showing a ridge height 3.641m higher than 117.8m AOD, at 121.441m AOD.
- 3.18 The proposed landscape buffers would include screening landforms. The precise design for these would be addressed as a Reserved Matter, but within the illustrative cross sections (**CD B30**), illustrative landscape sections (**CD B15**, and Type 3 Photomontages (**CD B31**), standalone wirelines (**CD B31**), Design and Access Statement (**CD B34**) and Design Guide (**CD B35**) are shown as having a maximum height of 5 metres above existing ground level, with outer gradients of between 1:5 and 1:6 and inner gradients of 1:3.
- 3.19 This additional land in the control of the Appellant, located to the east of the appeal site, forms the **Offsite Mitigation Area**, and it is proposed that 6.51ha of this land would be set aside for additional planting, 3.41ha of which would become publicly accessible (in the form of a community orchard). New hedgerows and hedgerow standards would also be established in this area, and some of this has already been planted as advance planting. The main objectives of this additional planting would be to:
- Enhance the condition and scenic quality of this agricultural landscape;
 - Provide biodiversity benefits;
 - Enhance the sense of separation between the settlements;
 - Provide screening and filtering of views towards the proposed development.
- 3.20 Based upon the landscape masterplan shown in Figure 68 of the DAS, (**CD B34**), the following quantities of new tree planting and hedgerows would be provided:



- **New woodlands: 7.62ha within the appeal site**, with an **additional 2.53ha in the Offsite Mitigation Area** (in addition to approximately 2.74 of existing, retained woodland);
- **New hedgerows** (with hedgerow standards): **approximately 497 metres of new hedgerow has already been planted along the eastern edge of the appeal site**, in addition to the 400 metres that would be retained. **In the Offsite Mitigation Area approximately 2 kilometres of new hedgerows is proposed, of which approximately 500 metres has already been planted as advance planting.** The Offsite Mitigation Area also includes approximately 1,335 metres of existing hedgerow, which would also be retained.
- **Within the 3.41ha of new public open space (POS) at the western edge of Dordon a new orchard approximately 1.6ha** in extent would be established.

3.21 Hodgetts Estates has also suggested a condition which would change the use of the existing arable fields (outside of the proposed new POS proposed on the western edge of Dordon) to **species-rich grassland**. This measure has potential to further enhance biodiversity, whilst also improving amenity by allowing residents, cyclist and walkers to enjoy wildflower meadows close to their homes and along existing and improved pedestrian and cycle routes.

3.22 As I have noted above, approximately one kilometre of new hedgerow with hedgerow standards has already been planted at the eastern edge of the appeal site and within the Offsite Mitigation Area. Photographs of this new planting are included at **drawing J10-6** in my Appendices.

3.23 Details of the species to be used in planting on the appeal site would be a matter for Reserved Matters: however, section 7.14.3 and Appendix 11 of the DAS (**CD B34**) provides a species list for the proposed native hedgerows and woodland, which, as noted above, would form the vast majority of the proposed planting.

3.24 It is common ground between the parties (LSoCG paragraph 30, **CD D15**) that the woodland **planting in and around the appeal site would reach a height of approximately 7.5 to 8 metres within 15 years.**

3.25 In this context it is notable that the SLR LVIA, and all of the wireline visualisations and Type 3 photomontages, assume that all of the buildings would be built out in year 1, with all of the



planting being carried out in the same year. **There is therefore no allowance for additional growth for advance planting, and no allowance for phased development of the site, which is a possibility. This again indicates that these visualisations, and the SLR LVIA, have assessed a worst-case scenario.**

Examples of other Commercial Developments with Similar Design Principles: Magna Park

- 3.26 **Drawings J10-5a to J10-5d** include winter photographs of the existing commercial development at Magna Park, Lutterworth, to provide an indication of how the appeal proposals could appear once the proposed planting has fully established.
- 3.27 The site was commenced in 1987 on a former airfield, and has continued to expand. The drawings in **J10-5** show both new bunds with recent planting and well-established bunds with semi-mature and/or mature planting. **The building heights vary between 10m and 27m to parapet/ridgeline, with the majority of the buildings being between 15 and 20 metres.**
- 3.28 **Widths of landscape buffers vary between approximately 20 and 50 metres**, and are thus considerably narrower than those proposed for the appeal proposals.
- 3.29 The photographs clearly illustrate that, **even in the winter months, the wider landscape buffers provide almost a complete screen for the commercial buildings, whereas the narrower buffers provide at least substantial filtering of views of these buildings.**

Summary and Conclusions

- 3.30 64.4% of the 32.36ha appeal site would comprise new buildings, roads and hardstanding, with the remaining 35.6% comprising landscaped screening landforms around the edges of the site. An Offsite Mitigation Area of 41.66ha would be provided to the east of the appeal site, and this would include new woodlands, orchards as well as hedgerow planting and species-rich grassland.
- 3.31 The overall design of the proposals – comprising the substantial screening landforms and woodlands around the proposed buildings and the extensive area of retained and enhanced farmland between the eastern edge of the appeal site and the western edge of Dordon – was shaped with input from SLR’s landscape architects at the outset of the project.



- 3.32 It is common ground between the parties that new trees and woodlands would achieve a height of 7.5 to 8 metres if planted and managed in accordance with best practice.
- 3.33 I have reviewed the established landscaping at Magna Park, Lutterworth, and have noted that deciduous woodland buffers narrower than those proposed at the appeal site provide significant screening and filtering of buildings up to 27m tall.



4.0 POTENTIAL LANDSCAPE AND VISUAL EFFECTS OF THE APPEAL PROPOSALS

Introduction

4.1 In this section of my Proof of Evidence I consider the potential effects of the Appeal proposals upon the landscape of the appeal site and its context, and also on views from publicly accessible viewpoints. My review of these effects is primarily based upon existing visualisations and assessments prepared by SLR, both in the SLR LVIA and Design and Access Statement (DAS), as well as in additional materials prepared by SLR in response to comments by LUC. For ease of reference, these existing assessment materials include the following:

- The SLR LVIA, Appendices and drawings (including summer photography);
- Three wireline visualisations included at section 6 of the DAS for viewpoints 1, 4 and 5, (**CD B34**) with two additional verifiable wirelines for viewpoints 8 and 9 issued in July 2022 (**CD B31**). All of these wirelines illustrated the large, main building with a flat parapet up to 117.8m AOD as shown on the parameter plan (**CD B37**). Proposed planting is shown with full, summer foliage and trees are shown at approximately 10 metres tall;
- Winter photography of all viewpoints;
- Verifiable winter photomontages for viewpoints 1, 4, 5, 8 and 10, at year 1 and year 15, prepared on July 2023 (the methodology used for preparing these is set out at **Appendix A** in my Appendices). These photomontages illustrated the potential for curved roof planes, and show the proposed buildings at the correct width and depth, but as **Appendix D** explains **these images show a higher building ridge height than that shown in the parameter plan** (24.641 metres as opposed to 21 metres in the parameter plan, and 121.441m AOD as opposed to 117.8m AOD in the parameter plan). **The Type 3 Photomontages therefore overstate the height of the proposed buildings**. 15 year planting is shown at 8m and with bare branches;
- SLR Responses to LUC reviews in May 2022, January 2023, May 2023 and March 2024. A reference list for the LUC reviews and SLR's responses to these reviews is



set out in **Appendix B** of my Appendices. In summary there are four different LUC reviews, and four SLR responses. The last SLR response was issued in March 2024, and contained an updated visual assessment based upon the Type 3 photomontages. **Given that this updated assessment is based upon the winter photomontages with lower planting at year 15, and given that LUC provided their assessment of the same montages in December 2023, I have considered these visual assessments alongside the assessments within the SLR LVIA in my proof of evidence.** As I have noted above, all of these assessments are based upon the higher ridge height of 24.641m (121.441m AOD), which therefore show greater potential visibility of the proposed buildings. The Council requested that the March 2024 response should be placed in the Appellant's evidence. Accordingly, I have placed this at **Appendix C**.

- 4.2 It is important to note in relation to the July 2023 Type 3 photomontages (**CD B31**) that whilst these show the building ridge heights 3.641m higher than those defined in the parameter plan, they still provide a very helpful guide to the potential visual effects of the proposals from key viewpoints. The form, colour, texture and position of the buildings are all accurate, as are the width and depth of the buildings, the size of the proposed screening landforms and the height of the proposed trees. In relation to the height of the proposed buildings, as **Appendix D** illustrates the parapet height is at the correct height of 21 metres, and using this as a guide it is notable that whilst the visibility of buildings would reduce once the correct ridge height is used, the scale of change in each of the views would be relatively minor overall.
- 4.3 Given that a considerable amount of assessment has already been carried out I do not repeat the full detail of this work here. Instead, I initially review the common ground between the parties in order to focus on the remaining key issues, then I provide an overview of the results in the SLR LVIA, adding new considerations such as the newly agreed improvements to junction 10 and adding my own observations based upon my site visits carried out in winter 2023 and spring 2024, (as well as many visits to the locality during both day and night over the past 25 years). I have also provided the following additional materials in my Appendices:
- A drawing illustrating existing commercial development in the locality of the appeal site (**drawing J10-1**).
 - A new drawing showing areas of man-made cut and fill in the locality of the appeal site (**drawing J10-2**).



- New Zones of Theoretical Visibility (ZTVs) for the Alternative Indicative Masterplan (as used in the Type 3 Montages). These show the development both with and without established tree planting (see **drawings J10-3b and 3c** in my Appendices).
- A further Zone of Theoretical Visibility illustrating the visibility of existing commercial development to the west and south of the appeal site (see **drawing J10-3a** in my Appendices).
- A suite of historic maps illustrating how the settlements in the locality have evolved over the past 150 years (see **drawings J10-4a to J10-4d**);
- Winter photographs of the mature landscape mitigation planting at Magna Park, Lutterworth (**drawings J10-5a to J10-5d**);
- Winter photographs of recent advance planting undertaken at the appeal site and Offsite Mitigation Area (**drawing J10-6**);
- Prior to the exchange of evidence I have reviewed the SLR March 2024 visual assessments (see **Appendix C**) in the context of the lower ridge heights, firstly with reference to the parapet height in the existing Type 3 photomontages, but also with the aid of preliminary 3D modelling of views, and **I have concluded that none of the visual judgements in SLR's March 2024 assessment of visual effects would change as a result of having slightly lower ridge heights**. However, there would be some notable effects in some views, **particularly for viewpoint 5 where the roof planes of existing commercial buildings on the edge of Tamworth would now be visible above the proposed new building ridges**.
- However, for clarity I will provide corrected versions of the Type 3 photomontages with ridge heights at 21m (117.8m AOD) after proofs are exchanged. I will also provide Type 3 block photomontages illustrating the effects of the parameter plan, with a flat roof extending up to 21m (117.8m AOD).

4.4 The terminology and methodology used in this section of my proof accords with GLVIA3, (**CD G4**), and is set out in Appendix 10.1 of the ES. The assessment methodology was drafted by a team of experienced chartered landscape architects and expert witnesses including Carys Swanwick, the author of GLVIA3, and myself. The methodology has been applied in numerous proofs of evidence and has been subject to rigorous examination by other parties.



It is common ground between the parties that the SLR LVIA “*broadly accords*” with the recommendations of GLVIA3 and TGN 02/21 (LSoCG **CD D15**, paragraph 24).

- 4.5 When considering the landscape and visual effects of any green field development **it is important to recognise that it is best practice in LVIA to acknowledge that introducing built form into a semi-rural site will result in negative landscape and visual effects** (LSoCG **CD D15**, paragraph 26).
- 4.6 **As an example of this it is notable that at the Haydock Point Appeal (APP/N4315/W/20/3256871) LUC’s landscape witness Rebecca Knight, acting for the developers Peel, concluded that the introduction of 167,225m² of employment floorspace to arable farmland would result in a moderate negative landscape impact upon completion, becoming moderate/minor after 15 years** (see Inspector’s Decision, **CD K4**).
- 4.7 It is also important to note that it is best practice in LVIA to consider a reasonable worst-case assessment of effects. In this context it is noticeable, for example, that the visual assessments provided in SLR’s March 2024 response are based upon winter visualisations (with a ridge height 3.641 metre higher than that shown on the parameter plan), and that the indicative masterplans assessed for both the landscape and visual appraisals are based on building heights that equate to the maximum building heights set out in the parameter plan (**CD B37**).

The Origin and Purpose of the Type 3 Photomontages (July 2023), and the Subsequent SLR March 2024 Revised Visual Assessment

- 4.8 I attended a meeting with LUC and the Council on 31st January 2023, and at that meeting, Type 3 photomontages for viewpoints 1, 4, 5, 8 and 9 were requested by LUC (Meeting note prepared by WSP, see **Appendix E**). In order to provide the level of design detail that Type 3 montages require, SLR worked with Hodgetts Estates to refine the outline design, for example by providing details of roof design and colouring. The plan form of the buildings was also refined from that shown on the parameter plan, as shown in **Plates V and VI**, below.



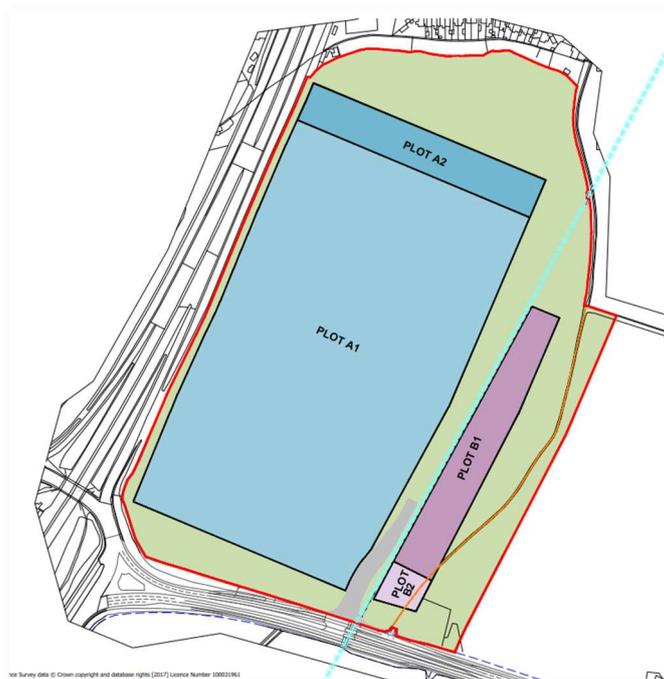


Plate V: The parameter plan (CD A5) prepared by Chetwoods showed a worst-case scenario of one large building (with a smaller building to the east), with a consistent roof height for Plot A1 of 117.8m AOD.



Plate VI: The Alternative indicative masterplan used as the basis of the Type 3 Photomontages. Roof heights are again up to 117.8m as shown on the Parameter Plan.

4.9 In August 2023 LUC provided an assessment (received by the appellant in December 2023, **CD G17**) of visual effects based upon the Type 3 the photomontages. As I have noted above,



in order to provide comparability between LUC's and SLR's visual assessments SLR prepared a new Assessment of Potential Visual Effects in March 2024, and I have therefore also referred to these in this proof. Some of the levels of visual effects assessed in the revised assessment are higher than those in the ES. This is due to a combination of factors, including the slightly different position of the buildings, the inclusion of winter vegetation rather than summer foliage, and the use of 8m high planting at 15 years rather than 10m as shown in the wirelines.

- 4.10 As I have noted at section 3.0 of this proof, the height of 117.8m AOD used for the wireline visualisations and as noted above and at **Appendix D the Type 3 photomontages use an incorrect and artificially high building height of 24.641m (121.441m AOD)**. Hodgetts Estates is also aware that the market currently requires buildings of up to 18 metres, and consequently **building heights of 114.8 metres AOD would be more realistic**.
- 4.11 The Type 3 montages are **also worst case in that they don't show phasing of development**, but instead assume that all development would be built in one go, with planting of screen bunds also carried out at the same time. In reality it is likely that the site would be developed on a phased basis, for example with the screening landforms and development at the south of the site being established initially, and buildings at the north of the site being developed at a later stage. If the hiatus between the completion of the first and second phases was, for the sake of argument, three or four years, the proposed new planting around the edges of the appeal site would be approximately two metres taller at year 15 (i.e. 9.5 to 10 metres), based upon growth rates agreed in the LSoCG.
- 4.12 The Type 3 photomontages are **also worst case in that they are not only based upon winter views, but assume no growth for the existing trees and shrubs in the locality of the appeal site**. For example, the year 15 view for drawing LAJ-064 shows precisely the same height and breadth of the existing planting in the copse to the west of Dordon as that shown in the existing view (drawing **LAJ-062**), where as in reality this is likely to have grown by a few metres in this period, and is also likely to be denser and would thus provide a more effective screen..



Common Ground on Landscape and Visual Matters between the Council, LUC and SLR

- 4.13 Following the meeting between SLR, LUC and the Council on 31st January 2023 LUC helpfully prepared a Statement of Agreed Matters (SOAM, **CD G15**), and this provides the starting point for defining Common Ground.
- 4.14 The SOAM notes that the methodology used in the SLR LVIA is “*broadly in accordance with*” the recommendations of GLVIA3.
- 4.15 The SOAM also notes that LUC agrees with the Study Area as defined on the ZTV (drawing LAJ-51).
- 4.16 In terms of landscape character, it is agreed that the site falls within Landscape Character Area 5, Tamworth Fringe Uplands, as defined in the North Warwickshire Landscape Character Assessment. It is also agreed that the appeal site is not located in any designated landscapes.
- 4.17 In terms of the character of the site, it is agreed that although the site is largely in agricultural use “*the presence of the existing industrial development and the A5 does reduce the rural nature of the site*”. Furthermore, LUC stated in its “*Appendix B*”, prepared in August 2023 (**CD G17**) that the landscape of the site was “*transitional*”, albeit that it retains “*rural qualities*”. I agree with these statements.
- 4.18 LUC has also agreed that that the viewpoints selected in the ES were agreed between the Council and SLR, and that “*the approach to viewpoint selection is appropriate and that the viewpoints represent a variety of receptors with different viewing locations*”. It is also agreed that the winter photography provided accords with the recommendations of Landscape Institute Technical Guidance Note 06-19 (**CD G5**).
- 4.19 The Landscape Statement of Common Ground LSoCG (**CD D15**) provides further areas of agreement, key areas of which are summarised below:
- Paragraph 8 states that the appeal site, whilst in agricultural use, is also influenced by the visibility of existing large scale commercial development, as well as traffic noise and lighting, and that the appeal site is therefore **an area of transitional landscape on the settlement edge**;



- Paragraph 9 notes that **bunds and cuttings are a characteristic feature of the wider landscape**;
- It is agreed that **the appeal site is not a valued landscape in the sense of paragraph 180(a) on the NPPF** (paragraph 20);
- It is agreed that **it is usual practice in LVIA to assess increased visibility/prominence of large scale development in rural and semi-rural context as causing negative effects** (paragraph 26);
- It is agreed that it is reasonable to assume tree growth rates of 7.5 to 8m at year 15 (paragraph 31);
- It is agreed that **the proposed development would result in relatively localised landscape and visual effects** (paragraph 32).

4.20 **As I have noted at section 2.0 of this proof, the Committee Report (CD E59) states that the landscape and visual effects of the development would be “local in extent”, and I agree that this is an accurate assessment. I also agree with the statement in the Committee Report that the degree of landscape and visual harm caused by the proposals would be “moderate”.**

Methodology used in the SLR LVIA (and Subsequent Reports and Drawings)

4.21 As noted above it is common ground that the SLR LVIA “broadly” complies with the recommendations of the Guidelines on Landscape and Visual Impact Assessment (GLVIA3, **CD G4**).

4.22 The Type 3 photomontages prepared and issued in July 2023 were prepared in accordance with Landscape Institute Technical Guidance Note 06/19, “*Visual Representation of Development Proposals*”, (**CD G5**). These are verifiable photomontages, based upon surveyed viewpoints and reference points. Planting in these images is shown in winter and at a maximum height of just 8 metres at year 15. A full method statement for these montages is included at **Appendix A** in my Appendices, and **Appendix D** explains that the building heights are shown 3.641m higher than the proposed ridge heights.



- 4.23 In accordance with paragraph 4.7 of GLVIA3, which states that landscape architects should be involved “*as early as possible*” in the iterative design process for projects, SLR was able to provide early input into the design for the appeal proposals. SLR provided input into the positioning of the development, and the extent and character of the Offsite Mitigation Area. It also provided input into the design of the proposed bunds and planting, as well as the roof design and colouring of the buildings for the Type 3 photomontages.

