



North Warwickshire Borough Council

Rule 6 Statement

Appeal by Richborough

Land South Of Warton Recreation Ground, Orton Road, Warton,

PINS Ref: APP/R3705/W/25/3371526

LPA Ref: PAP/2025/0155

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Introduction

1.1 This Rule 6 Statement provides North Warwickshire Borough Council's Statement of Case in relation to the appeal lodged by Richborough against the Council's non-determination of the outline planning application referenced PAP/2025/0155. It summarises the case that the Local Planning Authority will present to the Public Inquiry in respect of this appeal submitted under Section 78 of the Town and Country Planning Act 1990.

1.2 The Council formally considered the planning application at its Planning and Development Board meeting on 6th October 2025 as if it had been the determining Authority. It resolved that it would have refused planning permission.

1.3 Five refusal reasons were identified.

1. *The proposal would be contrary to the Council's spatial planning policy as represented in its settlement hierarchy as defined in the North Warwickshire Local Plan 2021. Warton is a Category Four Settlement within that hierarchy and owing to the limited services and facilities within it, the proposal would represent a wholly disproportionate and unsustainable addition to the settlement. It is considered that the benefits of the proposal, including the engagement of the titled balance as outlined by the applicant do not outweigh this significant harm. The proposal is thus contrary to Local Plan policies LP1, LP2 and LP30 together with policy PNP3 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.*
2. *The proposal would result in an unacceptable intrusion into the open countryside that would give rise to landscape and visual harm. Further, the scheme would give rise to harm to the settlement morphology of Warton, given the site reads as an adjunct to the settlement, rather than integrating with the settlement. The proposal is thus contrary to Local Plan policies LP1, LP14 and LP30 together with PNP3 and PNP4 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.*
3. *The proposal would give rise to harm to social cohesion. Warton has seen a considerable quantum of development in the recent past and an additional increase in 110 dwellings to the settlement would give rise to new residents failing to integrate effectively into the settlement. The proposal is this contrary to Local Plan policies LP1,*

LP14 and LP30 together with PNP3 and PNP4 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.

- 4. The provision of affordable housing at the edge of the settlement would not result in the residents of these units integrating effectively into the settlement and the creation of a balanced and integrated community.*
- 5. The proposal would result in the permanent loss of an area of approximately 5.7 hectares of best and most versatile agricultural land. As such the application proposals would be contrary to policy LP1 of Local Plan and contrary to paragraph 187 of the National Planning Policy Framework 2024.*

1.4 In summary, the Council's case is that covered in the Committee report of the 6th October 2025 (Appendix A). This acknowledges whilst there are benefits of the scheme, there are acknowledged benefits arising from the development – particularly the delivery of new housing. This also recognises that the outcome of the final balance here is to be approached through para 11 (d) (ii) of the NPPF because of the acknowledged lack of a five-year housing supply. In this respect, it is considered that the harms caused, do significantly and demonstrably outweigh the benefits in this “tilted” balance.

1.5 The Council will argue that firstly, in that the significant weight of the harms significantly and demonstrably outweighs the benefits. The settlement hierarchy set out in the Local Plan is the Council's strategic approach to delivering sustainable development in the Borough. The status of Warton in that hierarchy has been confirmed in updated evidence. It thus carries weight. A breach of this spatial policy weakens the presumption in favour of sustainable development set out in the NPPF. There are very real harms caused to the character and appearance of this Warton and to its overall morphology, its social cohesion and its sense of place and community due to the scale of this proposal. This was found to be the case in the Curlew Close 2023 appeal decision, but with a far less amount of new development. These will be permanent harms on a much

greater scale. It is acknowledged that the weight to be given to the delivery of new housing has moved on since that Curlew appeal decision, but so too has the scale and location of the proposed development and thus the weight to be attributed to the combined harms.

1.6 The Council will argue that on balance taking into account all of the factors for and against the proposal, it is considered that the proposal would be contrary to the Development Plan and to the NPPF when taken together as a whole.

2. Planning Conditions

2.1 Without prejudice to its case, the Council is preparing a schedule of planning conditions with the appellant. These will be presented to the Inquiry.

3. Section 106 Matters

3.1 Similarly, the Council is discussing the Heads of Terms of Section 106 Agreement with the appellant.

3.2 The Council will evidence how these draft Heads of Terms are compliant with the statutory requirements for Section 106 Obligations.

Appendix A

General Development Applications

(6/I) Application No: PAP/2025/0155

Land South Of Warton Recreation Ground, Orton Road, Warton,

Outline planning application for the construction of up to 110 dwellings, with access, landscaping, sustainable drainage features, and associated infrastructure. All matters are reserved except for primary vehicular access from Church Road, for

Briony Stenhouse - Richborough, Michael Ensor Caton and Andrew Norman Caton

1. Introduction

- 1.1. This application is presented to the Planning and Development Board following notification from the Planning Inspectorate that the applicant has lodged an appeal against the non-determination of the application. A Public Inquiry is scheduled for the beginning of December 2025.
- 1.2 Whilst this Council is no longer able to determine this application, it is necessary for Members to confirm the case that this Council will present to the Planning Inspector appointed by the Secretary of State to hear the appeal. This report sets out all the relevant planning policies and material planning considerations and invites Members to confirm the position that the Board would have taken, had it been able to determine the planning application. This will then become the Council's case in the forthcoming appeal.
- 1.3 A site visit has been arranged prior to considering this application and a note of that will be circulated to Members.

2. The Site

- 2.1 The application site comprises 6.37ha of land located directly to the west of the settlement of Warton in North Warwickshire. It is located approximately 4km to the east of Tamworth. The site is currently in agricultural use (arable) and is made up of one field parcel. The site is gently sloping with a gradual fall from the west and north towards the south-east. The site is defined by Church Road to the north and west, Orton Road to the south and the recently constructed 'Cornfields' development to the east. The eastern boundary meets the existing settlement edge of Warton.
- 2.2 The north-western boundary of the application site is defined by a hedgerow and hedgerow trees and runs alongside Church Road. There is an existing field entrance with a dropped kerb in the north of the site where agricultural access is gained into the field. On the northern side of Church Road there are several residential properties. The southern boundary of the field is defined by an existing hedgerow and a number of mature trees, particularly to the centre of the southern boundary. The hedgerow thins in the south-eastern corner where there is an existing field entrance with a gate. On the southern side of Orton Road are further agricultural fields.

- 2.3 The eastern boundary is adjacent to the recently built properties on the 'Cornfield' estate. This development was previously promoted by the applicants in 2018, with reserved matters consent achieved in 2019. There is no physical boundary marking the edge of this development. The northern part of the eastern boundary is adjacent to Warton Recreation Ground. Hedgerow and small hedgerow trees along with remnants of wire fencing separate the site from the recreation ground. Further east of the recreation ground and 'Cornfield' development is the village of Warton.
- 2.4 A small pond forms part of the eastern edge of the site, adjacent to the recreation ground. There are no Public Rights of Way (PROW) within the site. There is a PROW (AE15) on the top end of Church Road, to the east of the site which runs down to Stipers Hill.
- 2.5. The eastern boundary of the application site adjoins the residential edge of Warton at the 'Cornfields' development. There is also linear residential development running west out of Warton along Church Road. This part of the village is predominantly residential. Warton Recreation Ground is adjacent and Warton Holy Trinity Church is 150m from the north-eastern boundary. Allotments are provided off Waverton Avenue. 'The Top Shop', is in the village which provides a Post Office and convenience store. 'The Office at Warton's public house and the Village Hall are 350m from the north- eastern corner of the site along Church Road and Maypole Road. Warton Nethersole C of E Primary School lies further to the east along Maypole Road, 400m from the eastern site boundary. To the north, west and south is open countryside, predominately in agricultural use. Polesworth is located further west of the site.
- 2.6. Location plans are at Appendix A and Appendix B is an aerial photograph.

3. The Proposal and Applicant's Case

- 3.1 This application is in outline with all matters reserved with the exception of access. A parameters plan defines the proposal, with regards to housing, landscaping and recreation space. This is at Appendix C.
- 3.2 The application has set out that the "aspiration for the development of the site is to provide an opportunity to create a sustainable and attractive extension to the village, inspired by the context and local character of Warton. Embracing high quality and sustainable design principles the proposals are designed to sensitively integrate with the surrounding landscape and built form, providing a range of new homes that can respond to future needs." The overarching principles opportunities that underpin the proposal are said to be as follows:
- Vehicular and pedestrian access to Church Road,
 - Keeping a rural, landscape edge along the western boundary of the Site to define the edge of development whilst creating a buffer to blend with the wider landscape and surroundings,

- Protecting and enhancing existing trees and hedgerows along the boundaries of the Site, along with the existing pond, through the creation of ecological corridors,
- Offering an attractive central green focal space, providing opportunities for people to meet and socialise,
- Creating a network of pedestrian connections to facilitate active travel within the Site and to the wider area,
- Creating active travel links through to the recreation ground to the north-east to provide access to the local bus services via Red Marl Way, and
- Maximising views out from dwellings fronting the landscape edge to provide an attractive setting.

3.3 The application sets out with regards to access and parking, that the primary access to the proposed residential development is to be delivered in the form of simple priority junction with Church Road. This access will have a 5.5m wide carriageway and adjacent 2m wide footways proposed in accordance with the Warwickshire County Council's Design Guide. The access drawing can be viewed at Appendix D. The primary access road into the site would be designed to adoptable standards, connecting to a hierarchy of internal streets, including secondary streets (also designed to adoptable standards) and tertiary streets. Private drives serving up to 5 dwellings will typically feature to the edges of development. A separate pedestrian access is also proposed to be served from Church Road at the western boundary of the site, which is to connect with existing footways that directly lead to Polesworth. Off-site junction improvements at the Orton Road / Kisses Barn Lane / Stiper's Hill / Linden Lane junction are proposed in the form of providing larger, illuminated and overall, more visible give-way signs along Kisses Barn Lane and Linden Lane, both on approach and at the junction with Stiper's Hill and Linden Lane. Each new dwelling will have on-plot car parking with 1 space for 1-bedroom properties plus 0.5 for visitor parking and a minimum of 2 allocated spaces for every 2+ bed property. This includes the provision of garages for the 4 bed properties. All properties will have electric vehicle charging.

3.4 The residential use of the site is proposed to be up to 110 dwellings, including the provision of 40% affordable dwellings. The proposal is said to provide an opportunity to deliver a range of types, sizes and tenures that reflects local need. The built development area includes roads, footways, private drives, incidental open space and other associated infrastructure. The masterplan allows for a mix of dwelling types and sizes to assist in providing choice within the local housing market and contribute to creating a sustainable, mixed community. The application has assumed that development will, in the main, comprise 2 storey housing, consistent with the typical height of development seen in the surrounding residential areas of Warton. In key locations 2.5 storey dwellings could be used to create focal points, define primary vistas/entrances and add variation to the roofscape. 40% of all proposed dwellings will be delivered as affordable housing (85% affordable/social rent and 15% intermediate rent). The affordable housing will be secured through a Section 106 Agreement. The applicants would support the inclusion of Local Occupancy Criteria within the Agreement to ensure those with a connection to Warton are prioritised.

- 3.5 When considering open space, the masterplan shows the delivery of approximately 2ha of green infrastructure. This includes 0.83ha of amenity green space and 1.17ha of natural and semi natural green space. Existing boundary hedging and trees would be retained, unless needed for vehicle or pedestrian entrances. Open space is provided in the form of a central, focal green and a circular walk incorporating natural play opportunities. The site identifies a proposed link to the neighbouring recreation ground which includes equipped play. A financial contribution to improve existing equipped play has been identified. Orchard planting is proposed within the western extent of the public open space.
- 3.6 Members will be aware that there are substantial issues involved with this proposal and that an assessment will have to be considered in the final planning balance, which will take account of all of the material planning considerations affecting determination.
- 3.7 It is thus important that the Board understands the applicant's position on these issues. To this end, he has produced a Planning Statement. In order to assist Members, a Summary of this Planning Statement is attached at Appendix E. In particular, it addresses the main crux of the final planning balance which is the need for housing supply through a sustainable extension to the settlement. A range of technical and environmental assessments have been undertaken to inform the preparation of the development proposals and ensure appropriate mitigation is included to address any adverse impacts that may arise from the development. These are not considered to give rise to any unsurmountable constraints. The full Statement is available for Members to review online.

4. Development Plan

- 4.1 The Development Plan relevant to this application comprises the North Warwickshire Local Plan 2021 and the Polesworth Parish Neighbourhood Plan June 2025.
- 4.2 North Warwickshire Local Plan. The relevant policies of the Local Plan are: Policy LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP5 (Amount of Development), LP7 (Housing Development), LP8 (Windfall), LP9 (Affordable Housing Provision), LP14 (Landscaping), Policy LP15 (Historic Environment), LP16 (Natural Environment), LP17 (Green Infrastructure), LP21 (Service and facilities) LP22 (Open Spaces and Recreational Provision), LP23 (Transport Assessments), LP25 (Railway Lines), LP26 (Strategic Road Improvements A5), LP27 (Walking and Cycling), Policy LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood Risk Management), LP34 (Parking), LP35 (Renewable Energy and Energy Efficiency), LP36 (Information and Communication Technologies) LP37 (Housing Allocations) and LP38 (Reserve Housing Sites)
- 4.3 The relevant policies of the Polesworth Parish Neighbourhood Plan are - Policy PNP1 Protecting Local Green Space, PNP3 Sustainable Design and Construction, PNP4 Conserving and Enhancing the Landscape, PNP7 Sports Recreation and Leisure Facilities, PNP8 Transport and PNP9 – Preserving the Separate Identity of Polesworth's Villages.