Potential Landscape Effects

Existing Landscape Character Assessments

- 4.24 GLVIA3 states at paragraph 5.12 that “*the first step in preparing the landscape baseline should be to review any relevant assessments that may be available at different levels...*”.
- 4.25 Relevant landscape character assessments are set out in paragraphs 10.4.4 to 10.4.6 of the ES (**CD A8**), and the extent of character areas is shown on **drawings LAJ-2A and LAJ-2B of the ES**.
- 4.26 At a regional level the site is included within National Character Area (NCA) 97, Arden. This is a high-level assessment, but it is useful to note that one of the key characteristics of this area is that it is “*a well-wooded farmland landscape with rolling landform*”. It is also notable that, (as paragraph 10.4.4 of the ES notes), landscape opportunities for the Arden area include “*conserve, enhance and restore the area’s ancient landscape pattern of field boundaries*”, “*protect and manage woodlands*”, “*manage and restore hedgerows*” and “*create new green infrastructure with associated habitat creation and new public access*”.
- 4.27 At a County level the Warwickshire Landscape Guidelines (November 1993, **CD G9**) include the appeal site in the Arden Landscape Character Area (LCA) and the Wooded Estatelands Landscape Character Type (LCT). This landscape type is described as “*A well wooded estate landscape characterised by a large scale rolling topography and prominent hilltop woodlands*”.
- 4.28 It is common ground (paragraph 19, LSoCG **CD D15**) that the most up to date and detailed published landscape classification of the locality of the appeal site is provided by the North Warwickshire Landscape Character Assessment (NWLCA, August 2010, **CD G1**), which classifies the site as being part of LCA 5, Tamworth Fringe Uplands. Paragraph 10.4.6 of the ES sets out the most relevant characteristics of this LCA, but it is particularly important to note



that this LCA is characterised by the following which are of particular relevance to the appeal site and its context:

- *“predominantly open arable land with little tree cover”*
- *“fragmented landscape with a complex mix of agricultural, industrial and urban fringe land uses”,*
- *“heavily influenced by adjacent settlement edges of Tamworth and Dordon... and in the vicinity of the M42 motorway junction”;*
- *“network of busy roads in and around Tamworth”;*
- *“no or low trimmed hedges and few hedgerow trees”;*
- *“...several large spoil tips...”.*

4.29 The assessment for LCA 5 also notes that it is ***“an indistinct and variable landscape, with relatively flat open arable fields and pockets of pastoral land, fragmented by spoil heaps, large scale industrial buildings and busy roads, and bordered by the settlement edges of Tamworth, Dordon and Kingsbury ... the M42 has a dominant and unifying presence, passing through the area within a planted cutting. The industry has direct links to the M42 junction 10, also within the area”*** (my emphasis). Furthermore it is noted that ***“although farmland makes up a significant proportion of the landscape much of this land has a run-down character, with gappy, poorly managed hedgerows”***.

4.30 Landscape management strategies for LCA 5 include the need to:

- *“safeguard the setting of the villages of Freasley and Whateley”;*
- *“new agricultural and industrial buildings should be sited, designed and landscaped to mitigate against further landscape impact from built development”;*
- *“maintain a broad landscape corridor to both sides of the M42, introduction of small to medium sized blocks of woodland planting using locally occurring native species would be appropriate within this corridor”;*
- *“encourage retention of hedges and management practices that reinstate historic hedgelines...”*



- “conserve remaining pastoral character and identify opportunities for conversion of arable back to pasture”;
- “encourage ecological management of remaining grassland areas”;
- “encourage development of wide and diverse field margins”.

4.31 The NWLCA also included a landscape capacity study, which assessed the potential for areas around settlements to accommodate new buildings and/or green infrastructure or other land-uses. The appeal site forms part of Assessment Parcel A, West Side of Dordon, and is concluded as having “**moderate landscape sensitivity**”, which means that “**new built development may be possible**”.

Existing Landscape Character: the Appeal Site and its Context

4.32 As noted in the review of Common Ground, it is agreed that the site and its context has some rural qualities, such as open arable fields with breached or missing hedgerows, but it is also **transitional in character**, since it is influenced by views of large scale commercial development to the west and south, as well as movement, lighting and noise from the A5 to the south and the M42 to the west. **Drawing J10-1**, in my Appendices, illustrates the **strong presence of large scale commercial development in the locality**, and **drawing J10-3a** illustrates a Zone of Theoretical Visibility for this existing commercial development, (excluding Birch Coppice and Core 42), indicating that these buildings are prominent across both the appeal site as well as the Offsite Mitigation Area. The site also contains part of a small area of floodlit hardstanding, next to the A5.

4.33 **Plate VII**, below, provided by Cushman and Wakefield (Section 6 of the Employment Land Study, **CD-I20**, also appended to the evidence of David Binks), also illustrates the prevalence of commercial developments on three quadrants of junction 10, with the appeal site forming the remaining quadrant.





Plate VII: Existing Commercial developments in the Locality of the Appeal Site.
Numbers refer to the following:

- 1. Birch Coppice Business Park**
- 2. Core 42 Business Park**
- 3. Tamworth Logistics Park**
- 4. Centurion Park**
- 5. Relay Park**
- 6. Birmingham Intermodal Freight Terminal**

4.34 In terms of topography, the appeal site grades from a high point of 105m AOD in the north-east, near Birchmoor, down to c.92m AOD in the south-west corner across a distance of over 800m giving an average gradient of over 1 in 60. In the wider landscape, Dordon is on



relatively high ground reaching 122m AOD, and the grade separated junction 10 is noticeably higher than the site, with land to the west of the M42 also rising gently above 100m AOD. Land to the south of the A5 rises above 110m AOD near Freasley, with the spoil heap at Freasley being considerably higher than this. North of the appeal site the land continues to rise towards Birchmoor, which reaches a maximum elevation of 109m AOD at Birchmoor Farm.

- 4.35 **The appeal site, particularly the southern and central parts of the site, is therefore at a relatively low point in the context of the wider landscape.**
- 4.36 **Another notable feature of the local topography is the number of artificial, man-made slopes, particularly to the south and west of the appeal site.** As drawing J10-2 (in my Appendices) illustrates, the M42 is in a steep cutting as it passes the site, and junction 10 is a raised feature. There are bunds around Tamworth services to the west, Centurion Park to the south-west and also around Tamworth Logistics Park to the south. The spoil heap near Freasley is also a particularly prominent, steep feature.
- 4.37 Whilst the site and its immediate context is in predominantly agricultural use it is also notable that the site and its context is strongly influenced by existing lighting. Junction 10 is illuminated by street lamps, and there is also street lighting on the section of the A5 to the south of the appeal site. The commercial uses to the west and south of the site also have street lighting as well as lighting for the buildings themselves; several of these facilities operate through the night. As a result of this, as figure 1 In SLR's response to LUC of May 2023 illustrates (reproduced for ease of reference as **Plate VIII**, below) there are urban levels of light pollution over the appeal site.
- 4.38 The appeal site is located between several settlements, with Tamworth and Dordon being particularly prominent, and whilst these are at a distance they also have an influence on the character of the locality. **Drawings J10-4a to 4d** in my Appendices provide a series of historic maps to illustrate how the settlement pattern and form has evolved in the locality. It is clear from these that there has been considerable change to settlement form, particularly over the late 20th and early 21st centuries, with Tamworth expanding eastwards and Dordon expanding westwards (and also merging with Polesworth, to the north). In contrast, Birchmoor has not expanded significantly over this period, but the settlement was split by the M42 and has now effectively conjoined with Tamworth at its western edge as agreed in the LSoCG, **CD D15** paragraph 7). **Settlement pattern has therefore changed considerably over the past century, but whilst Dordon/Polesworth and Tamworth remain clearly defined and**



distinct from each other, Birchmoor has been split by the M42 and has effectively merged with Tamworth (see drawings J10-4a to 4d in my Appendices).

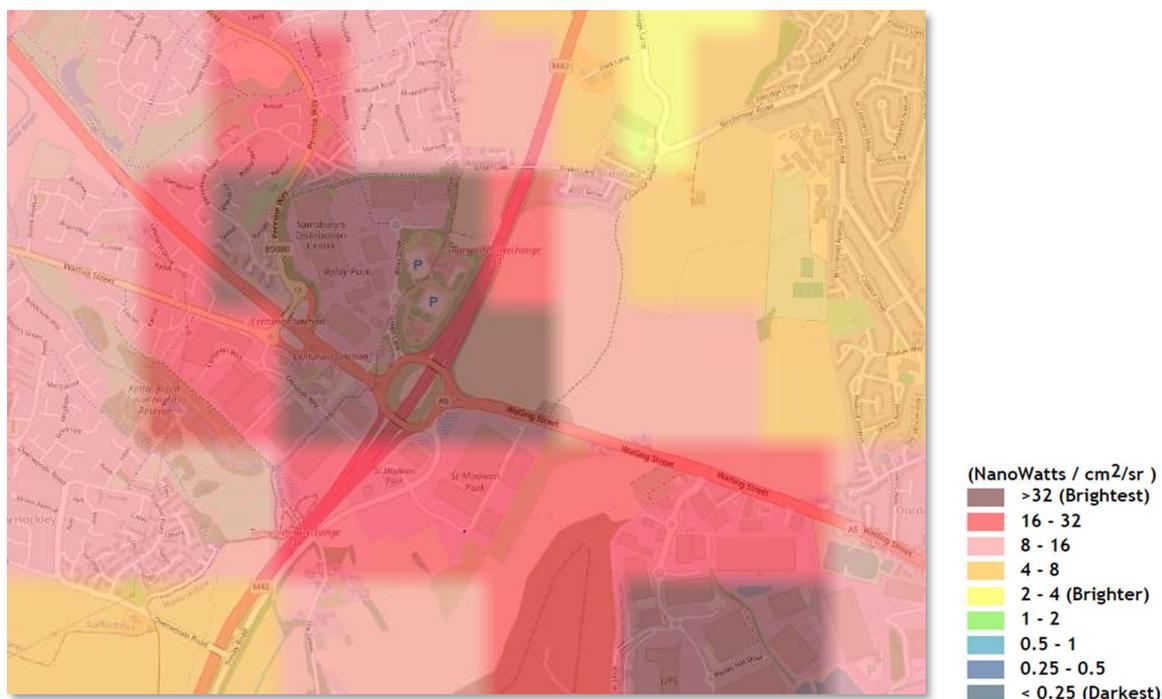


Plate VIII: Extract from the CPRE’s Dark Skies Map. As the scale underneath shows, dark reds/purples are the highest levels of lighting, typically found in urban areas, whereas blues represent dark skies. Junction 10 can be clearly seen, and the southern end of the appeal site has the highest levels of lighting, with even the eastern edge of the site experiencing the third highest level of lighting on the scale.

How the Landscape of the Appeal Site and its Context may Evolve in the Future

- 4.39 GLVIA3 states that when describing the landscape baseline it is important to “*describe the landscape as it is at the time but also to consider what it may be like in the future in the absence of the of the proposal. This means projecting forward any trends in change and considering how they may affect the landscape over time...*” (GLVIA3, 5.33, page 86).
- 4.40 In this context it is worth noting that advance planting of new hedgerows has been undertaken along historic field boundaries to the east of the appeal site, as illustrated by photographs taken in April 2024 (see **drawing J10-6** in my Appendices). These have been planted in accordance with good arboricultural practice, and are subject to an appropriate maintenance programme.



- 4.41 On this basis it is likely that these hedgerows would be at least 2 to 3m tall within 15 years, depending upon how they are to be managed and cut. New hedgerow standards are likely to be at least 7.5 to 8 metres tall by year 15.
- 4.42 In a similar vein I note that since the original LVIA (which formed part of the ES) was undertaken there is now new tree planting on the western edge of the Kitwood Avenue Recreation Ground, which I understand was planted by the Parish Council. The tree planting comprises native, deciduous species, planted as light standards, and these appear to be in good condition. **Plate IX**, below illustrates the extent and character of this planting, which would be expected to reach at least 7.5 to 8 metres tall by year 15. This would further reduce the potential visibility of the proposals from Viewpoint 6 in the first 5 to 10 years, particularly in the summer months.
- 4.43 As I have noted above, the existing copse and other planting to the west of Dordon would also continue grow, becoming taller and also denser as the canopy broadens. This existing planting would therefore provide further screening of views from Dordon towards Tamworth.



Plate IX: new tree planting on the western edge of the Kitwood Avenue Recreation Ground would reduce the visibility to the west (towards the appeal site) from this POS.



- 4.44 I also note that the existing native planting around junction 10 has of course continued to grow since the SLR LVIA was undertaken, and thus provides further screening and filtering of views from viewpoints in this location, for example SLR viewpoint 13 and Neighbourhood Plan Viewpoint 3 (which is to the east of SLR Viewpoint 13 and looks toward Dordon from a pedestrian crossing at the east of the junction). **Plate X**, below, is a photograph taken from a position close to NDP view 3 in April 2024, and illustrates that views toward Dordon from this perspective are becoming increasingly limited, particularly in the summer months, and may be screened altogether within 5 to 10 years (depending upon the management regime).



Plate X: photograph from the pedestrian crossing close to the location of NDP viewpoint 3. Dordon can be glimpsed on the skyline. To the right, for reference, is a copy of the original photograph for viewpoint 3 included in the Neighbourhood Plan.

- 4.45 However, there is potential for more widespread and noticeable changes to both the carriageway and vegetation around junction 10, and part of the A5, as a result of works which are likely to be required to accommodate new development anticipated within the adopted Local Plan. **Plate XI**, below, is an extract from the highways improvements design prepared by Phil Jones Associates for Warwickshire County Council, (drawing 02853-01, 24th August 2017), with areas where vegetation will need to be removed highlighted in brown hatching. I refer to this drawing as **the Local Plan Scheme** for junction 10, since I understand that it was used to assess the impacts of proposed site allocations for the purposes of the Local Plan. Full details of this design are included within the evidence of Dr Nick Bunn.



As **Plate XI** illustrates, junction 10 was anticipated to require a segregated left turn slip lane to the eastbound A5. The construction of this new lane would require some land within control of the appellant to be compulsorily purchased, existing embankments would need to be regraded, and significant areas of vegetation would need to be removed, including scrub on the eastern edge of junction 10 (adjacent to the western edge of the appeal site) and to the north of the A5, (to the south of the appeal site). It should be noted that the Local Plan Scheme does not incorporate pavements, so in reality additional vegetation clearance to that shown on **Plate XI** would be required. Further earthworks works and vegetation loss would be necessary at the south and west of junction 10, as well as on the westbound limb of the A5.

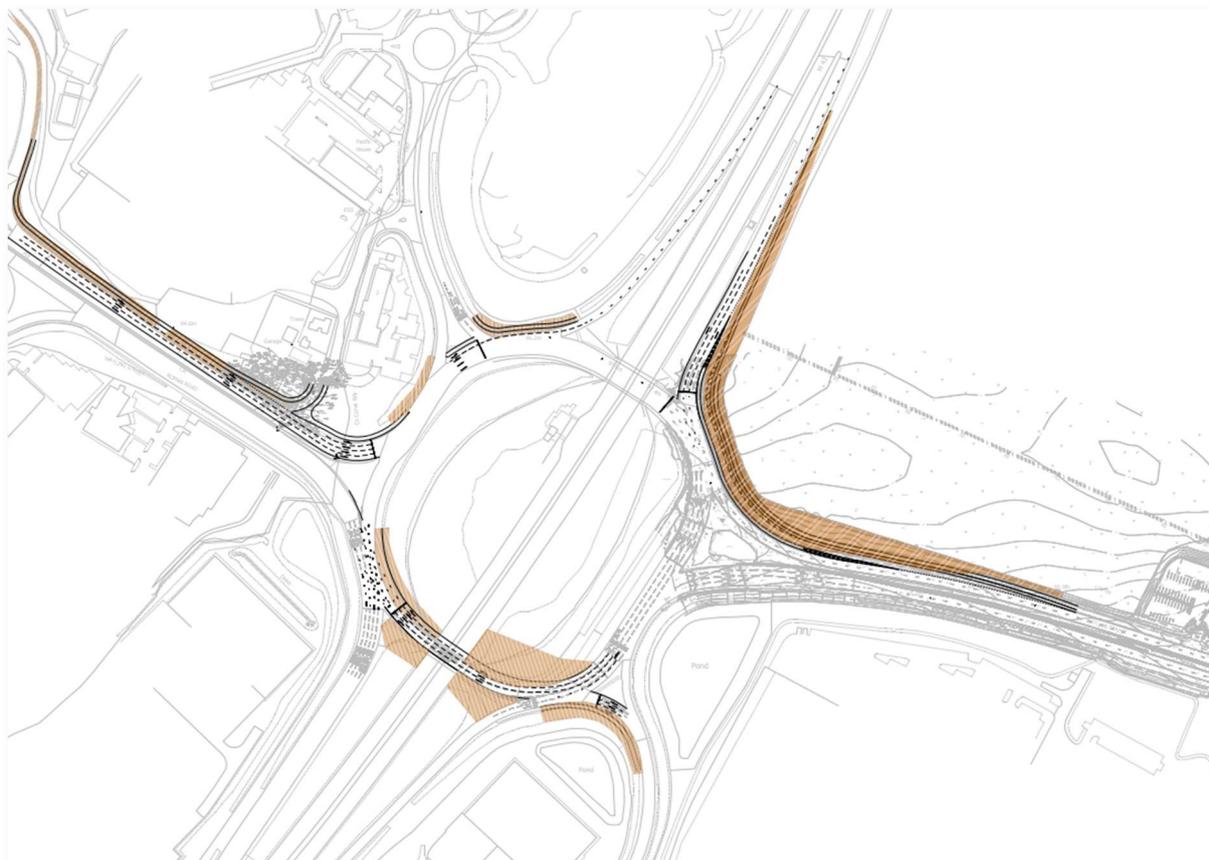


Plate XI: Extract from Local Plan Scheme of highway improvements for Junction 10, prepared for Warwickshire County Council⁵. (Extracted from drawing prepared by Tetra Tech, reference B039920-TTE-00-ZZSK-H-8003 Revision P01)

⁵ This layout was assumed to have been implemented in the transport modelling undertaken for the Local Plan, see "*Strategic Transport Assessment Modelling Analysis and Overview*" report (STA) prepared Vectos Microsim (August 2017), Local Plan Examination reference CD8/18A. In an email Alan Law at WCC Highways states that "it should be noted that this is a concept plan, no feasibility assessment has been undertaken and no agreements



- 4.46 These highway works, and the removal of existing vegetation, have potential to increase the prominence of junction 10 in the surrounding landscape, and also to make traffic movements on the junction and nearby A5 more visible. It is possible that a proposed planting scheme could reduce these effects in time, but it may also be possible that there is less scope for replanting if it is necessary to improve sight lines onto and off the junction.
- 4.47 Even in the absence of the required Local Plan Scheme Dr Nick Bunn has identified that it will be necessary to cut back vegetation to the east of junction 10 and north of the A5 in order to provide the necessary forward visibility. Highway engineers assume a vehicle driver's eye height to be at 1.05m above ground level, and a driver's object (their focal point) is assumed to be the number plate on the car in front, at 0.26m above ground level. To provide sufficient forward visibility around a bend (in order to allow safe braking distances) it is essential that the Highways Authorities keep all vegetation below this plane of view (and thus effectively below 0.26m above ground level). **Plate XII**, below illustrates an extract from Dr Bunn's drawing B033920-TTE-00-ZZ-SK-H-0020 Revision P01, in which all vegetation which needs to be kept at this level has been shaded green. It is clear from the winter view for viewpoint 13 (see **drawing LAJ-32** in the winter views) that existing vegetation heights between junction 10 and the eastbound A5 are currently up to approximately 10 metres tall, so there will need to be a significant degree of cutting back in this location.
- 4.48 As I have noted at section 2.0 of this proof, the LCWIP (**CD H30**) also envisages that there would be changes to several of the rights of way to the east of the appeal site, with several of the routes being upgraded to cycle ways. An extract from figure NW25 in that document, set out below in **Plate XIII**, shows that bridleway AE45, part of the footpath AE46 and AE48 would be upgraded to cycleways, and it is likely that as part of this that these routes would need be a "sealed surface", such as tarmac, and be 3 metres wide.

with regards to acceptance of the proposal have been made with NH. There would also be a need to incorporate cycling facilities into the proposal".





Plate XII: Extract from drawing produced by Dr Nick Bunn. Green shaded area shows extent of vegetation that needs to be reduced to approximately 0.26m above ground level in order to provide the necessary forward visibility.