4.4 Other Material Planning Considerations

The National Planning Policy Framework 2024 – (the “NNPF”)

National Planning Practice Guidance – (the “NPPG”)

MHCLG National Design Guide

Warwickshire Local Transport Plan 4 (July 2023)

Warwickshire Local Cycle and Walking Infrastructure Plan (Feb 2024)

North Warwickshire Landscape Character Assessment (2010)

Air Quality SPD (2019)

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

Planning Obligations for Sport, Recreation and Open Space SPD (2023)

The Annual Monitoring Report March 2024

Settlement Sustainability Appraisal

North Warwickshire Infrastructure Delivery Plan 2020

Curlew Close Appeal – APP/R3705/W/22/3312660 June 2023

5. Consultations

Environment Agency – No comments.

Warwickshire Fire and Rescue Service – No objection subject to a condition.

Sports England – No objection

NWBC - Environmental Health – No objection subject to conditions

NWBC Housing – Affordable housing as proposed is acceptable.

National Highways – No objection

Warwickshire County Council (Forestry) – No objection suggest condition

Warwickshire County Council (Ecologist) – No objection subject to conditions

Warwickshire County Council Archaeology – No objection subject to conditions

Warwickshire County Council as Highway Authority – No objection subject to conditions

Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions

Warwickshire Fire and Rescue Service – No objection subject to condition

6. Representations

- 6.1 Two letters of support have been received agreeing with the proposal and concerned that the objectors are seeking to get the developer to spend money to address objections, leading to unnecessary costs.
- 6.2 One hundred and ninety-nine representations have been received from local residents objecting to the proposal, objecting on the following grounds below:

Conflict with the Local Plan and Neighbourhood Plan and over development

- The proposed development is outside of the village's defined development boundary, which contradicts the principles of the adopted neighbourhood plan.
- Warton has expanded with new housing in recent years. Further expansion is not considered as sustainable growth. Warton is a category 4 settlement in the Local Plan.
- There is a Local over supply of housing. No proven need for further housing.
- The application would undermine the settlement hierarchy as covered by LP2.

Bio-diversity and wildlife

- The loss to Wildlife and natural habitats including trees and hedgerows is having a detrimental effect. New planting will not replace lost bio-diversity.
- The site and its surrounding fields are home to various protected species, including bats, birds and great crested newts, and other protected species.
- Light pollution could impact upon wildlife such as Bats.
- Further ecological surveys should be carried out.

Traffic and Highways Concerns

- The site is isolated without transport to services such as jobs and education. Limited public transport options in the area.
- Concern over the increase of traffic on the access off Church Road due to 110 dwellings. Congestion at key junctions during peak times, road safety concerns for vehicles and pedestrians, and road surface issues. The road is used by the church and planning field.
- In heavy rain surface water is a problem on Church Road.

Lack of Infrastructure

- Existing facilities such as GP surgeries and schools are already under significant pressure. Nearest GP is in Polesworth / Dordon.
- Limited Local facilities is Warton – 1 shop, 1 pub and 1 social club.
- Concern over impact of proposal upon existing utilities.

Change to Village Character

- This development would significantly alter the character of the village, and lead to urban sprawl.
- The development does not fit into the landscape of the area, which is made up of small hill top villages.

Statement of Community Engagement

- Concerns over the community engagement and how it was undertaken and presented in the document provided with the application. Covering - Flawed Methodology and Bias; Insufficient Consultation Period; Conflict with Neighbourhood Planning; Lack of Inclusive Engagement:
- The community engagement statement be rejected, and redone.

Other items

- Proposal is contrary to Councils Landscape Character Assessment
- Proposal does not align with the NPPF.
- Fire fighting capacity is being reduced impacting upon Warton and the proposal.
- Children's play area adjacent will not be able to cope with further use, leading to equipment needing to be replaced.
- Agricultural land will be taken permanently out of production.
- No details of how new homes would be energy efficient.
- Change of Use and Human Rights Concerns. Amenity impact. Article 8 of the Human Rights Act 1998 provides a broader legal context.
- Concern over flooding risk.
- Concern over nickel in the soil and risk to public health
- Noise Pollution from construction and from associated human activities when the site is occupied.

6.3 The Warton Residents Association refers to the following results from a survey it conducted.

1. Community Identity and Service Pressures - Concerns regarding loss of village identity and pressure on local services.
2. Local Opposition and Educational Infrastructure - Opposition centred on the impact on schools and increased traffic.
3. Infrastructure Overload and Traffic - Widespread concerns about overloaded infrastructure and increasing traffic.

4. Health Service Concerns - Concerns around increased strain on healthcare services.
5. General Infrastructure and Sustainable Development - Emphasis on sustainable growth and preserving community character.

6.4 Polesworth Parish Council objects on the following grounds:

1. Overdevelopment and Loss of Village Identity - The scale of development proposed is inconsistent with the character of Warton as a rural settlement. It undermines the principles of proportionate growth as articulated in the National Planning Policy Framework (NPPF) and the Polesworth Neighbourhood Plan, which places significant weight on preserving local identity and sense of place.
2. Infrastructure Deficiency and Capacity Constraints - The proposed development poses unacceptable risks to existing infrastructure. Roads in and around the area are already subject to congestion, with several residents citing safety issues during peak hours. There are no assurances within the application that such infrastructure deficits will be mitigated.
3. Educational and Healthcare Services - Local schools are currently oversubscribed, and health services are already stretched beyond capacity. The addition of further households would significantly impair access to statutory services.
4. We further submit that this objection should make reference to the overwhelming local opposition and the application's incompatibility with the adopted development plan, including the Neighbourhood Plan, and its failure to meet the requirements of sustainable and proportional growth in rural settlements

7. Section 106 Matters

- 7.1 The following requests for contributions towards infrastructure delivery have been received as part of the consultation process.
- 7.2 Warwickshire County Council has requested contributions of £2,038,958 towards both Primary Education within Warton and Secondary Education at the Polesworth School; £2,408 to improve, enhance and extend the facilities or services of a specified library service point, £6,303.83 to maintain public rights of way which fall fully or partly within a 1.5m radius of the site and £5,500 (£50 per dwelling) to support road safety initiatives within the community associated with the development.
- 7.3 The Warwickshire Police and Police and Crime Commissioner have requested £28,532.90 towards recruitment and equipping of officers and staff, police vehicles and office accommodation
- 7.4 The North Warwickshire Leisure and Community Development Officer has requested a total contribution of £374,414 for off-site open space and recreational internal and external provision. The site plan sets out a Local Area for Play (LAP) is provided on site and would expect the inclusion of natural play facilities on site.