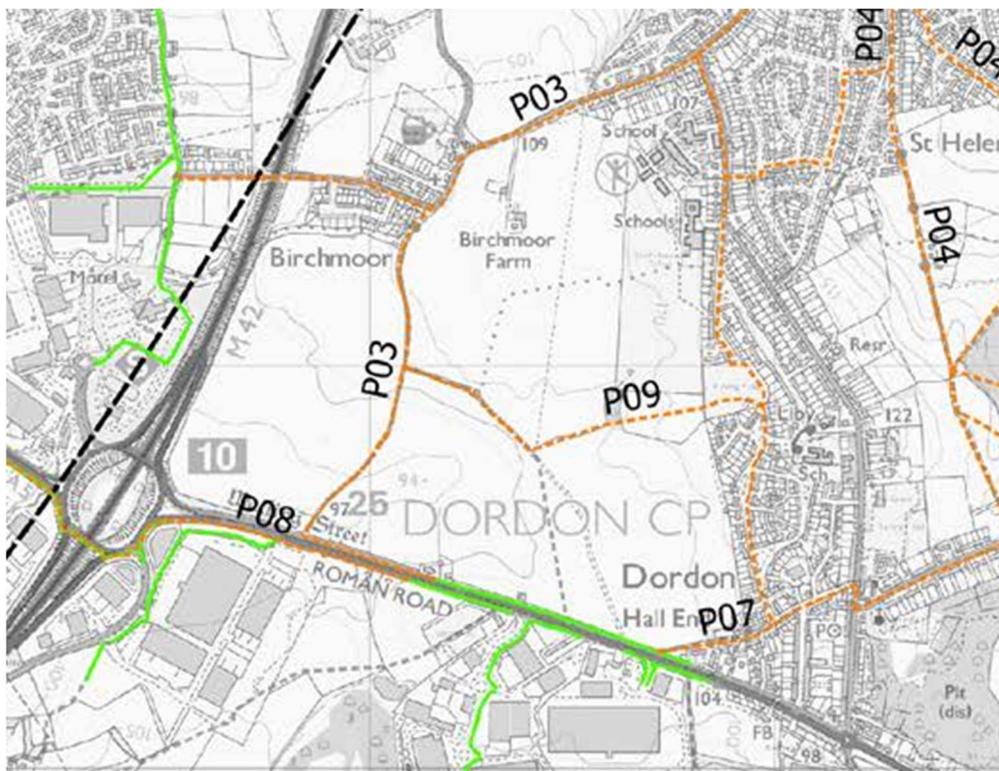


Plate XIII: Extract from Figure NW25 of the LCWIP (CD H30) which proposes cycleways to the east of the appeal site.



- 4.49 The proofs of Dr Nick Bunn, Doug Hann and Michael Hatfield also set out details of the Route Strategy Initial Overview Report: South Midlands Route, prepared by National Highways (May 2023) (CD-I74). The report identifies opportunities to reduce the number of short journeys by car and encourage active travel along the A5 between communities (e.g. Dordon and Tamworth) and identifies an increase in sustainable and active travel journeys as a key identifiable outcome of the strategy.
- 4.50 In response to the identified active travel proposals for the A5 in the LCWIP and South Midlands Route Strategy Initial Overview Report, **Plate XIV**, below is an extract from Tetra Tech drawing B033920-TTE-00-ZZ-SK-H-8004 Revision P01, which illustrates areas of vegetation that would be removed between the proposed site access junction and Brown's Lane, Dordon in order to deliver an upgraded foot/cycle way along this section of the A5. The works would require removal of long sections of existing vegetation, including hedgerows and hedgerow trees.

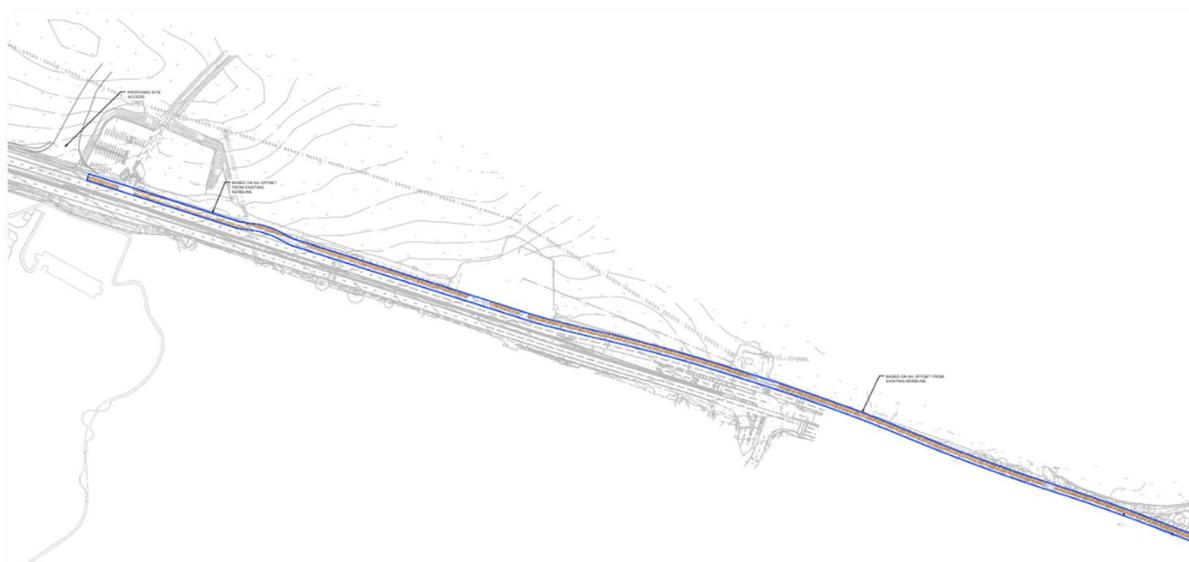


Plate XIV: Position of potential cycle way along the northern edge of the A5, with extent of potential hedgerow removal shown with brown shading.

The Potential Landscape Effects of the Proposed Development

Landscape Receptors

- 4.51 GLVIA3 (**CD5.1**, paragraph 5.34, page 86) notes that the first step in describing landscape effects is to “*identify the components of the landscape that are likely to be affected by the*



scheme, also referred to as landscape receptors". These can include landscape elements or features, aesthetic and perceptual aspects and overall character. The ES sets out at paragraphs 10.4.21 to 10.4.23 four receptors which represent elements and features within and around the site, four receptors addressing aesthetic and perceptual aspects, and one overall character area, which is LCA 5, Tamworth Fringe Uplands.

4.52 For ease of reference these are set out below:

Elements and Features

- *Mixed, native boundary hedgerows and woodland copses within and around the site;*
- *A single large-scale, irregular, arable field;*
- *Gently rising landform; and*
- *Influence of large-scale commercial buildings and prominent settlement edge.*

Aesthetic and Perceptual Aspects

- *Large scale fields with a moderate sense of enclosure provided by large-scale commercial buildings and a prominent, elevated settlement edge;*
- *Generally simple forms and colours with diversity and complexity provided by road infrastructure, large-scale commercial buildings and the settlement edge;*
- *Largely still, but strongly influenced by peripheral road noise and movement; and*
- *Affected by lighting from adjacent infrastructure and commercial uses.*

Overall Character

- *Localised area of LCA 5 Tamworth Fringe Uplands*

4.53 **The elements and features and aesthetic perceptual aspects are all characteristics of the local landscape that have the potential to be affected by the proposed development,** and some of these, for example "*influence of large scale commercial buildings and prominent settlement edge*" compared with "*generally simple forms and colours with diversity and complexity provided by road infrastructure, large scale commercial buildings and the settlement edge*" have a strong overlap. The assessment of the effects of the proposals upon



each of these receptors helps to build a composite picture of the overall effects on the landscape.

- 4.54 **But it is the assessment of effects on the overall character receptor – the localised area of LCA 5 – that provides the clearest sense of how the proposals would be perceived in the landscape, since effects on elements and attributes are experienced in combination, not separately.** Equally importantly, the attributes of LCA 5 are already defined in the NWLCA, and the NWLCA is specifically referenced within both the adopted local Plan and the Dordon Neighbourhood Plan.
- 4.55 It is notable that the SLR LVIA does not assess the overall effects upon character against the whole of LCA 5, since this includes an extensive area to the north of the B5000 and also west of the M42 and south of Tamworth; if this wider receptor were to be used then it would artificially dilute the magnitude of landscape effects, thus underestimating the effects of the development upon the local landscape. Instead, a smaller area is used, as defined in **Plate XV**, below. This extent also corresponds to the approximate extent of theoretical visibility for the proposed development, as illustrated on **drawing J10-3b**.
- 4.56 **Plate XV**, below, illustrates the approximate extent of the different landscape receptors assessed in the SLR LVIA.



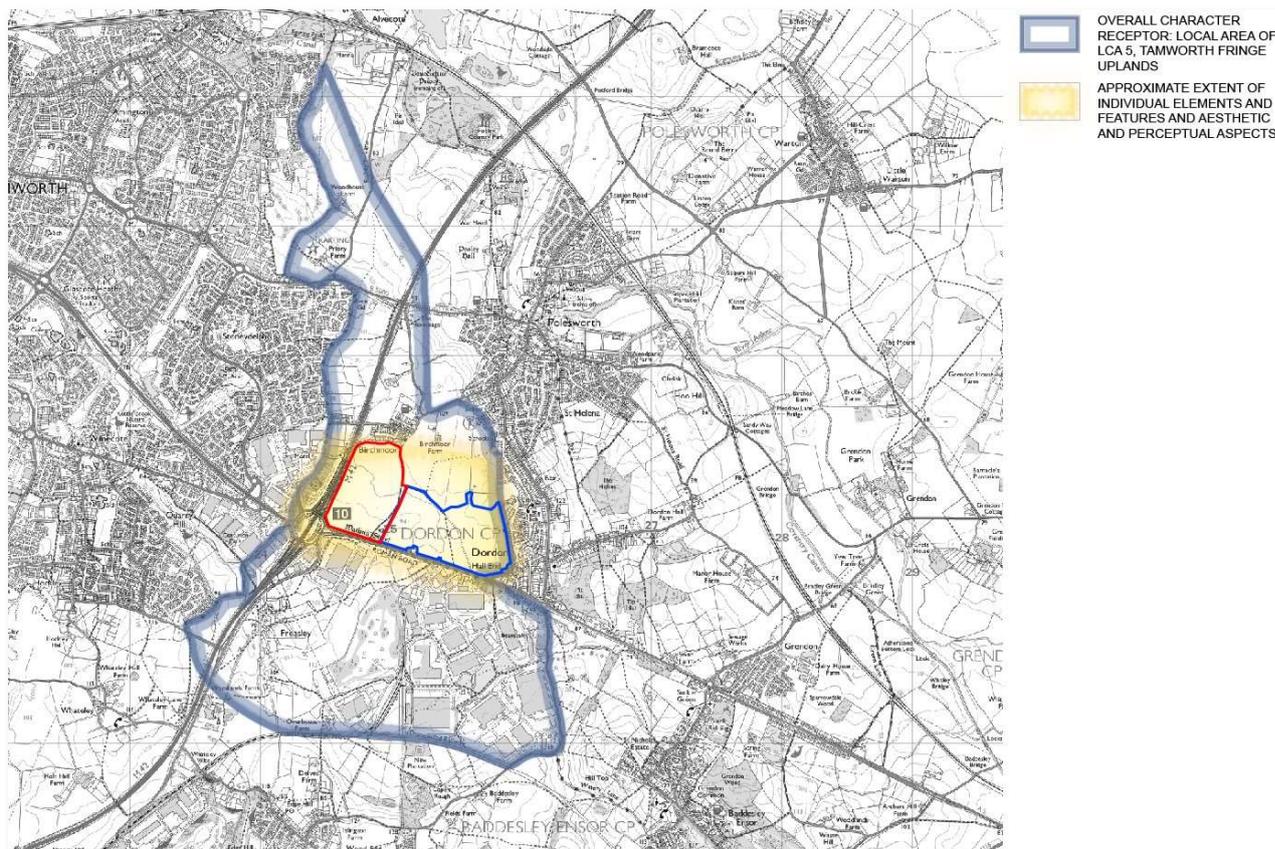


Plate XV: Approximate Extent of the Different Landscape Receptors assessed in the SLR LVIA. The pale blue boundary defines part of LCA5, which is defined and described within the NWLCA.

Landscape Value and Valued Landscape

- 4.57 In determining the value of landscapes, GLVIA3 recommends that the starting point should be to consider landscape-related designations. In this context it is important to note that neither the appeal site nor its immediate vicinity is included within a landscape or landscape-related designation.
- 4.58 GLVIA3 states that the value of undesignated sites should also be considered. Table 1 of Landscape Institute Technical Guidance Note 2/21 (CD G7) provides the Institute's most up to date guidance on valuing landscapes outside of national landscape designations. Table 10-14 in the ES provides an assessment of landscape value based upon the criteria in box 5.1 of GLVIA3, and the factors used in this assessment are very similar to those in Table 1 of TGN



02/21⁶. The overall assessment of value for the site and its context is **community value**, and I have concluded that this assessment would be the same if the TGN 02/21 factors were applied.

- 4.59 **I have therefore concluded that the appeal site and its context is not a “valued landscape” for the purposes of NPPF paragraph 180(a), and this is common ground between the parties (LSoCG paragraph 20).**

Sensitivity of the Landscape Receptors

- 4.60 In accordance with GLVIA3 the sensitivity of landscape receptors is determined by combining their value with their susceptibility to the type of development proposed. The ES provides this assessment for each of the landscape receptors at table 10-15.
- 4.61 The susceptibility of the localised area of LCA 5 is assessed as being medium: this is a reasonable assessment, since whilst the open, large arable fields are inherently susceptible to new built form, the influence of large scale infrastructure and existing commercial buildings to the west and south of the site reduces this susceptibility. It follows, by combining susceptibility with landscape value, that the overall sensitivity of LCA5 to the proposed development is **medium/low**. Many of the other site-focused landscape receptors also have medium/low sensitivity, and this again reflects the fact that whilst the site is an agricultural landscape with some rural attributes, it is also strongly influenced by the built form, lighting, noise and movement to the west and south of the appeal site.

Magnitude of Potential Landscape Effects

- 4.62 In accordance with GLVIA3 potential changes to the individual landscape receptors have been assessed in relation to the potential size/scale of change, the geographical extent of change and the duration of change (see paragraphs 10.5.12 to 10.5.19 of the ES, and table 10-16). I have focused on some of the most important judgements in the following paragraphs.
- 4.63 There would be a **medium magnitude of change to the large-scale, arable field receptor**. Whilst the new buildings and bunds would cause a large scale of change due to being

⁶ In TGN 02/21 conservation interests are divided into natural and heritage; the appeal site would be assessed as being of community value for both of these. TGN 02/21 also includes the functional factor, but the site does not contain natural hydrological systems, carbon sinks, pollinator rich habitats, nor does have links with a national landscape designation. The site does however include some green infrastructure and healthy soils and is therefore of community use for this factor.



prominent features in the local landscape, particularly at year 1, they would also be experienced in the context of existing commercial buildings of a similar scale and design to the west and south of the appeal site. Furthermore, the prominence of the proposed buildings would reduce by year 15 once the proposed new native woodland planting has reached semi-maturity (a height of 7.5m to 8m for treed by year 15 is a conservative estimate for growth, and it is common ground that this is a reasonable estimate).

- 4.64 For the mixed native hedgerows and woodlands receptor the ES assessed that there would be slight/medium magnitude of effect at construction due to the loss of existing hedgerow to the south of the appeal site in order to provide access. With the loss of additional areas of planting to east of junction 10, as described in section 3.0 of this proof, I have concluded that this effect would become a medium magnitude when compared with the existing site condition. However, given that it is likely that earthworks and clearing of vegetation on junction 10 are required even in the absence of the appeal proposals (as described earlier in section 4.0 of this proof), then the magnitude of effects would remain as slight/medium. By year 15 the 75m to 134m wide woodland belt to the north of the site, 49m to 106m wide woodland belt to the east of the site, as well as the 35m to 58m landscape buffer to the south and 10m to 17m wide native tree belt to the west will have all reached semi-maturity. In addition, the Offsite Mitigation Area to the east of the site will have further hedgerow and native woodland planting as detailed at section 3.0 of my proof, (see for example figure 70 of the DAS, **CD B34**, section 7.14), and this too will have reached semi-maturity. **The combination of all of this additional hedgerow and tree planting would result in a medium magnitude of change and a significant net increase in hedgerows and woodland.**
- 4.65 **For the gently rising landform receptor the appeal proposals would result in a medium magnitude of change**, with development platforms being excavated, and new screening landforms being created. Whilst the scale of the screen mounds has not been determined at this stage, the assessment has been based upon the 5 metres bund heights, with 1:5 and 1:6 outer slopes, shown in the illustrative cross sections and Type 3 photomontages.
- 4.66 **In terms of the overall magnitude of effects on the localised area of LCA 5, this would be slight/medium at construction/year 1, but would reduce to slight by year 15.** The proposals would introduce new buildings of a similar scale and character to those already found in the three other quadrants of junction 10, as well as to the west of the M42 and south of the A5. New movement, noise and lighting would also be introduced, but these would be set within a local landscape where these elements are already a key characteristic. New



cycleways would be introduced, but the LCWIP envisages that several of these will be introduced in any case. The local settlement pattern would remain clearly defined, as the urban grain illustration on figure 56 of the DAS clearly illustrates: there would remain at least 0.75km of open, arable landscape between the eastern boundary of the appeal site and Dordon, and there would be a substantial woodland buffer, as well as the existing hedgerow bound paddocks, between the site boundary and Birchmoor. The creation of new woodland and hedgerows in the gaps between settlements is a landscape management objective both for LCA 5 and Arden more generally, and would enhance biodiversity and landscape condition, particularly by year 15.

Assessment of Overall Landscape Effects

- 4.67 Paragraphs 10.5.20 and 10.5.21 of the ES and Table 10-17 summarise the potential effects of the appeal proposals on each of the landscape receptors.
- 4.68 **In overview, the SLR LVIA concluded that the negative landscape effects resulting from the proposed development would be localised. There would be moderate and negative effects on the large-scale arable field and gently rising landform, and in the short term there would also be moderate/minor and negative effects on the hedgerows and woodland landscape receptor.** These effects would be largely focused upon the appeal site and its immediate context.
- 4.69 In the light of the emerging highway improvements for junction 10 and the A5 I have concluded that there would be moderate and negative effects upon the hedgerows and woodland receptor at construction/year 1 when compared against the baseline of the existing site condition. However, this effect would remain moderate/minor and negative if works on junction 10 are required even in the absence of the appeal proposals (or if vegetation is required to improve forward visibility). In either scenario, the landscape effects on this receptor would still remain moderate and positive by year 15 due to the extensive areas of planting both on the appeal site and in the Offsite Mitigation Area.
- 4.70 The effects upon the arable field and landform would remain moderate and negative by year 15, but the effects upon the hedgerows and woodland receptor would become moderate and positive by year 15, since the semi-mature hedgerows, hedgerow trees and native woodland would accord with landscape management guidelines and also enhance biodiversity.



- 4.71 **Most importantly, the effects of the appeal proposals upon localised area of LCA 5 would be moderate/minor and negative at construction and year 1, becoming minor and negative at year 15 once the proposed new planting around the site and in the Offsite Mitigation Area has reached semi-maturity. Neither of these effects is significant in EIA terms.**
- 4.72 Fundamentally, the proposals would introduce large new commercial buildings into a transitional area which is already partly characterised by similar buildings, and would introduce further light and noise into an area which is again already strongly influenced by lighting from the settlement edges and highways, as well as by traffic noise from the adjacent M42 and A5 and commercial uses. Whilst the effect on the local landscape must be negative – as the new buildings would be in an existing open field – this is also the appropriate placement of buildings in a landscape which is described in the North Warwickshire LCA as being *“fragmented by spoil heaps, large scale industrial buildings and busy roads, and bordered by the settlement edges”*.
- 4.73 As I have noted above, it is common ground that it is best practice in LVA to conclude that a large scale development within a semi-rural context as resulting in negative landscape and visual effects (LSoCG paragraph 26). Therefore, the conclusion that some localised landscape harm occurs as a result of the proposed development does not differentiate one green field development site from another, nor does it mean that a site is an inappropriate location for development.

Potential Visual Effects

Potential Visibility of the Proposed Development

- 4.74 A computer-generated Zone of Theoretical Visibility (ZTV) of the proposals, with planting at 10m high, was included as part of the SLR LVIA (drawing LAJ-3), and a “bare earth” ZTV was subsequently provided at the request of LUC (drawing LAJ-51).
- 4.75 In order to ensure that the ZTV corresponds with the latest illustrative design, (as used in the Type 3 Photomontages and as illustrated in **Plate III**, above, **but with ridge heights set to the correct maximum level of 117.8m AOD**), I have prepared a new series of ZTVs, **drawings J10-3a, 3b and 3c**, in my Appendices:



- **Drawing J10-3a** shows the visibility of the existing commercial buildings to the south and west of the appeal site, to provide a context for the visibility of the proposed development (please note Birch Coppice and Core 42 business parks are omitted from this ZTV, although these are also prominent features in the landscape);
- **Drawing J10-3b** illustrates the visibility of the proposed development, with the bunds constructed but with no proposed vegetation (to illustrate worst case, bare-earth effects). **Drawing J10-3b** also assumes that most of the vegetation to the south of the site would need to be removed to provide the highway improvements and new cycle path
- **Drawing J10-3c** illustrates the visibility of the proposed development with proposed, semi-mature planting included around the edges of the appeal site. Planting is shown at 8 metres high, which equates to a conservative estimate of tree height at year 15.

4.76 As **Appendix 10.2** of the ES explains, the ZTV illustrates not just whether the development would be seen from a location, but also what vertical angle of the development would be seen. The ZTV classifies the vertical angle of visibility into three categories: greater than 3 degrees, between 1 and 3 degrees, and between 0.25 degrees and 1 degree. For comparison, an eight metre high building would subtend an angle of 4.58 degrees at 100 metres, 2.29 degrees at 200m, 0.92 degrees at 500 metres, and 0.46 degrees at 1 km.

4.77 **Drawing J10-3a** illustrates clearly that the arc of existing commercial buildings to the south and west of the site are clearly visible across the appeal site, the land to the east of the appeal site and also at the settlement edges of Dordon and Birchmoor. Visibility at the edge of Dordon is measured at between 0.25 and 1 degree of vertical angle.

4.78 **Drawing J10-3b** illustrates that the degree of visibility of commercial buildings would increase in the short term, with receptors to the east of the appeal site, including the edge of Dordon, obtaining a vertical angle if between 1 and 3 degrees vertical angle of visibility. **However, even without mitigation planting it is notable that the proposals would have a far more limited overall extent of theoretical visibility than that created by the existing commercial buildings to the west and south (see drawing J10-3a).**

4.79 **Drawing J10-3c** illustrates that once the proposed planting has reached a semi-mature height of 8 metres potential visibility to the north and east of the site would notably reduce. At this stage visibility at the western settlement edge of Dordon would subtend a vertical angle of



between 0.25 and 1 degree, **which is very similar to the visibility of existing commercial buildings currently experienced at Dordon.**

- 4.80 **Consequently, the proposals would not increase the overall extent of visibility of commercial buildings in the locality, even at year 1; and after 15 years the proposals would not significantly increase the existing visibility of commercial buildings in the locality of the appeal site.**
- 4.81 Whilst this has important implications for the visual effects of the proposals, (which I will consider further below), it also supports the SLR LVIA's conclusions on the landscape effects of the proposals on LCA 5, which as I have noted above were concluded to be **minor and negative at year 15 once the proposed new planting around the site and in the Offsite Mitigation Area has reached semi-maturity. In essence the appeal proposals would not be introducing new, anomalous features to this landscape, nor would they significantly increase the prominence of commercial development within this landscape.**

Potential Effects of the Appeal Proposals upon Visual Receptors

- 4.82 In accordance with GLVIA3 (paragraph 6.18) the SLR LVIA assesses the potential effects of the appeal proposals upon 21 representative viewpoints, the locations of which were agreed with the Council. The assessments of these visual effects for each viewpoint are set out in Appendix 10.4 of the ES.
- 4.83 This visual assessment for each of the viewpoints was then updated after the Type 3 photomontages were prepared. The new visual assessment for all of the representative viewpoints was set out in Tables 2-1, 2-2 and 2-3 in the SLR response dated 20th March 2024, (see my **Appendix C**), and it is upon this updated assessment that I primarily refer in my proof, particularly since it is the effects illustrated by the Type 3 photomontages that were also assessed by LUC in their Appendix B prepared in August 2023 and issued in December 2023. As I have noted above, the July 2023 Type 3 montages exaggerate the potential visibility of the proposed buildings as they show a ridge height 3.641m higher than the proposed 21m maximum.
- 4.84 I have also reviewed the visual judgements made in the SLR Response of March 2024 in the context of the recently agreed highway improvements agreed with National Highways. The



only viewpoint judgements that would be directly affected by the proposed removal of vegetation would be viewpoints 11 and 13.

- 4.85 For viewpoint 11, the assessment of magnitude of effects is medium at year 1, reducing to slight at year 15, and therefore moderate and negative at year 1 becoming moderate/minor and negative at year 15. Whilst most of the existing hedgerow to the south of the appeal site would now be removed in this view, these assessments remain entirely valid: the proposed new buildings would be seen in the context of the A5 in the foreground and existing commercial buildings at the extreme left and right of the view (and behind the viewer), and proposed planting would gradually reduce this visibility by year 15.
- 4.86 For viewpoint 13, the March 2024 assessment increased the magnitude of effect in year 1 to medium, reducing to medium/slight by year 15, and therefore moderate negative for pedestrians, becoming moderate/minor and negative at year 15. Again, this remains a valid assessment since the proposed new building would be seen in the context of junction 10 in the foreground, the M42 to the left of the view, and the existing commercial buildings to the right of the view.
- 4.87 The updated visual assessments in the March 2024 Response do not fundamentally change the pattern and nature of visual effects for each of the visual receptors groups which is described in paragraphs 10.5.30 to 10.5.49 of the ES. However, I have provided some additional commentary for each of the potential receptor groups, with reference to the July 2023 Type 3 photomontages, below. **As I have noted, the Type 3 montages show an unrealistically high building ridge height of 24.641, or 121.441m AOD, and these therefore exaggerate the potential visibility of the appeal proposals.**

Residential Receptors

- 4.88 In the SLR LVIA and subsequent assessments residents are all assessed as being of high susceptibility, and consequently the sensitivity of residents is assessed as being either high/medium or medium.
- 4.89 **Residential receptors on the western edge of Dordon** are often located in a relatively elevated position (up to approximately 115m AOD compared with 92m AOD at the south-west of the appeal site), and whilst some properties have views towards the site screened by existing vegetation, there are a number of properties that would have clearer views, particularly to the south of Kitwood Avenue Recreation Ground and mainly from first floor



windows due to vegetation and/or buildings in rear gardens, (see for example the view towards Dordon from Viewpoint 8, **LAJ-22 in the ES, also LAJ-22 in the winter photographs issued in July 2023**). As a result, and as paragraphs 10.5.30 and 10.5.31 describe, there are a number of homes that have the potential to obtain views, infrequently from ground floor windows but particularly from first floor windows from this edge. It is important to note in this context that whilst residents will understandably wish to protect all private views from all windows, it is best practice to focus upon the effects upon rooms that provide the principal areas of accommodation, such as ground floor sitting room and dining areas⁷.

4.90 Notably, the landscape proposals for the Offsite Mitigation Area (see for example DAS figure 68) show the establishment of new hedgerows and an orchard along the settlement edge south of Kitwood Avenue Recreation Ground, **and consequently the majority of views towards the site for residents in this location would be screened by year 15.**

4.91 It is also relevant in this context to observe that the photomontages for Viewpoint 5 (**drawings LAJ-062, 063 and 064**), do not assume any growth in the existing trees and shrubs located to the west of Dordon. If even a conservative estimate of growth is applied to this vegetation the visibility of the proposed development is further reduced at year 15.

4.92 The photomontage in **drawing LAJ-062** also shows other important aspects of the views of the appeal site from Dordon. Firstly, it is notable that existing commercial buildings can be clearly seen at the left and centre of the view, beyond an extensive area of arable land with some trees in the middle ground of the view, and it is these existing buildings that provide the context for the appeal proposals. Secondly, above the commercial buildings at Tamworth the distant skyline, comprising gently undulating green hills, is visible, and this would be likely to remain visible even if the intervening trees increase in height by year 15.

4.93 The fact that residential views of the proposed development would be mainly from first floor windows, combined with the prominence of the existing commercial buildings in views, the retention of both the distant skyline in the background and the agricultural land in the foreground and middle ground, mean that the **effects on the views of Dordon residents would be negative but less than significant in year 1, reducing by year 15 due to the**

⁷ Paragraph 6.36 of GLVIA3 states that “residents at home, **especially using rooms normally occupied in waking or daylight hours**, are likely to experience views for longer than those briefly passing through an area”



screening effect of existing and proposed vegetation. This conclusion accords with that in the ES (see paragraphs 10.5.30 and 10.5.31).

- 4.94 This conclusion also accords with the conclusions of the revised visual assessment set out in the SLR March 2024 response (**Appendix C**). For example, it is notable that the views from Viewpoint 20, which is just south of Viewpoint 5 at Barn Close (**drawing LAJ-46**) would be relatively screened by intervening vegetation at construction/year 1, and by year 15 nearly all views of both the existing commercial developments to the west, and the appeal proposals, would be screened by the proposed new hedgerow and tree planting, and the proposed new orchard, to the west of the settlement edge. The proposals would therefore result in moderate/minor, negative and less than significant effects for residents if year 1, becoming minor and negative effects in year 15.
- 4.95 Similarly, visual effects from other, lower parts of the western edge of Dordon – for example houses at Quarry Close, to the south of viewpoint 21, would be largely screened by existing boundary vegetation, as can be seen at the left of **drawing LAJ-47**. By year 15 these effects would reduce further due to the establishment of new hedgerows and hedgerow trees in the Offsite Mitigation Area. As a result, the visual effects for residents in this location would be moderate/minor and negative at year 1, becoming minor and negative at year 15.
- 4.96 There are also a small number of properties to the north and south of the A5, to the east of the appeal site, which have potential to obtain mainly first floor views. The ES notes at paragraph 10.5.32 that views from this location are represented by views from viewpoint 8, for example. However, viewpoint 8 is an open view from a footpath towards the site, and in reality the views from these properties would be partly filtered by boundary vegetation around these houses, (and along the A5 those properties to the south of this route), as illustrated for example by LAJ-13. The SLR LVIA is therefore correct that whilst these properties would be able to obtain some glimpsed views of the development in year 1 and to a lesser extent year 15, the visual effects would be negative but less than significant.
- 4.97 In relation to the **potential visual effects of the proposals upon residential receptors at Birchmoor**, paragraph 10.5.33 of the ES describes the potential for “*twenty-nine detached and semi-detached, one storey properties*” at Birch Grove to obtain views of the proposed development. However, as the viewpoint photography from Viewpoint 3 illustrates (see drawing **LAJ-10 of the ES, also LAJ-10 in the winter photographs issued in July 2023**), homes on the southern side of Birch Grove are largely 1 and 1.5 storeys, and views from these



properties are predominantly screened in summer and certainly heavily filtered in winter by two mature hedgerows around the edges of paddocks to the south of this village. The year 1 photomontage for viewpoint 1 does not, therefore, represent the views from these properties, (**drawing LAJ-057**) since this viewpoint is located on bridleway AE45, to the south-east of the settlement and with little existing vegetation between the viewpoint and the appeal site; however the year 15 view from viewpoint 1 does effectively show how the planting of at least a 75m width of new woodland would certainly screen views of the new buildings by year 15. **The SLR LVIA is therefore correct to state that whilst the proposals would result in negative visual effects for residents on the southern edge of Birchmoor in year 1 and year 15, these effects would not be significant.**

4.98 In relation to visual effects on residents it is also important to consider potential effects upon residential amenity. The closest residents, at Birchmoor, would still be approximately 100 metres from the nearest building on the appeal site at the nearest point, which would have a maximum parapet height of 113m AOD. This compares with an approximate ground level at Birchmoor of between 100m and 105m AOD, with house heights on the southern edge of the settlement being approximately 6 to 7 metres. **This means that the roof height of the northern edge of the proposals would be at most 7m higher than the houses at Birchmoor, and approximately 100 metres away from those houses, with the intervening land including the existing paddocks and hedgerows on the southern edge of the settlement, plus a minimum of 75 metres of gently grading screening mounds and woodland planting.**

4.99 **In this context it is clear that the proposals would not be overbearing for even the closest local residents, and would therefore have no significant effects on residential amenity.** The test here – sometimes referred to as the Lavender test - is not one of clear visibility of the development but whether the development would render the nearest residences “*an unsatisfactory place to live*”.

Walkers, Cyclists and Riders on the Local Right of Way Network

4.100 Within the SLR LVIA and subsequent assessments walkers on footpaths are assessed as being of high/medium sensitivity, based upon the high susceptibility of the walkers themselves and the Local Authority value of formal rights of way.



- 4.101 Paragraphs 10.5.34 to 10.5.38 of the SLR LVIA of the ES reviews the potential effects on these visual receptors, and concludes that there would be the **potential for significant visual effects** for:
- Users of bridleway AE45, which extends along the eastern edge of the appeal site;
 - Users of footpath AE46.
- 4.102 The SLR LVIA concluded that these effects would reduce to less than significant once the proposed planting around the appeal site, and within the Offsite Mitigation Area, has reached a height of 7.5m to 8m by year 15.
- 4.103 Further assessments of these potential visual effects were provided in SLR's March 2024 response, (**Appendix C**), where assessments were based upon a different configuration of the proposed buildings as well as the July 2023 Type 3 photomontages. In this assessment, users of AE45 were assessed as experiencing significant visual effects at construction/year 1 at viewpoints 1, 3 and 10 on bridleway AE45, and these significant effects would remain at year 15 for viewpoint 1.
- 4.104 Referring to the year 1 photomontage for Viewpoint 1(**drawing LAJ-057**), the proposed buildings are clearly visible on the skyline from this perspective, and whilst at year 15 the proposed woodland would screen the proposed building (see **drawing LAJ-058**), this would still screen the existing open views from this perspective and therefore result in significant visual effects, (see **drawing LAJ-056**). I therefore agree that there would be significant visual effects, both in year 1 and year 15, for users of AE45 in this location. Effects at year 15 would be lower for users at viewpoints 3 and 10, since these views already contain views of existing built form.
- 4.105 Similarly, users of AE46 were represented by viewpoints 3, 4 and 8, all of which were assessed as experiencing significant effects at construction/year 1, with the magnitude reducing by year 15 at viewpoint 4 but remaining marginally significant, but reducing to less than significant at viewpoints 3 and 8.
- 4.106 Referring to the photomontage for Viewpoint 4 at year 1 (**drawing LAJ-060**) the proposed buildings are clearly visible on the skyline, albeit they are seen in the context of the existing St Modwen buildings at the left of the view. By year 15 the visibility of built form is reduced due to the proposed woodland planting reaching a height of around 8 metres, but the buildings



remain visible on the skyline. It is therefore correct that the magnitude of effect has reduced, but given the sensitivity of walkers on this footpath the overall visual effects remains marginally significant.

- 4.107 Turning to the existing view for Viewpoint 8 at year 1, existing commercial development is already visible on the skyline (**drawing LAJ-065**), but as the year 1 photomontage for viewpoint 8 illustrates (**drawing LAJ-066**) the proposed new buildings would be more prominent on the skyline. By year 15 the scale of the proposed buildings in the view has reduced noticeably, both due to the proposed woodland around the edges of the development, but also due to the growth of the hedgerows and trees in the Offsite Mitigation Area, in the middle ground. I therefore agree with the judgement that the visual effects of the proposal from this perspective are no longer significant by year 15.
- 4.108 Effects for users on footpaths AE48, which is partly enclosed by existing vegetation, and AE52 and AE55, which are to the south of the A5 and are now set in the context of existing commercial buildings, were all assessed as experiencing less than significant effects, a conclusion with which I agree. The photomontage for year 1 for viewpoint 9, for example (see **drawing LAJ-069**) illustrates that the proposed new buildings would be largely screened from this perspective, with the A5 in the foreground remaining the focal point in this view.

Vehicle Users

- 4.109 The SLR LVIA and subsequent SLR assessments correctly assesses vehicle users as being less sensitive receptors (assessed as medium susceptibility, see for example **table 2-1 of the SLR March 2024 Response**, viewpoints 8 and 11 for example). The local road network, especially the A5 and M42, are primarily functional and could not in any sense be characterised as having a recreational component.
- 4.110 Paragraphs 10.5.39 to 10.5.47 of the ES **summarise the potential for visual effects on road users, and conclude that all of these effects would be less than significant. I agree with this conclusion** and have briefly reviewed some of the rationale behind this in the following paragraphs.
- 4.111 As the bare earth ZTV in my Appendices illustrates (**drawing J10-3b**), there would be no potential for visibility from the M42 due to the fact that this is in cutting in the vicinity of the site, with the slopes of this cutting also well-vegetated with native trees and shrubs.



- 4.112 Glimpses views of the proposed buildings would be possible from junction 10, although as viewpoint 13, **drawing LAJ-32, illustrates**, these views would be glimpsed, partially screened by roadside vegetation, and development would be seen in the context of the busy road and traffic as well as existing commercial buildings.
- 4.113 There would be potential for glimpsed views of the proposed development from the A5, to the south of the site, (as the year 1 photomontage for viewpoint 9 illustrates, (see **drawing LAJ-069**), but again these views would be transitional, glimpsed, partially screened by roadside vegetation and again seen in the context of existing buildings of a similar scale and character.
- 4.114 For the road users in Birchmoor, as the ZTV in **drawings J10-3b and J10-3c** illustrate there would be little potential for visibility for much of the settlement even at year 1, due to the screening effect of existing vegetation and buildings. Two roads where glimpsed, oblique views would be possible are Green Lane, where it crosses the M42, (see viewpoint 16, **drawing LAJ-36**), and Birchmoor Road, north of Birchmoor Farm (see viewpoint 2, **drawing LAJ-6**). In both cases the proposed buildings would be partially visible, largely screened by intervening vegetation, and viewed in the context of existing roads and commercial development. Similarly minor effects would be experienced by road users on Cockspur Street (see for example viewpoint 18, **drawing LAJ-40**), since the proposed building would be partially screened by existing vegetation and seen in front of existing commercial development of a similar scale and character.

Users of Open Space

- 4.115 The SLR LVIA also considers the effects of the proposals upon the users of open spaces, Kitwood Avenue Recreation Ground and the proposed new area of POS north of footpath AE48, (identified as OS1 in the Local Plan), both of which are on the western edge of Dordon.
- 4.116 Kitwood Avenue Recreation Ground is represented by viewpoints 5 and 6, and the revised assessment for viewpoint 5 (as presented in the SLR Response of March 2024 and based upon the Type 3 photomontages, **Appendix C**) has concluded that the proposals would result in significant effects for users of the space in year 1, becoming less than significant by year 15. As I have noted in section 4.0 of my proof, this reduction in visual effects by year 15 at viewpoint 5 is would also be caused as a result of the growth of the existing copse to the west of Dordon. As **Plate V**, above, shows, visibility from the Recreation Ground will also be reduced by the recent tree planting on the western edge of this POS, which could achieve a height of 7.5 to 8 metres by year 15 if properly managed. Effects for the eastern part of the



space, represented by viewpoint 6, would experience moderate and less than significant effects as a result of the appeal proposals.

- 4.117 Views from the proposed new POS at OS1 are represented by viewpoint 21 (see **drawing LAJ-47**). From this perspective the proposed new buildings would be visible, although they would be seen in the context of the existing commercial buildings at the left and centre of the view. Once proposed new hedgerows and tree planting in the Offsite Mitigation Area has established by year 15, these effects would become minor.

Assessment of Overall Visual Effects

- 4.118 My own visual assessment has taken into account the assessment within the SLR LVIA, the new ZTVs presented in my Appendices, the Type 3 photomontages prepared in in July 2023 (which show a ridge height 3.641m above the proposed ridge height of 117.8m AOD), the summer and winter photography prepared in 2023 and my own desk top assessments and site visits carried out in winter and spring of 2023 and 2024. **Based upon this analysis I have concluded that the visual effects of the proposals would be localised, with significant effects by year 15 focused upon the appeal site itself and rights of way across the agricultural land to the east of the appeal site.**
- 4.119 **By year 15, and thereafter, there would also be no significant visual effects for residential receptors at Birchmoor or Dordon, and no significant effects for vehicle users on the road network around the site.**
- 4.120 I reiterate that it is best practice in LVA to assess the introduction of built form to green fields as resulting in at least some localised visual harm. Therefore, the fact that localised visual harm occurs as a result of development on a green field site does not in itself differentiate one green field site from another.

Cumulative Landscape and Visual Effects

- 4.121 Section 10.6 of the SLR LVIA provided a primarily visual assessment of the potential cumulative effects of the proposed development considered in combination with Core 42, Birch Coppice, Tamworth Logistics Park south of the A5, Centurion Park and Relay Park. The cumulative projects used in this assessment were agreed with the Council in April 2021, as SLR's Response to LUC of May 2022 explains (**CD G12**).



- 4.122 The May 2022 Response to LUC also provided further information regarding the methodology used in the cumulative assessment, and Appendix A to that document provided both a landscape and visual assessment of the potential cumulative effects of the development considered in concert with each of the other cumulative schemes in turn.
- 4.123 The conclusions of that assessment were that the proposals would result in minor additional, cumulative landscape and visual effects. From a landscape perspective the development is being placed in a landscape which is already strongly influenced by commercial uses, and the proposals would not significantly extend either the extent or influence of that use. From a visual perspective it was concluded that there was limited potential for combined and sequential visual effects, and that the proposals would cause a small degree of change to an area which is already visually dominated by large commercial buildings.
- 4.124 I will not repeat this assessment here, but I do think it is valuable to consider the potential cumulative effects of the appeal proposals with *all of the other permitted schemes in concert*. It is clear from the landscape and visual assessment in the ES, and my analysis in this section in my proof, that one of the factors that reduces the potential landscape and visual effects of this proposal is the existing context of prominent commercial buildings, as well as the presence of the A5, M42 and junction 10. But in cumulative assessment we need to ask a different question: would the construction of this proposal in that landscape cause additional landscape and visual harm, beyond the individual harm caused by each project?
- 4.125 From a landscape perspective it is important to note, with reference to **drawing J10-1** for example, that the extent of the appeal proposals is relatively minor when compared with the extent of other commercial uses to the west and south of the appeal site. As I have noted, the area of the appeal site is just over 32 hectares, of which the proposed buildings and hardstanding would occupy just less than 21ha. The approximate extent of all of the buildings and hardstanding for all of the cumulative schemes is approximately 140 hectares. In overview, the proposed building and hard surfaces would comprise less than 15% of the area of the existing commercial developments in the locality. Furthermore, the appeal proposals would not extend that area of development significantly: the proposed new buildings would extend only as far east as the existing St Modwen development, south of the A5, and only as far north as the Relay Park development, to the west of the M42.
- 4.126 It is also important to note the potential visual influence of existing buildings upon character, and to compare this with how the appeal proposals would change that pattern of influence.