If no play areas are to be provided on site, then an additional £86,.892.43 is sought for off-site play provision plus £86,803.45 for maintenance of that provision.

- 7.5 The George Eliot NHS Trust has requested £123,095 for the provision of additional health care services to meet patient demand arising from the development

8. Observations

a) Introduction

- 8.1. It is considered that the main issues are as follows:

- i) Whether this is a sustainable development in the context of Warton's status within the Borough's Settlement Hierarchy as defined by Local Plan policy LP2 by virtue of its scale, nature and location.
- ii) Whether it would cause significant harm to the character and appearance of the area or improve Warton's character and appearance as set out in Local Policies LP1, LP14 and LP30 and neighbourhood plan policies PNP3 and PNP4.
- iii) Whether there are adverse impacts that would significantly and demonstrably outweigh the application benefits such that planning permission should be refused as set out in the NPPF at para 11 (d) (ii) and its footnote 8.

b) The Harm Side of the Planning Balance

i) Settlement Hierarchy and Proportionately

- 8.2 The first consideration is Local Plan Policy LP2 which sets out that the distribution of new development will be in accordance with the Borough's settlement hierarchy as defined in this policy.

- 8.3 The policy says that development in the Borough will be proportionately distributed in accordance with the Borough's settlement hierarchy. Warton is identified as a Category 4 settlement in that hierarchy. In this regard the Policy says that in Category 1 to 4 settlements, development within development boundaries will be supported in principle. Development directly adjacent to settlement boundaries may also be acceptable, including that which would enhance or maintain the vitality of rural communities, provided such development is proportionate in scale to the relevant settlement and otherwise compliant with the policies in the Plan and National planning policy considered as a whole. In respect of Category 4 Settlements, then development will be supported in principle within Warton's development boundary. It continues by saying that development directly adjacent to the boundary may however also be acceptable. All development will be considered on its merits; having regard to other policies in the Plan and where development would enhance or maintain the vitality of rural communities provided it is proportionate in scale to the relevant settlement. In the case of Category 4 settlements then the policy says that this may also be for windfall housing usually on sites of no more than ten units at any one time depending on viability, services and infrastructure deliverability. Many of the representations recorded above cite the fact that this site is outside of the village development boundary and thus a refusal should follow. That is understood, but it is not a reason for refusal, given the full content of Policy LP2. The site is directly adjacent to the development

boundary - consistent with Policy LP2 - and thus it is necessary to assess the application against the “tests” set out in that Policy and other material planning considerations, before a refusal can be considered.

- 8.4 As test of LP2 is that the development should enhance or maintain the vitality of rural communities provided such development is proportionate in scale to the relevant community. In the case of Warton, this is “usually of no more than ten units at any one time, depending on viability, services and infrastructure deliverability”. In this case the proposal is for up 110 dwellings and thus it would appear that the proposal would not meet this test. However, the figure is not prescriptive and it is conditioned such that the development should, more importantly, depend on service and infrastructure deliverability.
- 8.5 The key theme running through the NPPF is the promotion and delivery of sustainable development. This is reflected in the identification of the settlement hierarchy in Policy LP2 of the North Warwickshire Local Plan 2021. Warton is a Category 4 settlement in that hierarchy. So, the issue here is whether the proposal harms the spatial strategy set out in LP2 and particularly the place of Warton within it. There has been growth recently in the village and there are permissions that currently are being completed. Together these amount to a significant number of additional dwellings. As a consequence, further development, even of the scale as now proposed in the current application would go beyond the capacity of the local services and facilities and cause harm to the settlement and to the standing of the spatial planning policy. Quantitatively there have been 310 dwellings approved since 2016 over a base of 517 thus giving a 58% increase. The current proposal would increase this to a 81% rise in the size of Warton since 2016.
- 8.6 The Local Plan describes Warton as a small village north-west of Atherstone and to the east of Polesworth. The village has a limited range of services and facilities with a primary school, a public house as well as a Working Men’s Club. There is one remaining shop/post office in the centre of the village with a small village hall opposite the shop. There are recreational facilities adjacent to the Church along Church Road, other than that the facilities in Warton are limited. Qualitatively the services within the village have not improved over this time since 2016. The Curlew Close appeal (Appendix F) concluded in 2023 that the village does offer a few services and facilities, they are insufficient to cater for the daily living requirements of the residents. Easy access to shops, services and job opportunities would heavily rely on the use of the private motor vehicle.
- 8.7 The adopted settlement hierarchy followed the submission of evidence to the Local Plan’s Examination in Public, in the form of a Settlement Sustainability Assessment. That has since been updated. This explains how the settlement hierarchy has been defined and how settlements have been placed within it. The hierarchy has not changed during this assessment period and as a consequence, the village remains within Category 4 of the present hierarchy.
- 8.8 Services and infrastructure delivery is such that the County Council has not objected to the proposal as well as the Public Health Authority or the George Elliot NHS Trust. They all seek contributions towards infrastructure improvements. Apart from the early year provision and primary school, all the contributions are for improvement to services located outside of the village and these rely on private

transport. It is therefore clear that while the village does offer limited services and facilities, but that they are insufficient to cater for the daily living requirements of residents. It could be acknowledged that the presence of additional residents could support and enhance the existing services and facilities, however this has not happened and recently the village has lost facilities (for instance the Fox and Dogs PH). Access to shops, services and job opportunities would be heavily reliant on the private motor vehicles. Also, whilst the proposal does include a policy compliant 40% affordable housing provision, such housing should ideally be located in settlements which have easy and ready access to local services, facilities and employment. Again, this is not the case here, as such access will still be dependant on private transport. There is a bus service to Tamworth running from 07:00 to around 17:00, however this has a frequency of around one every two hours and takes around 30 minutes. There are five buses on a Sunday from 10am until 6pm. There are more frequent services from Polesworth but this is some 2km away. The nearest Doctors surgery is Long Street Dordon with limited access to one in Polesworth and a Dentist on Bridge Street Polesworth. The nearest large supermarkets are in Tamworth or Atherstone. As can be seen qualitatively Warton does have limited facilities and the facilities lack the convenience of larger settlements.