The ZTV on **drawing J10-3a** illustrates the visual influence of only the buildings to the south and west of the appeal site – it excludes Birch Coppice and Core 42– but even on this basis it is clear that the visual influence of those existing buildings is more extensive than that for the proposed building (see ZTV in **drawings J10-3b and 3c**). In essence, if the visual influence of the proposals upon overall character is considered in combination with the existing commercial schemes to the west and south of the appeal site, there would be no significant additional effects on landscape character in LCA5.

- 4.127 The only cumulative landscape effect that would occur as a result of the appeal proposals would be that the last open quadrant of junction 10 would be developed; but given the extent to which the existing built form, noise and lighting already influences this quadrant this would not constitute a significant cumulative landscape effect.
- 4.128 Turning to the potential cumulative visual effects of the appeal proposals considered with all of the other schemes in concert, it is certainly the case that there would be potential for combined visibility from viewpoints to the east of the site (for example viewpoints 3, 4 and 5), as well as junction 10 (for example viewpoint 13). There is also potential for sequential visibility from the footpaths to the east of the appeal site as well as from junction 10 and the A5. However, in all of these circumstances the appeal proposals would be viewed against a backdrop of existing commercial development. For example, when viewed from the north the proposals would be seen against the background of the commercial development at Tamworth Logistics Park, and when viewed from the east Centurion Park and Relay Park form the background to the proposals. The *additional visual effect* of these proposals cumulatively, beyond the individual effect of each scheme, is therefore minor.
- 4.129 Finally in relation to cumulative effects, it is important to note that GLVIA3 states at 7.13 that *“it is considered that existing schemes and those which are under construction should be included in the baseline for both landscape and visual effects”*; thus, in this case, **the fundamental point is that the existing commercial developments found in the locality of the appeal site primarily form the baseline for assessing landscape and visual effects**, and unlike many cumulative assessments (for example for wind farm proposals) **there are no other large scale commercial developments coming forward in the locality which have potential to result in further, cumulative change**.



Summary of Potential Landscape and Visual Effects

- 4.130 There has been a large amount of landscape and visual assessment carried out as part of the planning application process, as well as part of post-application discussions with the Council's landscape consultants. Summer and winter photography and visualisations have been prepared, and all assessments have been based upon a worst-case scenario of a parapet height of 117.8m AOD.
- 4.131 As a result of the post-application discussions with Council's landscape consultants, as well as the drafting of the Landscape Statement of Common Ground for this appeal, there has been the agreement of a considerable amount of common ground regarding methodology, relevant character assessments and representative viewpoints. Of particular significance are the following points of agreement:
- It is usual practice in LVIA to assess increased visibility/prominence of large scale development in rural and semi-rural context as causing negative effects
 - The site is an area of transitional landscape on the settlement edge;
 - Bunds and cuttings are a characteristic feature of the wider landscape;
 - The appeal site is not a valued landscape in the sense of paragraph 180(a) of the NPPF;
 - The proposed development would result in relatively localised landscape and visual effects.
- 4.132 In the North Warwickshire Landscape Character Assessment the site is classified as being part of LCA 5, Tamworth Fringe Uplands. The character assessment describes this as "*an indistinct and variable landscape, with relatively flat open arable fields and pockets of pastoral land, fragmented by spoil heaps, large scale industrial buildings and busy roads, and bordered by the settlement edges of Tamworth, Dordon and Kingsbury ... the M42 has a dominant and unifying presence*".
- 4.133 With reference to the CPRE Dark Skies map I have also noted that the appeal site and its context is influenced by high levels of lighting, as well as persistent noise from traffic on the M42 and A5.



- 4.134 I have reviewed the findings of the SLR LVIA, and the subsequent additional visual assessment issued by SLR in March 2024, based upon my own desk top assessment and site visits in both winter and summer.
- 4.135 I have concluded that the appeal proposals would result in localised negative landscape effects. There would be moderate and negative effects on the large-scale arable field and gently rising landform, and in the short term there would also be moderate/minor and negative effects on the hedgerows and woodland landscape receptor. These effects would be largely focused upon the appeal site and its immediate context. The moderate negative effects upon the arable field receptor and gently rising landform would remain moderate and negative by year 15, but the effects on the hedgerows and woodlands receptor would become moderate and positive by year 15, due to the substantial quantity of proposed new woodland and hedgerow planting that would be provided.
- 4.136 Most importantly, the effects of the appeal proposals upon the localised area of LCA 5 would be moderate/minor and negative at construction and year 1, becoming minor and negative at year 15 once the proposed new planting around the site and in the Offsite Mitigation Area has reached semi-maturity. Fundamentally, the proposals would introduce new large commercial buildings into a transitional area which is already partly characterised by similar buildings, and would introduce further light and noise into an area which is again already strongly influenced by lighting from the settlement edges and highways, as well as by traffic noise from the adjacent M42 and A5 and commercial uses.
- 4.137 I have considered the potential visibility of the proposals with the aid of a computer-generated ZTV. I have also prepared a ZTV for the existing commercial developments to the west and south of the appeal site, and I have noted that the appeal proposals would have a more limited overall extent of theoretical visibility than that created by these existing commercial buildings.
- 4.138 I have concluded that the visual effects of the proposals would be localised, with significant effects by year 15 focused upon the appeal site itself and rights of way across the agricultural land to the east of the appeal site.
- 4.139 By year 15, and thereafter, there would also be no significant visual effects for residential receptors at Birchmoor or Dordon, and no significant effects for vehicle users on the road network around the site.



- 4.140 In summary, the appeal proposals would result in localised negative landscape and visual effects, but these effects would reduce over time due to the proposed new native woodland and hedgerow planting both around the appeal site as well as in the Offsite Mitigation Area. In this context it is important to note that it is common ground that all large scale developments on semi-rural (or rural) sites will result in at least localised landscape and visual harm.
- 4.141 **It is also notable that the Committee Report also concluded that the proposals would result in moderate landscape harm and moderate visual harm, and I agree with that overall assessment.**



5.0 REVIEW OF THE POTENTIAL EFFECTS OF THE PROPOSED DEVELOPMENT UPON THE STRATEGIC GAP BETWEEN TAMWORTH AND POLESWORTH WITH DORDON

Introduction and Objectives

- 5.1 As I have noted at section 2.0 of this proof, the appeal site is located within a Strategic Gap, and policy LP4 states that “*development proposals will not be permitted where they significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon*” (my emphasis).
- 5.2 Two key points are worth emphasising here: firstly that the test is not that *any* adverse effects on the gap between Tamworth and Dordon would make a proposal unacceptable, the effects would need to be *significantly adverse* to make a proposal not comply with LP4; and secondly the policy aims to provide separation between Tamsworth and Polesworth with Dordon, not Tamworth and Birchmoor, or Birchmoor and Dordon. Indeed, it is common ground that Birchmoor has effectively coalesced with Tamworth at its western end, and it is evident that the village is also divided by the M42, so does not have a clear, discrete form.
- 5.3 Reason for Refusal 1 states that the appeal proposals would “*not maintain the separate identities of Tamworth and Polesworth with Dordon*” because the “*scale, character and appearance*” of the proposals “*significantly reduces the physical and visual separation between these settlements*”.
- 5.4 It is common ground between the parties that one approach for assessing the effectiveness of a gap between settlements is to apply the Eastleigh Criteria (LSoCG paragraph 37, **CD D15**), and this approach is applied by both the Appellant in the SLR LVIA as well as by LUC in their review dated July 2022. As I have noted in section 2.0 of my proof, the Eastleigh Criteria were also recommended in the Nicholas Pearson Associates review (**CD G24**) of the LUC Meaningful Gap Assessment (**CD G2**) as being the most appropriate methodology for assessing the functionality of the gap between Tamworth and Polesworth with Dordon.
- 5.5 Paragraphs 10.5.52 to 10.5.89 of the SLR LVIA set out an assessment of the gap which would remain were the appeal proposals to be implemented, applying the Eastleigh Criteria. That assessment concluded that “*the separate identity of Tamworth and Polesworth with Dordon would remain both in relation to physical separation and in terms of their distinctive character.*”



A sense of separation would remain whether travelling along the A5 or along PRow within the gap; travellers would have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering a second settlement” (paragraph 10.5.89).

5.6 I agree with this assessment and the conclusions, and I have added some further thoughts on each of the Eastleigh Criteria below.

5.7 I have also reviewed the assessment of the Eastleigh Criteria produced by LUC in their July 2022 LVIA Review.

The Eastleigh Criteria

5.8 Paragraphs 10.5.55 to 10.5.58 of the SLR LVIA set out the Criteria and explain some of the history of these being applied. These criteria were first devised in 1998 by the Inspector for the Eastleigh Local Plan Inquiry, and they were subsequently quoted in a report prepared by the Office of the Deputy Prime Minister (“*Strategic Gap and Green Wedge Policies in Structure Plans, Main Report*”, ODPM, 2003, **CD G6**). I myself have applied these criteria to the assessment of gaps at numerous hearings and appeals, and they have always been accepted as being thorough and robust.

5.9 For ease of reference I have set out the Criteria below, with a brief line of explanation for each:

- *Distance (both the straight-line distance between settlements and the distance that would be travelled between settlements);*
- *Topography (distinctive topography can differentiate settlements on either side of a gap, or can make the gap more effective at creating a sense of separation);*
- *Landscape character/type (the nature of the landscape character between the settlements can help to define the sense of separation);*
- *Vegetation (well-established vegetation in a gap can enhance the sense of separation between settlements);*
- *Existing uses and density of buildings (if a gap contains buildings this may reduce the sense of separation between settlements);*
- *Nature of urban edges (the sense of separation between settlements is not only dependent upon the nature of the gap, but also distinctions between the edges);*
- *Inter-visibility (the ability to see one edge from another – in some cases if the two settlement edges are visible from one another this may reduce the sense of separation);*
- *Intra-visibility (the ability to see both edges from a single point – again, if this occurs it can reduce the sense of separation);*



- *The sense of leaving a place and arriving somewhere else (this is the ultimate test for a gap – does it provide a sense of travelling between two different places across an intermediate, distinct landscape?).*

5.10 It is not coincidental that paragraph 7.28 of the Local Plan (**CD F1**) states that “*when travelling through the Strategic Gap (by all modes of transport) a traveller should have a clear **sense of having left the first settlement, having travelled through an undeveloped area and then entering a second settlement***”, thus effectively borrowing the most important criterion from the Eastleigh Criteria: the Council and Local Plan Inspector were made aware of these criteria at the EiP and clearly this fundamental test has now become part of the important supporting text for LP4.

Distance

5.11 As the SLR LVIA states, the appeal proposals would reduce the physical gap between Tamworth and Dordon/Polesworth. In the vicinity of the appeal site the existing gap is currently a minimum of 1.2km, whereas paragraph 10.5.62 of the SLR LVIA states that if the proposals were to be constructed the remaining gap would be approximately 765m.

5.12 It is worth noting that this measurement is from the eastern boundary of the appeal site, not from the nearest building within the appeal site. Based upon the parameter plan, the straight line distance from the nearest building in Dordon to the nearest building in the appeal site would be approximately 800 metres (approximately half a mile).

5.13 In addition to straight line distances between the settlements it is also important to consider the travelling distances. By vehicle the fastest and most frequently used path would be along the A5. At either end of this route the settlement edges are blurred by other developments: at the eastern edge of the gap is Quarry Close, Dordon, although Core 42 to the south of the A5 extends further to the west and is closely related to Dordon although very different in character; similarly, at the western end of this route is junction 10, which provides a sense of arrival at Tamworth but with development at the Tamworth Logistics Park, south of the A5, extending further east. Measuring from junction 10 to Quarry Close the travel distance is approximately 1.25km.

5.14 If the proposed development were to be constructed then it is likely that the site entrance would form part of the sense of arrival at Tamworth, and on that basis the remaining distance would become approximately 1km.



- 5.15 By foot the route from Dordon to Tamworth is either along the A5 (which is the same distance as by car), or via footpaths AE48, a short section of the A5, AE46 and bridleway AE45, arriving at the south-east corner of Birchmoor and then using the Green Lane bridge over the M42 to arrive at Tamworth. This is a total distance of approximately 2.1km between Tamworth and Dordon, or around 1.4km to the south-east corner of Birchmoor since this is effectively conjoined with Tamworth at its western edge.
- 5.16 In year 1, following construction, it is possible that the western edge of this gap could be perceived as being the newly formed screen mounds at the eastern edge of the appeal site. On this basis the walking distance between the settlements would be approximately 1.1km. At year 15, with the eastern edge of the appeal site characterised by well-established woodland, there would be less of a sense of arrival at the eastern edge of the site, and the arrival point at the nearest settlement would once more be Birchmoor (approximately 1.4km)
- 5.17 The SLR LVIA refers to other gaps that are found in the locality, including less than 500 metres between Nuneaton and Bedworth, and approximately 370 metres between Hinckley and Barwell. Indeed, in my experience of strategic gaps elsewhere, gaps of less than 500 metres are common (for example between Southampton and Busledon). More generally, in England as a whole gaps of around 200 metres between settlements are frequent, and yet those settlements retain their separate identities.
- 5.18 Whilst a reduction in the distance between settlements has potential to influence the separate identities of those settlements, it is still perfectly possible to have much smaller, and wholly effective gaps between settlements. In this case both the straight line distance, and travel distances, are still significant on both a regional and national scale.
- 5.19 **It is therefore concluded that the appeal proposals would retain sufficient straight line and travel distance between Tamworth and Dordon/Polesworth to provide a perception of separation.**

Topography

- 5.20 As I have noted in my assessment of the landscape character of the appeal site and its context, it is notable that Dordon is on relatively high ground (up to 122m AOD), with a relatively steep slope then grading westwards. The remaining land between Dordon and Tamworth is generally a gently grading area sloping from above 100m AOD to the north to below 95m AOD to the south (including the appeal site). The western edge of the gap rises slightly towards



the M42, with junction 10 being raised both above the cutting of the motorway itself as well above the adjacent land on all sides. Topography therefore helps to provide a clear identity to the edge of Dordon, and differentiates it from the lower, gently sloping ground between the settlements. Whilst maintaining the separate identity of Birchmoor is not the objective of LP4, it is also notable that it too is on relatively high ground, generally at or above 105m AOD.

- 5.21 The proposed development would introduce screening landforms, the height and gradients of which have not been determined at this stage. However, even if these screening features reach to 105m AOD at their crest at the northern end of the appeal site they would still be well below the level of Dordon, and lower than much of Birchmoor. Importantly, the gently sloping ground between the site and Dordon would remain in its current state, and Dordon would continue to be very clearly defined by the steep slope at its western edge and its position on higher ground.
- 5.22 **If the appeal proposals were to be implemented the topography between the settlements would therefore continue to help to provide a clear sense of identity for the two settlements, and also separation between the two settlements.**

Landscape Character/Type

- 5.23 As I have noted in my landscape appraisal in section 4.0 of this proof, the appeal site is located within an area characterised by open, arable land adjacent to, and strongly influenced by, large scale commercial development, busy roads, and settlements. At present the agricultural land between the settlements is a marked contrast to the settlements and commercial developments, and thus helps to provide a clear sense of separation between them. This is the “*expanse of farmland*”, notably lower than Dordon, that the Inspector for the St Modwen appeal concluded would continue to provide an “*unequivocal sense of separation from Tamworth*” (see section 2.0 of my proof).
- 5.24 Whilst the proposed development would occupy some of this farmland, there would remain approximately 750 metres of open farmland between the two settlement edges at the nearest point. The provision of additional native hedgerow and woodland planting within the Offsite Mitigation Area would reinforce the rural characteristics of this space, ensuring that there remains a marked difference in character between settlement edges and the intervening space.



- 5.25 **The appeal proposals would thus ensure that there remains an “*unequivocal sense of separation*” between Tamworth and Dordon by continuing to provide an expanse of open, enhanced farmland between the two settlement edges.**

Vegetation

- 5.26 At present the vegetation between the two settlements comprises arable fields bounded by gappy or often missing hedgerow boundaries. As I have noted above this arable landscape provides a clear sense of separation between the settlement edges.
- 5.27 As I have noted, some new hedgerows have now been planted on site, as well as hedgerow trees, and the appeal proposals include provision for new species-rich grasslands, hedgerows, woodland and orchard planting within the Offsite Mitigation Area. These enhancements to the agricultural landscape would accentuate the difference between the settlement edges and the agricultural land in the Strategic Gap.
- 5.28 **The retention of arable land between the settlements would continue to provide a sense of separation, and the new hedgerows and woodlands would further reinforce this sense of separation by enhance the rural characteristics of the intervening land.**

Existing Uses and Density of Buildings

- 5.29 The existing gap between the settlements comprises almost entirely open, arable land with few existing structures (the small exception is telegraph poles and the small floodlit hardstanding at the southern end of the appeal site). The openness of this land, contrasting with the density of the commercial edge and M42 at Tamworth and the elevated, residential edge at Dordon, provides a clear difference between the two settlements and the intervening Strategic Gap.
- 5.30 **If the proposed development were to be permitted, the gap between the settlements would continue to be of open, arable land. This openness would continue to contribute to a clear sense of separation between the settlements.**

Nature of Urban/Settlement Edges

- 5.31 The edges of both Tamworth and Dordon are both largely distinctive, and this helps to maintain their separate identities. As I have noted, Dordon is an elevated, steep edge, with two storey often red brick residential properties at the edge of the ridge. Development at Core 42, to the south, has a very different identity and is separated from Dordon by the A5. In contrast the



edge of Tamworth comprises a lower, more vegetated edge but with prominent large scale commercial uses, junction 10 and the M42.

- 5.32 **If the appeal proposals were to be allowed the distinct character of these two edges would remain, and this would help to maintain the separate identities of the two settlements.**

Inter-Visibility

- 5.33 Whilst inter (and intra) visibility can reduce the sense of separation between settlements, that is not always the case. In this case it is possible to see the large commercial buildings in Tamworth from many points on the western edge of Dordon – but the visible expanse of intervening agricultural land between the settlement also provides a clear sense of separation.
- 5.34 If the appeal proposals were to be implemented it would be possible to see the new buildings from Dordon, as Type 3 photomontages for viewpoint 5, for example, illustrate (see **drawing LAJ-063**). But as drawing LAJ-063 also illustrates there would also remain a clear sense of separation between the settlements, due to the visibility of the intervening, extensive agricultural land. Indeed, due to the existing visibility of commercial development to the south and west of the appeal site in this view, the appeal proposals appear to have very little effects on the Strategic Gap between the settlement edges.
- 5.35 **In summary, the settlement edges of Tamworth and Dordon are already intervisible, but the visible, extensive intervening agricultural land ensures that there remains a sense of separation. If the appeal proposals were to be allowed, there would continue to be intervisibility between the edges, but the sense of separation would continue to be maintained by the visible extent of agricultural land between the settlements.**

Intra-Visibility

- 5.36 As with inter visibility, there is already intra-visibility between the edges, for example from viewpoint 4 (see **drawing LAJ-059**). However, the large area of open arable land between the settlement edges maintains a clear sense of separation.
- 5.37 This would remain the case if the proposals were to be implemented. Whilst the proposed new buildings would be more visible than the existing edge of Tamworth in the short term, a clear sense of separation would remain due to the large area of open agricultural land between the settlement edges. Once proposed planting on the screening landforms and in the Offsite



Mitigation Area has reached semi-maturity, intra visibility would reduce and the sense of separation between the settlement edges would be enhanced.

- 5.38 **The settlement edges of Dordon and Tamworth are already intra-visible, but a sense of separation is maintained by the open arable land between the settlement edges. If the proposals were to be permitted, the edges would remain intra-visible, but an open expanse of retain arable land would maintain a clear sense of separation between the settlements. This sense of separation would then be further enhanced by the planting in the Offsite Mitigation Area.**

The Sense of Leaving a Place and Arriving Somewhere Else.

- 5.39 There are three main elements to this criterion: travellers should feel like they are leaving one place, travelling through an intermediate landscape and then arriving somewhere different.
- 5.40 The sense of leaving one place and arriving somewhere different depends predominantly upon the nature of the edges of each settlement. As I have noted above the edges of Dordon and Tamworth have very different characteristics, and the appeal proposals would not fundamentally change these attributes.
- 5.41 The third element is the sense of travelling through an intermediate landscape. As the SLR LVIA correctly states, the two main ways of experiencing the gap between Tamworth and Dordon are by vehicle, on the A5, and by foot, via public rights of way AE46 and AE45.
- 5.42 In relation to the views from the A5, the winter view from viewpoint 9 (**drawing LAJ-23**) illustrates that at present there is potential for filtered views from the A5 over the open arable land between the settlements (although the summer view from the same point illustrates that much of this view is screened by the roadside hedgerow). This view would remain largely unchanged by the appeal proposals, with drivers continuing to have a clear perception of passing and agricultural landscape.
- 5.43 When walking between Dordon and Tamworth viewers might take path A48, then AE46, then bridleway AE45, then pass through Birchmoor and connect with Tamworth on Green Lane. At present this journey passes through open fields between the edge of Dordon and Birchmoor, providing a clear sense of moving through an intermediate, more rural landscape – albeit that road noise and views of commercial development increase further to the west. The walking distance between the western edge of Dordon and the south-east corner of Birchmoor (the first built development to the west) is approximately 1.4km.