- 8.9 It is concluded that the proposal is not proportionate to the status of the village in the adopted settlement hierarchy and that this constitutes unsustainable development. This is because of the scale of the proposal; the limited functionality of the settlement's services and because the overall status of Warton remains unchanged since 2021. The degree of conflict with Local Plan Policy LP2 is significant.

ii) Policies LP1 and LP14 Landscape

- 8.10 The NPPF requires new development to be sympathetic to local character and history, including the surrounding built environment and landscape setting; to create places that are safe and accessible, with a high standard of amenity and which will function well. This is reflected in policies LP1 and LP14 of the 2021 Plan. LP1 requires all development to demonstrate a high quality of sustainable design that positively improves a settlement's character and appearance as well as the environmental quality of an area. LP14 requires development to conserve, enhance and where appropriate restore landscape character. The application site is within the "No Mans Heath to Warton - Lowlands" Landscape Character Area. This describes a mixed open agricultural landscape with a scattering of small red brick nucleated hill-top villages of which Warton is an example. The Assessment identifies the need to conserve and strengthen the rural character and dispersed settlement pattern and recommends that new developments should reinforce the existing settlement pattern of the existing villages.
- 8.11 The applicants have submitted a Landscape and Visual Impact Assessment which describes the existing landscape and visual conditions of the site and its surroundings and provides a commentary on the impacts of the proposed development and appraises the likely effects of the proposal. The following sets out the applicant's case. The site is on the southwestern edge of Warton Village, which has a similar landform as the site. The centre of the village is found at approximately 91m AOD at the junction of Church Road and Maypole Road. The

Assessment says that the landscape context for this proposal is not simply open agricultural land, but it includes the “peri-urban” landscape of Warton and the wider built context of the village, which provide the setting for this proposal. It was considered that the site could successfully accommodate the proposed residential development with minor adverse impacts on the landscape resource, character and visual amenity of the site and surrounding area. From a landscape perspective, the Assessment concludes the proposals as now formulated, will deliver a coherent and logical development of new homes on the southwestern edge of Warton village providing a high quality new landscape with a new social landscape function, and would preserve the distinctiveness of the village, as well as the open countryside setting of the No Mans Heath to Warton – Lowlands Landscape Character Area, and its nucleated settlement pattern. The scheme will replace the site’s agricultural character, but a substantial degree of naturalness will remain, albeit in a different form to that which currently exists. A Landscape Strategy Plan has been submitted with the application setting out the proposed landscaping across the site. This includes strengthening of existing trees and hedgerows, the introduction of new native trees (including traditional orchard planting) and creation of dedicated habitats for biodiversity net gain including species rich grassland, tussock and wetland meadow planting. The Landscape Masterplan can be viewed at Appendix G.

- 8.12 Officers disagree with the applicant’s findings. The applicants have concentrated on the intervisibility of the scheme alone and not the impact of the proposal on the morphology of the village. Warton in general terms is nucleated, but it has a distinct linear form in the vicinity of the application site with the majority of the built development located along the frontage to Austrey Road and Church Road with small cul-de-sacs on either side. It is agreed that the proposal would introduce a “depth” of new built development along Church Road. It is agreed that the proposal’s landscape impact would be local in extent and impact, not affecting the overall character of the Landscape Area. However, in this case it is the nature of that local impact that is harmful. The proposal is a substantial impact to the village, well beyond its defined settlement boundary. The connection to the village is via the access to Church Road, there are two access/egress points for pedestrians, one to the open space to the north and one to the south west. There are no accesses proposed into Red Marl Way which is a private estate and none to Orton Road. Other than this its connection to the village is such that the proposal is spatially isolated and is an appendage to the existing settlement. There is no link to the Red Marl Way scheme to the north east either. There is no continuation of the existing development from Red Marl Way, currently there is open space around the fringes of the existing development with no access or linkages and a similar provision of open spaces around the proposed development without any positive integration.
- 8.13 In terms of overall effects on landscape character, harm from the scheme would be limited as the proposal has limited impact on the wider landscape due to the lack of intervisibility. There is however harm from the proposal due to the introduction of development on an agricultural field on the undeveloped edge of a settlement. The proposal will be visible from the road network in the vicinity of the site along Orton Road where the footpath is elevated and from Church Road. This does weigh against the scheme in the overall planning balance.

iii) Visual harm

- 8.14 As with the landscape character issue, it is agreed that visual amenity impacts would be local in extent. Both the amenity of residents and visitors travelling past the site will need to be addressed.
- 8.15 It is agreed that the number of “receptors” include the residential properties on the edge of Warton and the users of the network of the Public Rights of Way, vehicular users and those using the open space along Church Road. Pedestrians using the paths next to the site would experience adverse visual impacts because the proposal would be clearly visible as the paths adjoin or pass through the development. this also includes views from the development in Red Marl Way too.
- 8.16 At present the application site and the surrounding area has some landscape qualities associated with it being undeveloped open arable land, with hedgerows and hedgerow trees. The site itself is not accessible for people to see and enjoy, though it is visible from the views across this landscape from neighbouring areas. Despite the landscape around the site, it does form a sizable part of a visually undeveloped fringe to the village, it is clearly undeveloped land and has limited activity on it and therefore plays an important role in the quiet ambience of the area.
- 8.17 The visual harm of the proposal would be relatively localised in extent, but nevertheless important to those who will be affected, particularly the local communities who live adjacent to this stretch of undeveloped landscape.
- 8.18 It is the residual impacts and changes that will cause the harm – the built development, the road access and the lighting, as well as the permanent changes to the landform through the creation of blocks of residential development. The landscape and visual character and appearance of this wedge of land will materially change. As above, this would not accord with the requirements of Local Plan Policies LP1 and LP14 nor with Policy LP30 which says that development, “should harmonise with both the immediate setting and wider surroundings”.

iv) Quality of the development

- 8.19 The site is large, without substantial built development around it and with views both into and out of the site mainly from the east. Development from the Red Marl Way estate disperses and dissipates into the open space on the periphery of the scheme. The proposed development would be contained by the existing road layout. The proposal would not integrate with the existing built form. Furthermore, the site’s undeveloped open nature emphasises a transition from the built form to the rural context beyond.
- 8.20 There is a harm here in terms of the impact on the character and appearance of the settlement and lack of continuity and links to the existing village. This development will lead to an isolated community with limited connections to the existing community and divorced from the Warton as a settlement. The site would be seen as an incongruous appendage to the village., there would be no strong “sense of place”, no integration through limited connectivity or linkage with the village and no social cohesion as required by Local Plan policy LP1. The proposal will provide 40% affordable housing, on a site on the edge of the Warton with

limited links to existing community. Such that the proposal is likely to fail to provide a strong sense of community cohesion, especially for the affordable housing elements of the scheme. This would not result in the effective integration of the development into Warton.