- 5.44 If the appeal proposals were to be implemented then at year 1 following construction there could be a sense of arriving at the edge of Tamworth once walkers have reached the eastern edge of the appeal site – a walking distance from the edge of Dordon of just over one kilometre. Once the native planting on the proposed screening landforms has reached semi-maturity, the section of AE46 that passes to the east of the appeal site towards Birchmoor would have more rural attributes, and the walking distance through open countryside between the settlements would return to being approximately 1.4km. At this stage the proposed hedgerow and woodland planting in the Offsite Mitigation Area would also have reached semi-maturity, enhancing the rural characteristics of this intermediate space.
- 5.45 **Even in the worst-case scenario, at construction or year 1 when the proposed planting has not established, there would remain a walking distance of approximately one kilometre through open countryside between the settlement edges. By year 15 this would return to being approximately 1.4 kilometres. By car or on foot there would therefore remain a clear sense of leaving one settlement, travelling through an intermediate (and very different) landscape, and then arriving somewhere else.**

LUC's Application of the Eastleigh Criteria

- 5.46 In LUC's review of the SLR LVIA prepared in July 2022 they set out an assessment of the effects of the appeal proposals upon the gap between Dordon and Tamworth by applying the Eastleigh Criteria (see table 3.1, Page 11 of that document). I have briefly reviewed this assessment below.
- 5.47 In relation to **distance**, the LUC assessment states that the gap between Tamworth and Dordon will reduce by 430 metres to a straight line distance of 777m. No comment is made about whether this remaining distance is sufficient to provide a sense of separation, or how such a gap compares with other settlements locally and nationally. As I have noted, 777m is larger than many settlement gaps, including highly sensitive Strategic Gaps, elsewhere.
- 5.48 In relation to **topography**, the LUC assessment states that "*the flat and open nature of the site emphasises the scale of the Strategic Gap*", and that the proposals "*will alter the topography and openness of the Strategic Gap*". What is not acknowledged here is the fact that 777m (LUC's measurement) of open, gently sloping land would remain between the edges, nor is there any acknowledgement that Dordon's elevated position creates a distinctive settlement edge that clearly differentiates it from the lower edge of Tamworth.



- 5.49 Turning to **character**, the LUC analysis states that the appeal proposals would “*fundamentally change the character of the Strategic Gap and reduce the openness which is characteristic of the area*”. Whilst it is a matter of fact that the appeal proposals would change the character of part of the Strategic Gap, the missing analysis here is would the remaining 777m of open, arable land continue to provide a clear sense of separation between the settlements? And, furthermore, would the planting of native woodlands and hedgerows in the Offsite Mitigation Area further enhance this sense of separation once it has reached semi-maturity? With regard to the latter, it is notable that in their consideration of the effects of vegetation on the gap LUC states “*planting of native woodland within the site, and off site, could provide a greater sense of physical and perceptual separation*” – and yet this is not considered under landscape character. In reality the extensive area of retained arable land between the settlements, enhanced by further woodland and hedgerow planting, would continue to provide a clear change in character between the settlements that would ensure that the two settlements would remain separate and distinct.
- 5.50 LUC’s analysis of the effects of **vegetation** is inconclusive: they state that there “*is not strong vegetated boundary to extend to or which could provide a sense of separation*”; this is then followed by the comment referenced above, that new planting “*could provide a greater sense of physical and visual separation*”. In relation to the lack of a strong vegetated boundary to extend to, it is notable that the appellant has now reinstated a new hedgerow and tree planting along the eastern edge of the appeal site, and if the appeal proposals were to implemented this boundary would then be further reinforced by 49m and 106m width of native woodland planting on the screening landform at the east of the appeal site. The remaining 777m of landscape between the settlements would then benefit from the new woodland and hedgerow planting which I agree would “*provide a greater sense of physical and visual separation*”.
- 5.51 In relation to **existing uses and density of buildings**, LUC state that the proposals “*would introduce buildings of a large scale*”. Whilst this is undeniable, the question is will the remaining 777 metres of Strategic Gap, without any buildings, still provide a sense of separation? In this context it is concerning that LUC also states that the proposals “*would introduce woodland belts ... which are not characteristic of the current vegetation found on site*”. The proposed native woodland that would be established around the appeal site, and in the Offsite Mitigation Area, would be wholly appropriate within the Wooded Estate lands LCA of Arden, described as “*a well-wooded farmland landscape with rolling landform*”, and would also be appropriate within the Tamworth Fringe Uplands LCA where planting of small and medium scale native woodlands is encouraged.



- 5.52 In terms of the **nature of the urban edges**, it is noted that “*built development is found in all directions around the Strategic Gap*” but that “*boundary vegetation largely screens visibility of this built development and softens the boundaries of the Strategic Gap*”. Whilst it is true that the motorway services and M42 are enclosed by trees planting and are therefore less conspicuous, the Tamworth Logistics Park and the roof planes of Centurion Park and Relay Park are clearly visible from agricultural land that lies between the settlements, particularly from the more elevated locations on the edge of Dordon (see for example viewpoint 5).
- 5.53 What is missed in this analysis is the key differences between the edges: there is no mention of the fact that the edge at Dordon is elevated and largely small scale and residential in nature, and how this contrasts with the commercial buildings and motorway on the edge of Tamworth. It is these key differences that help to provide the sense of leaving one place and arriving somewhere different, which is the fundamental objective of the Eastleigh Criteria.
- 5.54 Turning to **inter-visibility**, the LUC analysis states that the existing open landscape enable intervisibility across the gap, which is correct. The analysis then states that the proposed development would “*reduce this intervisibility by screening views across the Strategic Gap*”. Whilst it is true that there is existing intervisibility across the gap, this analysis seems to miss the fact that there would continue to be intervisibility across an area of open, gently sloping arable land, and that this would therefore continue to provide a clear sense of separation.
- 5.55 The same problem occurs with the LUC analysis of **intra-visibility**; it is again stated that the proposals would screen views across the Gap, but there is no acknowledgement that the 777m of remaining, open agricultural land would continue to provide intravisibility across open arable fields.
- 5.56 Finally, the LUC analysis of the **sense of leaving a place and arriving somewhere else** states that “*the Strategic Gap contrasts strongly with the surrounding built development due to its open agricultural landscape*”. I agree with this statement, but note that there is no acknowledgement in this analysis that an extensive area of open agricultural landscape would continue to be present if the proposed development were to be implemented. Similarly, LUC states that the proposed development would “*diminish the sense of leaving a place by changing the land use and character of the Strategic Gap*”. This statement confuses two very different points: on the one hand it is undeniable that the width of the Strategic Gap would reduce as a result of the proposals; but this does not mean that the sense of leaving a place and then arriving in a different place would diminish. Given the different character of the two



edges, the very different character of the open arable land that would be retained between the edges, and the further enhancement to the sense of separation provide by the proposed woodland and hedgerow planting, the Strategic Gap would still provide a clear sense of leaving Dordon, travelling through (or past) an open, arable landscape and arriving at Tamworth.

Summary of the Effects of the Development upon the Strategic Gap between Tamworth and Polesworth with Dordon

- 5.57 It is common ground between the parties that one approach for assessing the effectiveness of a gap between settlements is to apply the Eastleigh Criteria, and this approach is applied by both the Appellant in the SLR LVIA as well as by LUC in their review dated July 2022.
- 5.58 The assessment of the Eastleigh Criteria on the SLR LVIA concluded that *“the separate identity of Tamworth and Polesworth with Dordon would remain both in relation to physical separation and in terms of their distinctive character. A sense of separation would remain whether travelling along the A5 or along PRow within the gap; travellers would have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering a second settlement”*.
- 5.59 I have carried out my own assessment with the Eastleigh Criteria, and I agree with these conclusions. Furthermore, there is no doubt that the proposals by the Appellant to replant native hedgerows and woodlands, to establish new species rich grasslands on existing arable fields, and to establish a new orchard on the western edge of Dordon, would enhance the rural character of the gap between the settlements and thus emphasise the sense of leaving one settlement, travelling through a rural landscape, and then arriving somewhere else.
- 5.60 In summary I conclude that the proposals would not **significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon**, in accordance with LP4.



6.0 COMPARATIVE APPRAISAL OF THE POTENTIAL LANDSCAPE, VISUAL (AND GREEN BELT) EFFECTS OTHER ALTERNATIVE EMPLOYMENT SITES IN THE LOCALITY

Introduction

- 6.1 It is clear from the historic maps (**drawings J10-4a to 4d**) that there has been a rapid expansion of commercial and industrial uses in the locality of the appeal site in the past 30 years. In the wider context, it is also clear from the West Midlands Strategic Employments Sites Study (**CD I2**) that *“demand is likely to remain at least as strong as has been observed in recent years”* (Foreword to that document). Furthermore, this study also notes that *“sites close to motorway junctions”* are *“being prioritised by developers and occupiers”* (paragraph 7.28).
- 6.2 As a consequence of this demand a number of alternative commercial schemes are being proposed in North Warwickshire, at or near motorway junctions, and two of these are briefly reviewed below in order to allow a comparison of potential landscape and visual effects. The review is based upon a desk top assessment of designations, settlement pattern and access, as well as a site visit undertaken in April 2024.
- 6.3 The two comparative sites are:
- **Thrive**, being promoted by IM Properties and close to Junction 9 of the M42; and
 - **Land at Lichfield Road, Curdworth, at Junction 9** of the M42, which is being promoted by Richborough Estates. Both of these sites are at an early stage in the planning process, but details of the potential extent and character of these proposals is evident from public consultation materials.
- 6.4 The location of these sites in relation to the appeal site are illustrated on **Plate XVI**, below. These potential developments have been selected because they are in North Warwickshire, would be for broadly the same use as the appeal proposals, and because they are of a comparable scale to the appeal proposals.
- 6.5 For each site the potential landscape and visual effects of the proposed development are briefly evaluated.



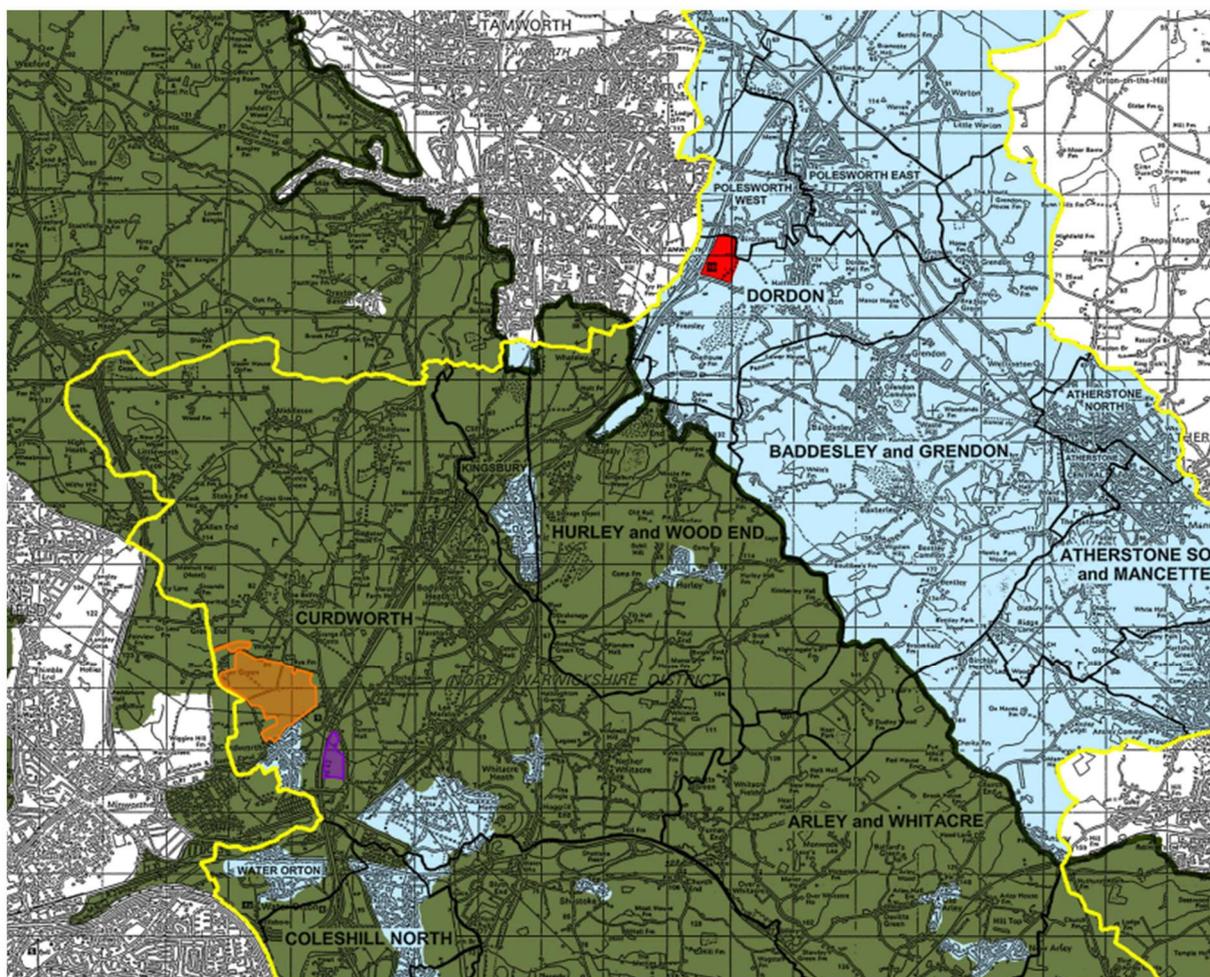


Plate XVI: The positions of Thrive (orange) and Junction 9 (purple) in relation to the appeal site (red). Green Belt is shown in green.

- 6.6 As **Plate XVI** illustrates, both of these sites are located within the Green Belt, and consequently for each site a brief review of the functionality of the Green Belt in that location is also provided. Paragraph 142 of the NPPF states that “*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open*”.
- 6.7 Openness has both a spatial and a visual aspect; it can be reduced by buildings and the visual influence of built form, as well as by activity such as traffic or light pollution (see for example Planning Policy Guidance note on openness, 2019).
- 6.8 The functionality of any part of the Green Belt relates to paragraph 143 of the NPPF, which sets out the five purposes of the Green Belt, as follows:
1. to check the unrestricted sprawl of large built-up areas;



2. *to prevent neighbouring towns merging into one another;*
3. *to assist in safeguarding the countryside from encroachment;*
4. *to preserve the setting and special character of historic towns; and*
5. *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

6.9 Of these purposes, purpose 5 applies to all Green Belt sites, whereas purposes 1 to 4 apply to varying degrees throughout the designation.

Thrive, IM Properties

6.10 **Plate XVII**, below, illustrates the extent of the Thrive site, reproduced from the consultation website. The site lies between the villages of Wishaw and Over Green, to the north, and Curdworth to the south. The total area of the site is stated as being 124 hectares.

6.11 This website also sets out the key elements of Thrive, which include:

- *An employment campus set within a high quality landscape...*
- *A place to drive economic growth...*
- *Innovative and sustainable buildings (in a range of sizes), landscaping and public realm;*
- *Biodiversity Net Gain through habitat creation...*
- *Improved public transport...*



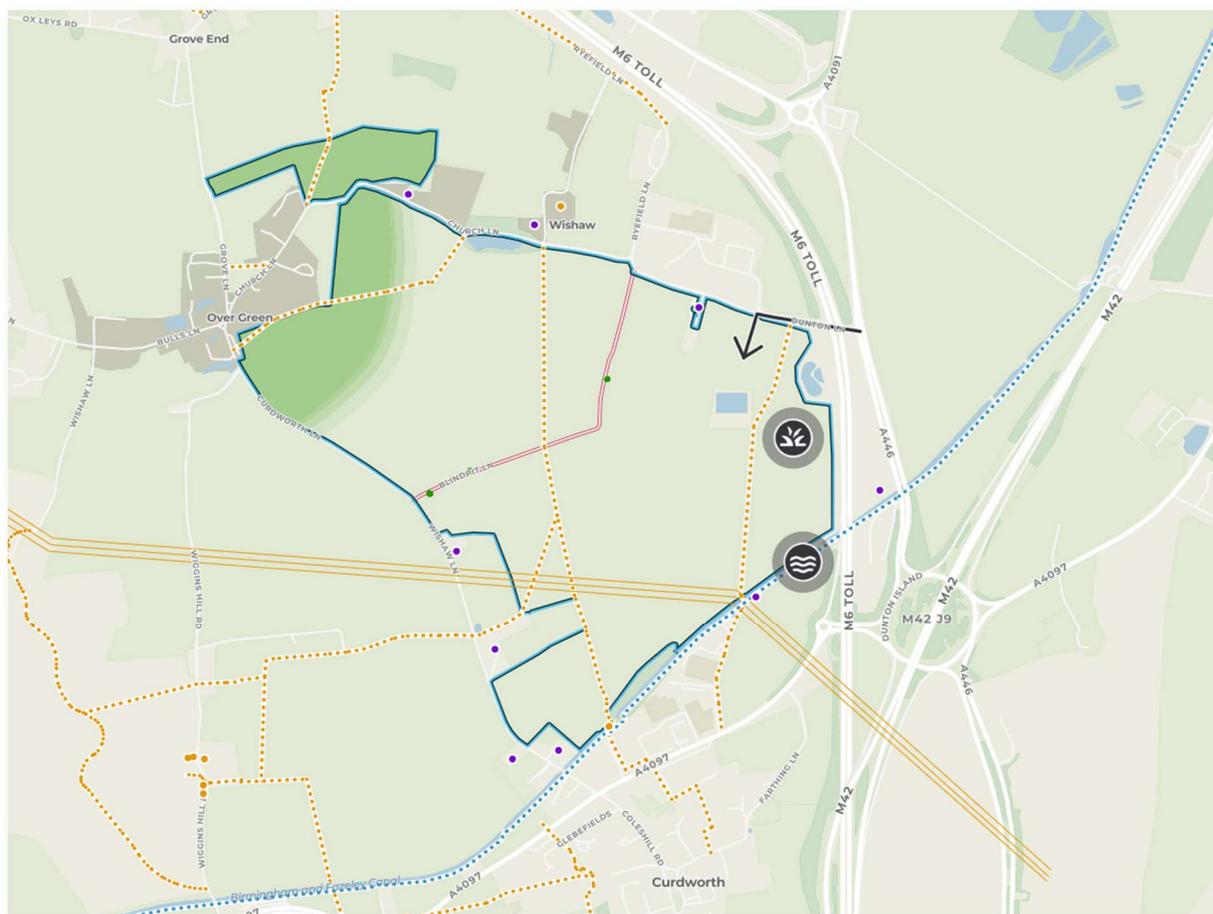


Plate XVII: Location of the Thrive site, defined with a blue boundary (plan extracted from the Thrive consultation website). The site spans the gap between the villages of Over Green and Wishaw, to the north, and Curdworth, to the south. The dark green area is a potential landscape buffer and the icons at the eastern boundary define the potential locations of new wetland habitat creation and an interaction with the Birmingham and Fazeley Canal.

- 6.12 In terms of designations, the site is wholly within the Birmingham Green Belt. The site is crossed by four footpaths as shown with red dotted lines on **Plate XVII**, above. There are no other designations on the site, but to the north is the grade II* church of St Chad at Wishaw. The site is outside of the settlement boundaries and is not allocated.
- 6.13 As **Plate XVIII**, below illustrates, the site currently comprises open, arable fields bound by hedgerows with some mature trees. There is traffic noise across the site from the nearby M42 and M6 toll roads, and pylons are visible across the southern part of the site. However, the site is a predominantly rural landscape with little influence of built form.





Plate XVIII: View from Blindpit Lane, looking east across the site. Land to the north and south of this lane comprises open, gently sloping arable fields. Traffic on the motorways is audible across the site.

- 6.14 It is almost inevitable that given the proposed scale and character of the proposed development and the predominantly rural nature of the existing landscape **the proposals would result in at least some significant negative landscape effects.**
- 6.15 In visual terms there is potential for open views from the lanes that pass around the edges of the site as well as Blindpit Lane that passes through the centre of the site. The most sensitive visual receptors would be walkers using the footpaths that cross the site as well as users of the path along the canal, which passes along the southern edge of the site and which also has potential for some clear views of the proposals.
- 6.16 Again, given the scale and nature of the proposals, the nature of the existing landscape and the sensitivity of the visual receptors, **it is inevitable that the proposals would result in at least localised significant negative visual effects.**



- 6.17 **In terms of Green Belt functionality, the site is currently open, rural in character and separates three settlements. The site is therefore partly functional in terms of protection against sprawl, and fully functional in terms of protection against both coalescence and encroachment.**

Land at Lichfield Road, Junction 9, Richborough Estates

- 6.18 **Plate XIX**, below, illustrates the extent of the Land at Lichfield Road, Curdworth at Junction 9 of the M42, site, reproduced from consultation materials. The site lies between the villages of Curdworth, to the west, and Lea Marston to the east, with the Hams Hall National Distribution centre to the south-east. The A446 dual carriageway passes along the eastern boundary of the site, with the M42 forming the western boundary. The total area of the site is approximately 26 hectares (19.5ha for the proposed development site, 6.5ha for the Green Belt enhancement area).
- 6.19 This consultation materials set out the key elements of the proposed Junction 9 development, which include:
- *Up to 700,000 square feet of logistics-led employment floorspace;*
 - *Access from Lichfield Road*
 - *Land for ecological mitigation, Green Belt enhancement and enhanced public access.*



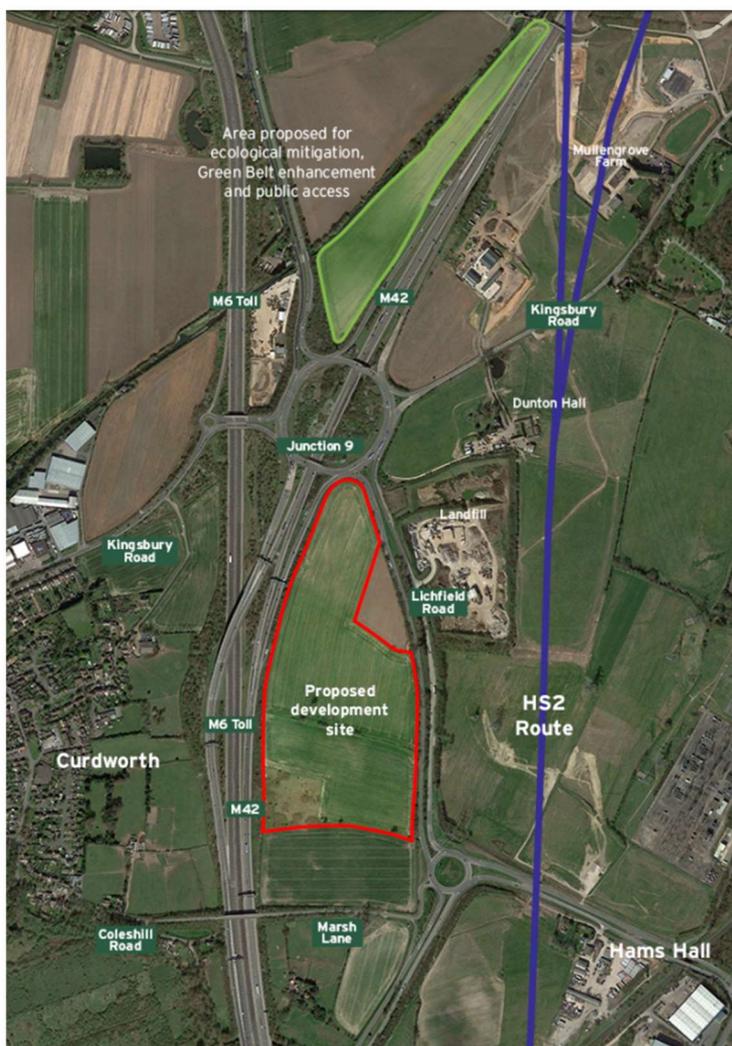


Plate XIX: Location of the Land at Lichfield Road, Junction 9 site, which lies between the M42 to the west and the A446 to the east (plan extracted from consultation materials). The dark green area to the north is described as a Green Belt enhancement area, with public access.

- 6.20 In terms of designations, the site is wholly within the Birmingham Green Belt. There are no other designations on the site or immediately adjacent to it, but there is a cluster of Grade II listed buildings to the north-east at Dunton Hall and also a number of grade II listed buildings and a grade II* listed church at Curdworth. To the west. The site is outside of the settlement boundaries and is not allocated.
- 6.21 As **Plate XX**, below illustrates, the site currently comprises open, arable fields bound by hedgerows with some mature trees. Traffic noise is prevalent across the site, from both Lichfield Road and the M42, and the movement of traffic is also visible beyond the site boundaries to the west and east. Pylons are visible across the northern part of the site, but



otherwise there is little influence from nearby built form. The site therefore has rural characteristics but tranquillity and remoteness is greatly reduced by traffic movement and noise.



Plate XX: View from Lichfield Road, looking south across the open fields at the western part of the site. Traffic movement is visible in the background and traffic noise is clearly audible across the site.

- 6.22 It is highly likely given the character of the proposed development and the predominantly rural nature of the existing landscape that **the proposals would result in at least some localised negative landscape effects.**
- 6.23 In visual terms there is potential for glimpsed views by vehicle users from the adjacent roads to the west and east of the site, as well as potentially from Farthing Lane on the eastern edge of Curdworth
- 6.24 Again, given the scale and nature of the proposals, the nature of the existing landscape and the sensitivity of the visual receptors, **it is inevitable that the proposals would result in at least localised negative visual effects.**
- 6.25 **In terms of Green Belt functionality, the site is currently open, largely rural in character and is part of the land that separates settlements. The site is therefore partly functional**



in terms of protection against sprawl, and largely functional in terms of protection against both coalescence and encroachment.

Summary and Conclusions of Comparative Assessment

- 6.26 It is clear that there has been a rapid expansion of commercial development in the locality of the appeal site in the past 30 years. The West Midlands Strategic Employment Sites Study notes that demand for such sites likely to remain strong, and notes that sites close to motorway junctions are being prioritised by both developers and occupiers.
- 6.27 I have carried out a review of two potential new commercial sites, also located in North Warwickshire and near to junction 9 of the M42. I have considered the potential landscape and visual effects of development on these sites and have concluded that given the largely rural nature of the sites, and the likely form of the development, both would result in at least localised negative landscape and visual effects.
- 6.28 I have also noted that both of these comparative sites are located within the Birmingham Green Belt. Both sites are largely open and both at least partly perform three out of the five Green Belt functions. To consider development of these sites requires a far higher policy test than for the appeal proposals: there would need to be exceptional circumstances to allow a Green Belt release, or the demonstration of Very Special Circumstances.



7.0 RESPONSE TO THE LANDSCAPE AND VISUAL ASPECTS OF REASONS FOR REFUSAL 1 AND 2 AND THE LOCAL RULE 6 PARTY'S STATEMENT OF CASE.

Introduction

- 7.1 In this section of my proof I have sought to respond to the landscape, visual and Strategic Gap concerns raised in Reasons for Refusal 1 and 2, as well as additional matters raised by the Council and Local Rule 6 party in their Statements of Case.

Elements of Reason for Refusal 1 Relevant to this Evidence

The proposal does not ... maintain the separate identities of Tamworth and Polesworth with Dordon. This is because its scale, character and appearance significantly reduces the physical and visual separation between these settlements."

- 7.2 It is common ground that there would remain a straight line distance of 0.75km between the eastern edge of the appeal site and the nearest part of the settlement of Dordon; however, as I have noted the eastern edge of the site would comprise screen mounds and woodland planting, and the nearest proposed buildings would set behind these. The straight-line gap between Dordon and the nearest building in the appeal site would therefore be approximately 800 metres.
- 7.3 Travelling distances would be longer than this. Walkers, cyclists and vehicle users on the A5 travel a distance of approximately 1.25km between Quarry Close, at the western edge of Dordon, and junction 10, which with the associated commercial buildings forms the gateway to Tamworth. If the appeal proposals were to be developed then it is possible that the site entrance would form part of a new gateway to Tamworth, but this still provides a travel distance of approximately one kilometre between the settlements.
- 7.4 I have also considered the potential walking distances between Dordon and Tamworth. In the worst-case scenario, assuming that the eastern edge of the appeal site in year 1 forms the gateway to Tamworth, there would remain a walking distance of 820 metres between the settlement edges. Once the proposed new woodland has established on the screening landforms, by year 15, this sense of arrival at the edge of the appeal site would diminish, and walkers would instead have a stronger sense of arrival on bridleway AE45 at Birchmoor.



- 7.5 In summary, by both straight line measurement and journey routes the appeal proposals would retain a minimum of 800 metres between the settlement edges. As I have noted this is a significant distance, particularly since many gaps between settlements in England are less than 500 metres.
- 7.6 But as the Inspector for the St Modwen appeal (and the Taylor Wimpey appeal) correctly identified, an effective gap between settlements is about much more than measuring with a scale rule; as paragraph 7.28 of the Local Plan states, it is about having “*a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering the second settlement*”. It is for this reason that the Local Plan Inspector for the Eastleigh Local Plan devised the Eastleigh Criteria, a set of factors which individually or cumulatively provide that sense of clear separation.
- 7.7 The SLR LVIA provided an assessment of the effects of the appeal proposals upon the sense of separation between Tamworth and Polesworth with Dordon by applying the Eastleigh Criteria. It concluded that there would remain distinctive edges at Tamworth and Dordon, and that the retained farmland to the north of the A5 would retain a strong sense of separation between the settlements.
- 7.8 I have also applied the Eastleigh Criteria in my proof of evidence and concur with the findings of the SLR LVIA. The edge of Tamworth is characterised by large commercial buildings set at around 100m AOD, whereas Dordon is a largely residential, red brick settlement reaching over 120m AOD. The land between these settlements would remain as undeveloped farmland, which would be enhanced by species-rich grassland as well as hedgerow, woodland and orchard planting; it would be largely rural in character, and would be of sufficient extent to retain a clear sense of leaving one settlement, travelling through an intermediate, undeveloped landscape, and arriving somewhere else.
- 7.9 As the Inspector for the St Modwen appeal concluded, “*the expanse of farmland*” in the intervening land between the settlements “*differentiates each settlement*”; and this would remain the case if the appeal proposals were to be implemented.



The proposals do not accord with ... Policy LP4 of the Local Plan

- 7.10 As I have noted at section 2 of my proof, LP4 does not prohibit development; it states that development proposed within the gap will not be permitted where it “*significantly adversely affects the distinctive, separate characters of Tamworth and Polesworth with Dordon*”.
- 7.11 As a matter of fact the distance between these settlement edges would reduce as a result of the appeal proposals; but by maintaining and enhancing the intervening agricultural landscape (and through the very distinctive character of the two edges) the two settlements would remain distinctive and separate. The Eastleigh Criteria assessments in the SLR LVIA and in my proof have both concluded that the Strategic Gap between Tamworth and Polesworth with Dordon would continue to protect the separate identities of these settlements, continuing to provide a clear sense of leaving one settlement, travelling through an undeveloped area and then entering the second settlement.
- 7.12 **I have therefore concluded that the appeal proposals would not significantly affect the distinctive characters of Tamworth and Polesworth with Dordon, and that they comply with Policy LP4**

The proposals do not accord with ... policies DNP1 and DNP4 of the Dordon Neighbourhood Plan

- 7.13 The part of policy DNP1 which is most relevant to Reason for Refusal 1 is DNP1(b), which states that development proposals will be supported which “*maintain the sense of space, place and separation on land to the west of the Parish*”.
- 7.14 As I have noted above, **the appellant would retain and enhance a large area of open arable land to the east of the appeal site, and this would ensure that the sense of separation between Polesworth with Dordon and Tamworth would be maintained. The appeal proposals therefore accord with this element of Policy DNP1.**
- 7.15 The most relevant parts of Policy DNP4 to Reason for Refusal 1 is part 4, which requires proposals to “*retain a sense of space, place and (where relevant) separation*”. However, DNP4 also very fairly states that “*the provisions of strategic Local Plan Policies LP4 (Strategic Gap), L6 (Additional Employment Land)... shall have priority*”
- 7.16 As I have noted above, the appeal proposals include a large Offsite Mitigation Area which retains and enhances the arable use and rural character of the landscape between Tamworth



and Polesworth with Dordon. Importantly, the appeal proposals also include provision for the re-establishment of native hedgerows and the planting of new native woodlands. As a result of these measures, and the different characteristics of the two settlement edges, both the SLR LVIA and my own assessment using the Eastleigh Criteria have concluded that the appeal proposals would not “*significantly adversely affect the distinctive, separate identities*” of Tamworth and Dordon. **I have therefore concluded that the appeal proposals comply with DNP4(4).**

Landscape and Visual Elements of Reason for Refusal 2

The application site lies outside of any settlement boundary as defined by Policy LP2 of the North Warwickshire Local Plan 2021 and is thus within the open countryside

- 7.17 It is accepted that the appeal site is outside of the settlement boundary and within the open countryside. However, it is also important to note that the site is in a strategic position next to junction 10 of the M42, north of the A5 and near to existing, similar commercial developments.
- 7.18 In this context it is also important to acknowledge that Policy LP6 states that significant weight will be given to additional employment land “*where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A in the Strategic Employment Site Study*”, (which includes the appeal site) Such additional employment land should prove that “*access to the strategic highway network is achievable and appropriate*”. I have also noted that the West Midlands Strategic Employment Site Study sites that “*sites located close to motorway junctions*” are “*being prioritised by developers and occupiers*”.
- 7.19 Evidence on need and transport is being prepared by other experts, but for the purposes of this evidence it is important to note that **it is the strategic location of the appeal site, combined with the compelling need for employment uses in the locality, that means that development outside of the settlement boundary and in open countryside is necessary.**

The proposed development would result in a range of significant adverse landscape and visual effects which fail to respect or respond positively to the key characteristics of the surrounding area.

- 7.20 Based upon the analysis with the SLR LVIA and my own review of potential landscape and visual effects I have concluded that the appeal proposals would result in localised negative



(but less than significant) effects on the local landscape in years 1 and 15, significant visual effects in year 1 and year 15.

- 7.21 However, it is common ground between the parties (LSoCG paragraph 26) to assess the increased prominence or visibility of a large scale development within a semi-rural landscape as resulting in negative landscape and/or visual effects. Thus, if it is agreed that such commercial developments are required in North Warwickshire, and if it is agreed that one of the best locations for such developments would be on open land next to motorway junctions, then all such developments would result in negative landscape and visual effects.
- 7.22 This would certainly be the case with the two comparative sites that I have considered at junction 9 of the M42: both are in agricultural use and predominantly rural in character, and therefore development of large commercial buildings would undoubtedly result in negative landscape and visual effects. Furthermore, both of these sites are in the Birmingham Green Belt, a designation designed to keep land “*permanently open*”.
- 7.23 Importantly, the SLR LVIA concluded – and I agree - that the effects of the appeal proposals upon part of the Tamworth Fringe Uplands, LCA 5, would be moderate/minor at construction and year 1, becoming minor at year 15. This is because the proposed buildings would be located next to junction 10 of the M42, and also next to the A5, within an area where large commercial buildings – of precisely the type proposed in this appeal – are an existing, key characteristic of the landscape.
- 7.24 The Council’s own evidence base is very clear on this point. As the North Warwickshire LCA states, the Tamworth Fringe Uplands is “*an indistinct and variable landscape*”, “*fragmented by spoil heaps, large scale industrial buildings and busy roads, and bordered by the settlement edges of Tamworth, Dordon and Kingsbury*”. The LCA goes on to state that “*the M42 has a dominant and unifying presence, passing through the area within a planted cutting. The industry has direct links to the M42 junction 10, also within the area*”. Even the condition of the agricultural land is correctly described in the LCA: “*much of this land has a run-down character, with gappy, poorly managed hedgerows*”. Fundamentally this is not a designated landscape, and it is common ground that it is not a valued landscape. It is a landscape that has experienced considerable change as a result of the expansion of industry, infrastructure and settlement over the past century. As a result, the local landscape has a lower sensitivity to development of the kind proposed at this appeal.



- 7.25 The minor, year 15 effects, on landscape character are also relatively localised, due to a combination of the relatively low elevation of the appeal site itself, as well as the relatively high landforms, tall buildings and existing vegetation around the site..
- 7.26 It is also partly due to the conservation and enhancement of the arable land to the east of the appeal site, on the Offsite Mitigation Area. This area would include new hedgerow and woodland planting, the conversion of arable land to species-rich grassland, as well as the establishment of an orchard to the west of Dordon.
- 7.27 **In summary, whilst it is true that the appeal proposals would result in negative landscape and visual effects, both the SLR LVIA and my own review have concluded that the proposals would cause less than significant effects on the overall character of the area, partly because they propose commercial development adjacent to existing commercial developments of a similar character at junction 10 and south of the A5, but also because the important and largely rural gap between Tamworth and Dordon would be maintained and enhanced.**

The proposal is thus contrary to Local Plan policies LP1, LP14 and LP30

- 7.28 In accordance with Policy LP1 the proposals would “*integrate appropriately with the natural environment*”, being of a similar location, scale and character to existing commercial developments around junction 10 whilst also providing enhancement to the farmland to the east of the appeal site. In accordance with LP1 the proposals would also protect the routes of existing rights of way and provide new routes.
- 7.29 The appeal proposals would also “*be consistent with the approach to place making set out through development plan policies*” by retaining a clear sense of separation between Tamworth and Polesworth with Dordon.
- 7.30 In terms of conserving and enhancing biodiversity, the ES notes that the existing ecological value of the appeal site is “*negligible*” (11.1.4), and consequently with the new habitats that are proposed around the appeal site and in the Offsite Mitigation Area there is potential to offer a “*substantial net gain*” in biodiversity (11.5.22).
- 7.31 The creation of new hedgerows and woodlands around the appeal site and in the Offsite Mitigation Area would also “*create linkages between green spaces, wildlife sites and corridors*”.



7.32 **I have therefore concluded that the proposals would conform with the landscape elements of Policy LP1.**

7.33 Policy LP14 requires that within the character areas defined in the North Warwickshire LCA “*development should look to conserve, enhance and where appropriate restore landscape character*”. The appeal proposals would locate commercial buildings of a similar scale and character adjacent to those already found around junction 10 on the M42, as well as to the south of the A5, whilst also enhancing the land to the east of the appeal site with new hedgerow and woodland planting, as well as the creation of new species-rich grasslands. As I have noted above, the North Warwickshire LCA recognises that the Tamworth Fringe Uplands character area is partially characterised by “*large scale industrial buildings and busy roads ... bordered by the settlement edges of Tamworth, Dordon*”, and consequently it is clear that the proposals would not introduce anomalous buildings into a highly sensitive landscape, but would instead focus development upon junction 10 of the M42 where commercial development is already located on three of the four quadrants. As I have noted above, it is for this reason that the long term effects of the proposals upon local landscape character would be minor; essentially the proposals would conserve the overall pattern and character of the landscape, whilst also providing local enhancements to the agricultural landscape between the appeal site and Polesworth with Dordon.

7.34 LP14 also requires that development should retain existing trees and hedgerows and woodland. The hedgerows around the existing appeal site and in the Offsite Mitigation Area are breached or often missing altogether. There are few hedgerow standards or other trees/woodlands. The appeal proposals would require the removal of a length of species-poor hedgerow at the site entrance, but would also introduce over 10 hectares of new woodland and over 2 kilometres of new native hedgerows with hedgerow standards, which would represent a significant enhancement to the local landscape.

7.35 **I have therefore concluded that the proposals accord with the requirements of LP14.**

7.36 Policy LP30 requires that “*all development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting*”. As I have noted above, the appeal proposals propose the placement of commercial development, of a similar scale and character to that already found around junction 10 and to the south of the A5, within a landscape character area characterised by industrial development, busy roads, movement and lighting.



7.37 Importantly, the proposals also make provision for new native woodland around the 32.36ha of the appeal site, as well as the enhancement of the 41.66ha of agricultural land to the east of the site with new hedgerow and woodland planting and the creation of species-rich grasslands. The enhancement of this area provides landscape and visual benefits, but also helps to reinforce the sense of separation between Dordon and Tamworth, an important element of the local settlement pattern.

7.38 **I have therefore concluded that the appeal proposals conform with Policy LP30.**

The proposal is thus contrary to ... Policies DNP1 and DNP4 of the Dordon Neighbourhood Plan 2023

7.39 DNP1(a) requires that development proposals “*are of a density, layout and design that integrates and is compatible with the character, appearance and amenity of that part of the Parish in which it is located*”. As I have noted above in relation to Policy LP30, the appeal proposals would place commercial development next to a busy motorway junction, close to many other developments of a similar scale, design and character; but they would also reinforce the gap between the appeal site and the western edge of Dordon with new hedgerow and woodland planting, ensuring that the amenity of Dordon residents is respected.

7.40 In relation to DNP1(d), section 11 of the ES states that the proposed new woodland and hedgerow planting around the appeal site and in the Offsite Mitigation Area has the potential to provide a “*substantial net gain*” in biodiversity (11.5.22).

7.41 **I have therefore concluded that the appeal proposals conform with the landscape elements of Policy DNP1.**

7.42 Policy DNP4(1) requires that development proposals “*should be designed to take account of the landscape, the landscape character and topographical setting of the neighbourhood area and its urban environment which contribute to the distinctive character of the Parish*”. As I have noted above, the proposals would place commercial development near to junction 10 and consequently the proposed new buildings would be seen in the context of existing commercial development of a similar scale and design. The provision of screening landforms and native woodland planting around the new buildings would assist in reducing the visual effects of the proposals. The new hedgerow and woodland planting within the 41.66ha Offsite Mitigation Area would enhance the landscape between the appeal site and the western edge of Dordon, reinforcing the sense of separation between junction 10 and Dordon itself. It is for



this reason that the proposals would result in only minor negative effects on the local area of the Tamworth Fringe Uplands by year 15. In conclusion, the proposals do take account of the landscape setting of the neighbourhood area.