- 8.21 The matters add weight to the non-compliance with Policy LP1, LP14 and LP30 of the adopted Local Plan by not proposing good quality development. There is no planning here for a “place” or a “community”. Even if there were connections to the site to the north, the combined area would still not connect to the village community visually, physically or spatially. The adopted Neighbourhood Plan adds further reinforcement to these local plan policies and policy PNP3 expects that development should promote or reinforces local distinctiveness of Warton, considering landscape setting and settlement pattern within this context. The Neighbourhood Plan also requires high quality residential design that respects local townscape and landscape character as part of policy PNP4. Here the development would be unrelated and unconnected to the village as a whole.

The NPPF has an increased emphasis on planning for “places” and “communities”. This site is spatially, visually and physically unconnected to the village and its built form. The recent Curlew Close appeal decision referred to above support this reasoning in paragraph 11-17. It is thus considered that the proposal does not accord with Policies LP1, LP14 and LP30 of the 2021 Local Plan and policies PNP3 and PNP4 of the Neighbourhood plan as supported by the NPPF. The harm caused here is similar to that of the Curlew Close appeal and the current proposal is substantially larger than that cause, the degree of conflict is significant.

v) Loss of Agricultural Land

- 8.22 Local Plan policy LP16 says that the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced as appropriate relative to the nature of the development proposed. The NPPF says that planning decisions should contribute to and enhance the natural and local environment amongst other things by protecting and enhancing soils and recognising the economic and other benefits of the best and most versatile agricultural land – paragraph 187 (a and b). Where significant development of agricultural land is demonstrated to be necessary, the NPPF also states that areas of poorer quality land should be preferred to those of higher quality. The availability of agricultural land for food production should be considered alongside other policies in the NPPF, when deciding what sites are most appropriate for development – footnote 65.
- 8.23 The best and most versatile land (“BMV”) is defined as Grades 1, 2 and 3a in the Glossary to the NPPF. A Soils and Agricultural Land Report says that the soils within the survey area comprise a sandy clay loam topsoil overlying a similarly-textured upper subsoil. The field is grade 2 (72%) and grade 3a (26%) with the remainder being other land. This shows that 98% of the site is graded as BMV agricultural land with the remainder being non-agricultural land. Natural England has published guidance in respect of development and agricultural land quality. This development would likely to lead to significant permanent loss of BMV

agricultural land as a resource for future generations because the development is irreversible.

- 8.24 In this instance, it is clear that the proposal would lead to permanent and loss of 5.7 hectares of BMV agricultural land. This would lead to a permanent change, not just temporary loss, of this agricultural land and therefore weight is required to be attributed to this. The adverse impact of this loss is a material consideration that weighs against the proposal and needs to be weighed in the planning balance. It is also to be noted that the Government has sought to place more emphasis on the importance of retaining BMV and on the importance of agricultural production.

vi) Residential Amenity

- 8.25 A Grounds Investigation Desk Study Report concludes that any risks to human health could be reduced to an acceptable level by the use of mitigation measures including cover layers, gas resistant membranes and contaminant resistant water supply infrastructure at the proposed development. Additionally, the site is indicated to be in an area that may be affected by coal mining. However, given the anticipated depth to any worked coal and the anticipated thickness of competent solid geology above, the risk posed at the site is considered to be very low such that further assessment and/or investigation with regards to the risk associated with coal mining is not considered necessary. It is recommended that an intrusive ground investigation is completed ahead of any development works to determine the geotechnical properties of the underlying ground conditions and to determine the actual contaminative status of the site. The intrusive investigation should include an assessment of hazardous ground gases.
- 8.26 A Noise Assessment, relates to the potential impact of existing noise sources on the proposed external amenity areas and on the living rooms and bedrooms within the proposed development. The Noise Assessment demonstrates the feasibility of the site for residential use, assuming that the proposed dwellings are located a reasonable setback distance within the proposed developable area.
- 8.27 Environmental Health Officers have no objections to the proposed development. They recommend a condition be provided in terms of a Construction and Environmental Management Plan to protect the amenities of residents. They indicate the requirement for noise, air quality, contaminated land and lighting conditions. Overall, it is considered that there are no reason from an residential amenity perspective to refuse the application.
- 8.28 In the respect of the Human Rights Act, the concern refers to Article 2 (the Right to Life) and Article 8 (the Right for respect to a private life). Members are aware that the determination of this application is to be made under planning legislation – essentially this is about conformity with the Development Plan and whether there are other material considerations that indicate otherwise. As a consequence, the respect for a private and family life is fully represented by the Development Plan policies mentioned in this report – LP29 and LP30 of the Local Plan. It is considered that all the material consideration in terms of impact on neighbouring amenity impact on sunlight, daylight, noise and air pollution are covered through

consultation responses. As such it is not considered that the proposal would impact on the Human Rights Act.

vii) Historic Environment

- 8.29 Local Plan policy LP15 says that the quality, character, diversity and local distinctiveness of the Borough's historic environment will be conserved and enhanced. In order to do so, an assessment has to be made of the potential impact of the proposals on the significance of heritage assets that might be affected by the proposal as set out in Section 16 of the NPPF. It is acknowledged that there are no assets on the site and neither is there a Conservation Area nearby.
- 8.30 A Heritage Statement considers the potential impact of the proposed development on the setting and significance of those designated and non-designated heritage assets located in the vicinity of the application site. The assessment identified two Listed Buildings, and twenty-one potential non-designated built heritage assets located within a 1km search radius around the site. The report has also considered a Grade I Listed Building located outside of the search area. The statement established that only the Holy Trinity Church (Grade II) and St Edith Church (Grade I) have the potential for their significance to be affected by the site's development, through changes within their settings. The assessment concludes that the site comprises a neutral element within the setting of both of these designated heritage assets whereby it makes no contribution to their significance. The development will result in a small visual change within their settings, which will have no effect on how their significance is appreciated or understood. Officers agree that the proposal will have less than substantial harm to heritage assets and that this is at the lower end of that range.
- 8.31 An Archaeological Desk-Based Assessment looks at whether there are any likely archaeological constraints to development of the site and identifies whether there will be a requirement for any further archaeological investigation. It concludes that there are no archaeological constraints to the site's development, and it is unlikely that the site will contain any archaeological remains that will need to be preserved in-situ or to be designed around. In respect of any underground assets, it is of substantial weight that the County Planning Archaeologist has not raised objection subject to standard conditions requesting a written scheme of investigation. It is considered that the proposal would accord with Local Plan Policy LP15.

viii) Flooding

- 8.32 Local Plan policy LP33 requires water runoff from new development to be no more than the natural greenfield runoff rates and developments should hold this water back on the development site through high quality sustainable drainage arrangements which should also reduce pollution and flood risk to nearby watercourses. The NPPF at para 181 says that major developments should incorporate sustainable drainage systems and that these should take account of the advice from the lead local flood authority.

- 8.33 A Flood Risk Assessment and Drainage Strategy identifies the site as being located within Flood Zone 1 and is assessed as being at low or very low risk of flooding from fluvial and pluvial sources. With regards to surface water attenuation, the proposed development is accompanied by a draft drainage strategy which identifies a new SuDS attenuation pond located in the south eastern area of the site where the topography slightly falls. This SuDS attenuation pond will provide drainage attenuation for the proposed development. A Surface Water Drainage Strategy has been prepared to demonstrate that a sustainable drainage solution can be provided for the proposed development. The Surface Water Drainage Strategy has been designed in accordance with current sustainable development best practice. The proposed development will discharge to the local drainage network, at rates equivalent to existing conditions. The surface water drainage system is to be designed to ensure that flood storage volumes are retained onsite for critical storm events up to the 1 in 100-year return period plus an allowance for the effects of climate change. To further mitigate the flood risk to properties in the event of a failure within the drainage system, surface levels will be designed to ensure that flood flows are not directed toward dwellings. A SuDS attenuation basin is proposed to the south east of the site which will treat and store flows ahead of discharge. The development drainage system is to have a controlled outfall east beneath Orton Road, before ultimately discharging into the existing Seven Trent Water (STW) public sewer at the junction between Orton Road to the surface water sewer. The development proposals ensure that the nature and behaviour of the surface water drainage replicates that of the pre-developed site. A foul water drainage strategy has been prepared which implements measures to discharge foul water flow from the proposed development. Foul water will connect into an existing public foul water sewer located at the junction between Orton Road and Barn End Road. The Drainage Strategy is said to demonstrate that the proposed development will not result in any detrimental impact on existing surrounding properties.
- 8.34 It is of substantial weight that the Lead Local Flood Authority has not objected to the proposed drainage strategy. It is also of weight that the Environment Agency has not objected. It is thus considered that the proposal does accord with Local Plan policy LP33.

ix) Ecology

- 8.35 In respect of ecology, Local Plan policy LP16 seeks to protect and enhance the natural environment and to provide net gains for biodiversity where possible, reflecting the wording of the NPPF at paragraph 187. The passing of the Environment Act 2021 brings a mandatory condition for most development to achieve a 10% biodiversity net gain.
- 8.36 A Preliminary Ecological Appraisal shows that the site comprises arable land including a pond with willow scrub. Species rich hedgerows form the boundaries of the site. No statutory or non-statutory designated sites are present within the site boundary. The site falls within the risk zones of Birches Barn Meadow SSSI and Alvecote Pools SSSI. It is currently undetermined how many units the scheme will propose or the level of discharge. However, if it is above 100 units and/ or more than 5m³/day of water or liquid waste is discharged, then Natural England will need to be consulted. It was concluded that the development will not have a significant

impact on any Statutory Nature Conservation Sites. Four hedgerows are present within the application site. The vast majority of these will be retained. Habitat offering a low ecological value at the site level includes improved grassland, and dense/continuous scrub. Habitat offering higher ecological value includes hedgerows and mature broadleaved trees. The proposal would remove small sections of hedgerow to facilitate the development of the site through the provision of access. Mitigation and compensation for the loss of this habitat can be accommodated through the creation and enhancement of species-rich grassland within the proposed open space provision.

8.37 Specific habitats for biodiversity have been incorporated within the green infrastructure network including species-rich, meadow and wetland meadow grassland. Areas relied upon for the provision of biodiversity net gain are protected by proposed fencing. A small section of low-quality hedgerow is proposed to be removed to accommodate the principal vehicular access and pedestrian routes onto Church Road. However, all other existing hedgerows around the site and all other existing trees will be retained and strengthened. There will also be new tree and hedgerow planting throughout the new development.

8.38 A Biodiversity Net Gain Assessment concludes that based upon the illustrative proposals a net gain in biodiversity can be delivered as a result of the proposed development. Specifically, an increase in habitat units from 12.23 units to 13.97 units which equates to an 14.24% increase overall. An increase in hedgerow units has also been calculated, from 18.17 units to 20.59 units (which equates to a 13.3% increase).

8.39 The revised BNG report (Blade, July 2025) and revised Statutory Biodiversity Metric spreadsheet (E. Seaton, 14 July 2025) have provided the following minor amendments:

- i) The proposed area of created 'other neutral grassland' has increased from 0.91ha to 0.93ha.
- ii) The proposed number of small trees to be planted has increased from 174 to 177.

The above revisions will result in an overall 15.60% positive biodiversity net gain in habitat units.

8.40 The Preliminary Ecological Appraisal report provided a comprehensive protected species assessment and identified potential impacts to great crested newts (GCN), bats, breeding birds, and badgers.

8.41 The advice from the Warwickshire Ecologist is that the proposed development offers the opportunity to enhance the site for wildlife and to provide BNG gains greater than 10%. This judgement carries significant weight such that the development would accord with Local Plan Policy LP16 .

x) Highway Impacts

- 8.42 Local Plan policy LP29 (6) says that all developments should provide safe and suitable access for all users. The NPPF says that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe – paragraph 115.
- 8.43 A Transport Statement and Plan has been submitted with the application. The Statement has considered the proposed access and finds that a safe and suitable vehicular access to the site can be provided via Church Road. The additional traffic generation associated with the proposed development is forecast to be minimal and will not be noticeable across the highway network. The Statement finds that there are no existing highway safety issues in the vicinity of the site, nor will the proposed development have a material impact on highway safety. Warwickshire County Council have assessed the proposal and have requested that the applicant carry out a Road Safety Audit for the access that looks to see whether the vehicular accesses to the site would be acceptable and at the present time a formal response has not been received.
- 8.44 The proposal includes a vehicle access onto Church Road which measures 5.5 metres wide and includes 3 metres footways either side of the access, and a pedestrian access to the south-western corner of the site close to its junction with Orton road. The proposal also indicates a link to the adjacent recreational facilities to the north of the site. Along Church Road is proposed to include speed cushion 60 metres either side of the proposed junction. Warwickshire Highways comments so far have not raised fundamental objections to the scheme, and highway infrastructure improvements have not yet been concluded. As the highway authority has not formally responded to the details, any recommendation will have to take into account their response.