- 7.43 Policy DNP4(2) states that “*where possible, development proposals should take into account the key views on Map 5 in their location and layout*”. As I have noted at section 2.0 this proof, it is initially important to note that the requirement of this policy is that proposals should **take account of** the Key Views – where possible designs should accommodate these views.
- 7.44 In terms of the potential effects of the proposals upon these key views there are three key views which look towards the appeal site, all of which are close to SLR viewpoints and therefore the visual effects upon which have all been assessed: Viewpoint 1 is at Kitwood Avenue Recreation Ground, close to SLR viewpoint 6; Viewpoint 2 is at the western end of barn Close, near SLR viewpoint 20; and Viewpoint 3 is on the pedestrian crossing on junction 10, east of SLR viewpoint 13. It is important to note that in the SLR LVIA the visual effects upon walkers and/or residents at each of these viewpoints is assessed as being less than significant; in all cases the proposed development is viewed within the context of existing commercial development, and in the case of Key Views 1 and 2 the proposed buildings would also be set back behind screen planting and over 40 hectares of retained farmland with newly planted hedgerows and both existing and proposed woodland. As I have noted at section 4.0 of my proof, on my own site visit in April 2024 I noted that Key View 3, as well as being only a glimpsed view of Dordon seen in the context of signage, lighting and traffic at the motorway junction, is also a diminishing view due to the growth of roadside vegetation. I have also noted that whilst it would be necessary to clear vegetation to the east of junction 10 as part of the proposals, it is also notable that the Local Plan Scheme and foot/cycle way improvements under LCWIP (as well as the need for maintaining forward visibility) also imply that there would be vegetation clearance and/or regrading along this edge.
- 7.45 DNP4(3) states that the “*undulating landscape, mature woodland, clumps and individual trees and hedgerows ... should be taken into account*”. The appeal proposals would result in the removal of vegetation to the east of junction 10 and north of A5 to provide the new cycle way and allow access, but no other hedgerows and mature trees would be affected. Indeed, as I have noted, the proposals would establish over 10ha of new woodland planting and over 2km of new hedgerow.



- 7.46 DNP4(5) states that “*development proposals should demonstrate the way in which they have taken account of the actions identified in the landscape management strategies recommended for the Landscape Character Area in the NWBC Landscape Character Assessment*”. As I have noted in section 4.0 of my proof, the management strategy for the Tamworth Fringe Uplands in the NWBC LCA includes a requirement to “*safeguard the setting of the villages of Freasley and Whateley*”, site “*new agricultural and industrial buildings ... to mitigate against further landscape impact from built development*”, “*introduction of small to medium sized blocks of woodland planting using locally occurring native species would be appropriate within [the M42] corridor*”, “*encourage retention of hedges and management practices that reinstate historic hedgelines...*”, and “*conserve remaining pastoral character and identify opportunities for conversion of arable back to pasture*”. The appeal proposals satisfy all of these requirements, siting new buildings close to existing commercial buildings and junction 10 in order to reduce landscape impacts, providing ample new hedgerow and woodland planting around the appeal site and in the Offsite Mitigation Area as well as converting arable land to species-rich grassland.
- 7.47 Similarly, DNP4(6) states that development proposals should be “*sympathetic to the landscape setting as defined in the NWBC landscape Character Assessment*”. As I have noted above, the Tamworth Fringe Uplands is described in the NWBC LCA as being “*an indistinct and variable landscape*”, “*fragmented by spoil heaps, large scale industrial buildings and busy roads*”; however, it is also an area characterised by “*open arable land with little tree cover*”. The proposals are sympathetic to this contrast, placing the proposed new buildings in the setting of the existing commercial development at junction 10 and providing enhancement to the agricultural landscape that extends between the appeal site and the western edge of Dordon.
- 7.48 **I have therefore concluded that the appeal proposals conform with the requirements of Policy DNP4.**

Local Rule 6 Party’s Statement of Case

Effects of the Proposed Development upon the Character of Birchmoor

- 7.49 The settlement pattern of Birchmoor, (which is recorded in the series of historic maps in **drawings J10-4a to 4d** in my Appendices), has seen considerable change over the past 150



years. The settlement has had a discrete western and eastern element since the early 20th century, and was originally surrounded by agricultural fields. However, the severance of the two parts of the village by the M42 in the late 20th century, followed by the effective linking of Birchmoor to Tamworth at its western edge (LSoCG 7, **CD D15**), has meant that Birchmoor is no longer a discrete settlement surrounded by fields, but is instead a divided settlement partially merged with Tamworth.

7.50 When considering the effects of the proposal upon the settlement form and setting of Birchmoor it is therefore important to acknowledge that the settlement is no longer clearly defined, being both divided by the motorway and effectively conjoined with Tamworth.

7.51 It is also important to note that Birchmoor does not have an open prospect towards the appeal site – as I have described in my proof, the southern edge of Birchmoor currently comprises mostly 1.5 storey homes backing on to hedgerow-enclosed paddocks, which then juxtapose the northern boundary of the appeal site. This part of the settlement is thus effectively inward-looking and does not rely on long views over the site to define its character and identity. It is partly for this reason that the visual effects of the proposals upon the views of residents at Birchmoor would be less than significant, as I have described in section 4.0 of my proof.

7.52 The proposed design of the appeal proposals would protect the remaining settlement form of Birchmoor and the views of residents. As the parameter plan illustrates, the proposals would provide a landscape buffer at the northern edge of the appeal site of between a minimum width of 75m and maximum width of 135m. This buffer would include a screening landform and new native woodland. In addition to this the existing paddocks, approximately 20 to 25 metres wide along the southern edge of the village, with thick hedgerows on both the southern and northern boundaries, would be retained. Significantly, houses on the southern edge of the village back on to the site, and have back gardens between 10 and 20 metres long. In total, there is therefore **a minimum of over 95 metres of screening landform, woodland planting and existing paddocks** between the edge of the proposed new buildings/hardstanding and the rear of properties at Birchmoor, **with an additional 10 to 20 metres of rear garden before reaching the rear elevations of houses on Birch Grove**. Importantly, the parameter plan also proposed lower buildings on the northern edge of the appeal site, with maximum building heights at 113m AOD as opposed to 117.8m for the buildings on PlotA1.



- 7.53 The proposed massing of the appeal proposals, combined with the substantial depth of both existing paddocks and hedgerows, plus new screening landform and woodland planting, would screen nearly all views of the proposed new buildings by year 15 as the ZTV in **drawing J10-3c** illustrates. This substantial area of mitigation would also form a wooded setting to the southern edge of Birchmoor which would reinforce and respect its landscape setting.



8.0 SUMMARY AND CONCLUSIONS

Review of the Landscape Planning Context

- 8.1 The appeal site is not within a landscape or landscape-related designation. The appeal site is within a Strategic Gap but this is a spatial planning designation and therefore does not reflect any particular landscape value.
- 8.2 It is Common Ground (LSoCG paragraph 20) that the appeal site does not constitute a valued landscape in the sense of paragraph 180(a) of the NPPF. The NPPF therefore requires that proposals recognise the intrinsic character and beauty of the countryside (180(b)) as opposed to protect and enhance valued landscapes (180(a)).
- 8.3 The appeal site is not allocated in the development plan. However, Policy LP6 in the adopted Local Plan states that significant weight should be given to supporting economic growth, particularly where evidence demonstrates an immediate need for employment land. The West Midlands Strategic Employment Sites Study identifies a pressing need for employment land, and identifies the locality of the Appeal site as being within one of the key locations for such development.
- 8.4 The Strategic Gap aims to maintain the separate identities of Tamworth and Polesworth with Dordon. Policy LP4 does not preclude all development within this gap, only those proposals which *significantly* adversely affect the distinctive, separate characters of the two settlements. LP4 is therefore a less onerous designation than Green Belt, since all land within that designation must be kept permanently open.
- 8.5 There have been no previous planning decisions on the appeal site itself. However, there have been two appeal decisions on nearby sites within the former Meaningful Gap, which preceded the adoption of the latest Local Plan. Whilst these decisions were made in a different policy context it is important to note that both recognised that the sense of separation between settlements relies on much more than a “scale rule” approach to measuring distance between settlements, since the character of the places and the intervening land needs to be taken into account. The Inspector for the St Modwen appeal also accepted that whilst that development would be “*highly visible*” there would remain “*an unequivocal sense of separation*” between the settlements due to the “*expanse of farmland*” between the two settlement edges.



Landscape Design Review of the Proposals

- 8.6 64.4% of the 32.36ha appeal site would comprise new buildings, roads and hardstanding, with the remaining 35.6% comprising landscaped screening landforms around the edges of the site. An Offsite Mitigation Area of 41.66ha would be provided to the east of the appeal site, and this would include new woodlands, orchards as well as hedgerow planting and species-rich grassland.
- 8.7 The overall design of the proposals – comprising the substantial screening landforms and woodlands around the proposed buildings and the extensive area of retained and enhanced farmland between the eastern edge of the appeal site and the western edge of Dordon – was shaped with input from SLR’s landscape architects at the outset of the project.
- 8.8 It is common ground between the parties that new trees and woodlands would achieve a height of 7.5 to 8 metres if planted and managed in accordance with best practice.
- 8.9 I have reviewed the established landscaping at Magna Park, Lutterworth, and have noted that deciduous woodland buffers narrower than those proposed at the appeal site provide significant screening and filtering of buildings up to 27m tall.

Potential Landscape and Visual Effects of the Appeal Proposals

- 8.10 There has been a large amount of landscape and visual assessment carried out as part of the planning application process, as well as part of post-application discussions with the Council’s landscape consultants. Summer and winter photography and visualisations have been prepared, and all assessments have been based upon a worst-case scenario of a parapet height of 117.8m AOD.
- 8.11 As a result of the post-application discussions with Council’s landscape consultants, as well as the drafting of the Landscape Statement of Common Ground for this appeal, there has been the agreement of a considerable amount of common ground regarding methodology, relevant character assessments and representative viewpoints. Of particular significance are the following points of agreement:
- It is usual practice in LVIA to assess increased visibility/prominence of large scale development in rural and semi-rural context as causing negative effects
 - The site is an area of transitional landscape on the settlement edge;



- Bunds and cuttings are a characteristic feature of the wider landscape;
- The appeal site is not a valued landscape in the sense of paragraph 180(a) on the NPPF;
- The proposed development would result in relatively localised landscape and visual effects.

8.12 In the North Warwickshire Landscape Character Assessment the site is classified as being part of LCA 5, Tamworth Fringe Uplands. The character assessment describes this as a “*an indistinct and variable landscape, with relatively flat open arable fields and pockets of pastoral land, fragmented by spoil heaps, large scale industrial buildings and busy roads, and bordered by the settlement edges of Tamworth, Dordon and Kingsbury ... the M42 has a dominant and unifying presence*”.

8.13 With reference to the CPRE Dark Skies map I have also noted that the appeal site and its context is influenced by high levels of lighting, as well as persistent noise from traffic on the M42 and A5.

8.14 I have reviewed the findings of the SLR LVIA, and the subsequent additional visual assessment issued by SLR in March 2024, based upon my own desk top assessment and site visits in both winter and summer.

8.15 I have concluded that the appeal proposals would result in localised negative landscape effects. There would be moderate and negative effects on the large-scale arable field and gently rising landform, and in the short term there would also be moderate/minor and negative effects on the hedgerows and woodland landscape receptor. These effects would be largely focused upon the appeal site and its immediate context. The moderate negative effects upon the arable field receptor and gently rising landform would remain moderate and negative by year 15, but the effects on the hedgerows and woodlands receptor would become moderate and positive by year 15, due to the substantial quantity of proposed new woodland and hedgerow planting that would be provided.

8.16 Most importantly, the effects of the appeal proposals upon localised area of LCA 5 would be moderate/minor and negative at construction and year 1, becoming minor and negative at year 15 once the proposed new planting around the site and in the Offsite Mitigation Area has reached semi-maturity. Fundamentally, the proposals would introduce large new commercial



buildings into a transitional area which is already partly characterised by similar buildings, and would introduce further light and noise into an area which is again already strongly influenced by lighting from the settlement edges and highways, as well as by traffic noise from the adjacent M42 and A5 and commercial uses.

- 8.17 I have considered the potential visibility of the proposals with the aid of a computer-generated ZTV. I have also prepared a ZTV for the existing commercial developments to the west and south of the appeal site, and I have noted that the appeal proposals would have a more limited overall extent of theoretical visibility than that created by these existing commercial buildings.
- 8.18 I have concluded that the visual effects of the proposals would be localised, with significant effects by year 15 focused upon the appeal site itself and rights of way across the agricultural land to the east of the appeal site.
- 8.19 By year 15, and thereafter, there would also be no significant visual effects for residential receptors at Birchmoor or Dordon, and no significant effects for vehicle users on the road network around the site.
- 8.20 In summary, the appeal proposals would result in localised negative landscape and visual effects, but these effects would reduce over time due to the proposed new native woodland and hedgerow planting both around the appeal site as well as in the Offsite Mitigation Area. In this context it is important to note that it is common ground that all large scale developments on semi-rural (or rural) sites will result in at least localised landscape and visual harm.
- 8.21 **It is also notable that the Committee Report also concluded that the proposals would result in moderate landscape harm and moderate visual harm, and I agree with that overall assessment.**

Potential Effects of the Proposed Development upon the Separate Identities of Tamworth and Polesworth with Dordon

- 8.22 It is common ground between the parties that one approach for assessing the effectiveness of a gap between settlements is to apply the Eastleigh Criteria, and this approach is applied by both the Appellant in the SLR LVIA as well as by LUC in their review dated July 2022.
- 8.23 The assessment of the Eastleigh Criteria on the SLR LVIA concluded that “the separate identity of Tamworth and Polesworth with Dordon would remain both in relation to physical separation and in terms of their distinctive character. A sense of separation would remain



whether travelling along the A5 or along PRow within the gap; travellers would have a clear sense of having left the first settlement, having travelled through an undeveloped area and then entering a second settlement”.

- 8.24 I have carried out my own assessment with the Eastleigh Criteria, and I agree with these conclusions. Furthermore, there is no doubt that the proposals by the Appellant to replant native hedgerows and woodlands, to establish new species-rich grasslands on existing arable fields, and to establish a new orchard on the western edge of Dordon, would enhance the rural character of the gap between the settlements and thus emphasise the sense of leaving one settlement, travelling through a rural landscape, and then arriving somewhere else.
- 8.25 In summary I conclude that the proposals would not significantly adversely affect the distinctive, separate characters of Tamworth and Polesworth with Dordon, in accordance with LP4.

Comparative Assessment of other Potential Employment Sites being Promoted in North Warwickshire

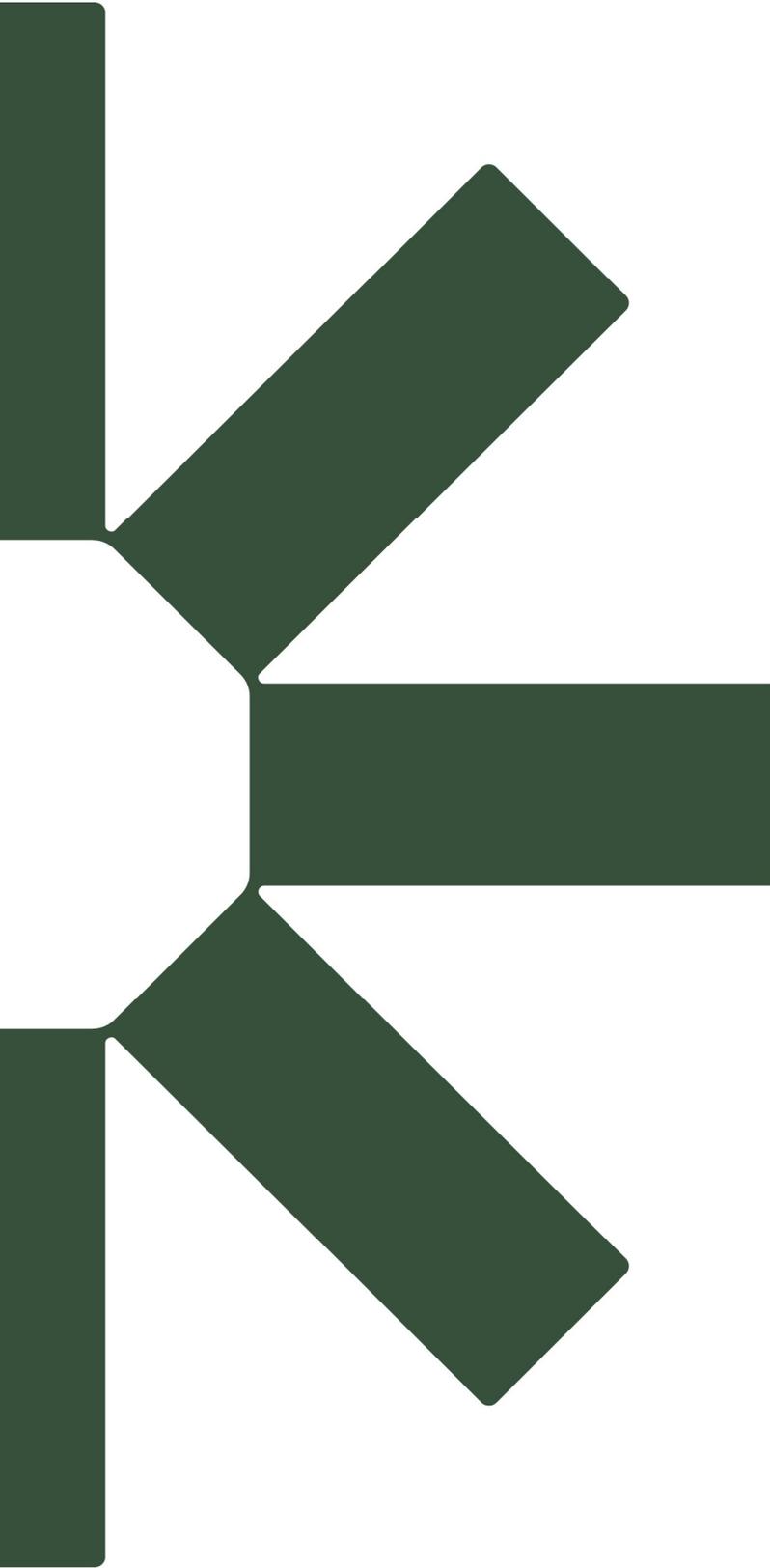
- 8.26 It is clear that there has been a rapid expansion of commercial development in the locality of the appeal site in the past 30 years. The West Midlands Strategic Employment Sites Study notes that demand for such sites likely to remain strong, and notes that sites close to motorway junctions are being prioritised by both developers and occupiers.
- 8.27 I have carried out a review of two potential new commercial sites, also located in North Warwickshire and near to junction 9 of the M42. I have considered the potential landscape and visual effects of development on these sites and have concluded that given the largely rural nature of the sites, and the likely form of the development, both would result in at least localised negative landscape and visual effects.
- 8.28 I have also noted that both of these comparative sites are located within the Birmingham Green Belt. Both sites are largely open and both at least partly perform three out of the five Green Belt functions. To even consider both sites would require a far higher policy test than is relevant in respect of the appeal premises – either exceptional circumstances for Green Belt release or the demonstration of Very Special Circumstances.



Response to the Landscape and Visual Aspects of Reasons for Refusal 1 and 2

- 8.29 In relation to Reason for Refusal 1, I have concluded that the appeal proposals would reduce the distance between Tamworth and Polesworth with Dordon, but would not significantly affect the distinctive, separate characters of these settlements.
- 8.30 The edge of Tamworth is characterised by large commercial buildings set at around 100m AOD, whereas Dordon is a largely residential, red brick settlement reaching over 120m AOD. The land between these settlements would remain as undeveloped farmland, which would be enhanced by hedgerow, woodland and orchard planting as well as species-rich grassland; it would be largely rural in character, and would be of sufficient extent to retain a clear sense of leaving one settlement, travelling through an intermediate, undeveloped landscape, and arriving somewhere else.
- 8.31 As the Inspector for the St Modwen appeal concluded, “*the expanse of farmland*” between the two settlements “*differentiates each settlement*”; and this would remain the case if the appeal proposals were to be implemented.
- 8.32 Turning to Reason for Refusal 2, whilst it is true that the appeal proposals would result in negative landscape and visual effects, both the SLR LVIA and my own review have concluded that the proposals would cause less than significant effects on the overall character of the area, partly because they propose commercial development adjacent to existing commercial developments of a similar character at junction 10 and south of the A5, but also because the important and largely rural gap between Tamworth and Dordon would be maintained and enhanced.
- 8.33 I have also noted that it is common ground that it is usual practice in landscape and visual impact assessment to assess increased visibility or prominence of large scale development within a semi-rural context as resulting in negative landscape and/or visual effects.
- 8.34 In this context I have reviewed other commercial sites that are being promoted in North Warwickshire, and have concluded that these developments would also result in negative landscape and visual effects. Notably, both of the sites that I have reviewed are also within Green Belt, which the NPPF states should remain “*permanently open*”.





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