c) Conclusion on the Harm Side of the Planning Balance

- 8.45 Officers have identified the following harms which conflict with the relevant North Warwickshire Local Plan policies and the Polesworth Parish Neighbourhood Plan.
- a) The significant conflict with Local policy LP2,
 - b) The significant conflict with Local Plan policies LP1, LP14 and LP30 and PNP3 and PNP4 of the neighbourhood plan in terms of landscape visual harms and harm to settlement morphology of Warton
 - c) The moderate conflict in terms of social cohesion and effective integration of affordable housing into settlement conflict with Local Plan policies LP1, LP14 and LP30 and PNP3 and PNP4 of the neighbourhood plan.
 - d) The moderate conflict arising from the permanent loss of best and most versatile agricultural land contrary to policy LP1 of the Local Plan.
- 8.46 It is considered that the cumulative conflict is thus significant.

d) The Benefits Side of the Planning Balance

i) Housing Delivery

- 8.47 An initial matter of in support of the application is whether the Borough Council has a five-year supply of housing land. The appellants main case is that the Council only has a 1.1 year supply of housing.
- 8.48 The Council's last published monitoring report is dated March 2024 and that showed a 5.1 year housing supply. This figure used the Local Plan's housing trajectory as its basis as shown in para 7.32 of the Local Plan. The March 2025 report has not been published at the time of preparing this Statement and thus the Council reserves the right to inform the Inspector of the 2025 position at any forthcoming Inquiry. Without prejudice to the outcomes in the 2025 Report and for the purposes of this appeal, the Council acknowledges that the 2025 report will not show a five-year supply. It is anticipated that the figure will be 2.2 years. This includes a 20% buffer and a 3% non-implementation rate. If the recommendation below is agreed, then the Council will update the Inspector and the appellant when the 2025 report is published.
- 8.49 The North Warwickshire Local Plan was adopted in September 2021 and thus is not out-of-date. The Council draws attention to para 78 of the NPPF. Here it says that Local Planning Authorities should identify and update annually, a supply of specific deliverable sites to provide a minimum of five years' worth of housing against their housing requirement as set out in adopted strategic policies, or against their local housing need where strategic policies are more than five years old. As the strategic policies in respect of the housing requirement adopted within the last five years, therefore the latter option here does not apply. The five year supply is thus calculated against the housing requirement as set out in the Local Plan. That requirement is set out in LP5 of the Local Plan. The annual figure is 479 dwellings. The five year supply as calculated against that figure is 1.5 years which includes a 20% buffer.
- 8.50 The Council can provide the evidence behind the figures referred to above, but for the purposes of this Board Report, it acknowledges that it does not have a five year housing supply and the figure is within the range of 1.5 to 2.2 years. It accepts that this is materially below the five years as required.
- 8.51 On this basis, the Council acknowledges that the delivery of 110 houses is a benefit of the proposal in light of the housing supply of 1.5 to 2.2 years. The Council however would attribute significant weight to this benefit.
- 8.52 The applicant also says that has been an under provision of affordable housing completions in the last five years across the Borough. His proposal provides a policy compliant delivery on-site. It is acknowledged that this is a benefit of the proposal but it cannot be afforded significant weight because of the assessment above in that it is contingent on a greater number of houses being provided and as again as assessed above, the site is not in a sustainable location. Moreover as a whole, the recent housing permitted and constructed in Warton itself, has resulted in a 40% on-site provision within the settlement as a whole. The benefit thus only carries moderate weight at most.

ii) Bio-diversity net gain

- 8.53 The bio-diversity net (BNG) gain arrangements are of benefit, but the value of the open space and BNG within the scheme would have a limited extent to the whole community of Warton. This benefit carries limited weight.

iii) Economic Benefits

- 8.54 There would be an economic benefit in that local suppliers and contractors may become involved in the construction of the development, but this is temporary in nature. On the other hand, an increased population may contribute to increased numbers at the school and patronage for bus travel, However, these are not guaranteed and may fluctuate over time. As such they carry limited weight.

iv) Conclusion

- 8.55 Officers have attributed the following weights to these benefits;

- i) Significant Weight to the Delivery of Houses
- ii) Moderate Weight to the delivery of on-site affordable housing
- iii) Limited Weight to the Bio-Diversity Nett Gain
- iv) Limited Weight to the Economic Benefits

- 8.56 It is considered that the cumulative weight of these benefits is thus limited to moderate to significant in scale.

9. The Final Planning Balance

- 9.1 The main issues in this case were identified in para 8.1 above. Assessment of these against the relevant policies of the Development Plan and the NPPF has led to the conclusion that significant harms would arise in respect of the first two issues raised – sustainability/proportionality and character/appearance - paragraph 8.45.
- 9.2 On the other hand, there are acknowledged benefits arising from the development – particularly the delivery of new housing - paragraph 8.55.
- 9.3 The outcome of the final balance here is to be approached through paragraph 11 (d) (ii) of the NPPF because of the acknowledged lack of a five year housing supply. In this respect, it is considered that the harms caused, do significantly and demonstrably outweigh the benefits in this “tilted” balance, for the following reasons:
- a) Simplistically, the significant weight of the harms significantly and demonstrably outweighs the benefits.
 - b) The settlement hierarchy set out in the Local Plan is the Council’s strategic approach to delivering sustainable development in the Borough. The status of Warton in that hierarchy has been confirmed in updated evidence. It thus

carries weight. A breach of this spatial policy weakens the presumption in favour of sustainable development set out in the NPPF.

- c) There are very real harms caused to the character and appearance of this Warton and to its overall morphology, its social cohesion and its sense of place and community due to the scale of this proposal. This was found to be the case in the Curlew Close 2023 appeal decision, but with a far less amount of new development. These will be permanent harms on a much greater scale.
 - d) It is acknowledged that the weight to be given to the delivery of new housing has moved on since that Curlew appeal decision, but so too has the scale and location of the proposed development and thus the weight to be attributed to the combined harms.
- 9.4 On balance taking into account all of the factors for and against the proposal, it is considered that the proposal would be contrary to the Development Plan and to the NPPF when taken together as a whole.
- 9.5 In light of this assessment, and taking into account all other material planning considerations, had the Council been able to determine this application, Officers would have recommended that planning permission should have been refused for the reasons outlined below.

10. Section 106 Matters

a) Introduction

- 10.1 The applicant sets out that six matters are to be included within a Unilateral Undertaking, stating that in his view, these are compliant with the relevant Regulations and paragraph 58 of the NPPF. The Council will look at each in turn.

i) Education

- 10.2 Warwickshire County Council as Education Authority is requesting a sum of £2,038,958 based on the number of dwellings proposed. This contribution would go towards expansion of existing early years and primary education at the Warton Nethersole Primary School and towards Secondary and Post-16 school accommodation at the Polesworth School. This would also include the provision of Special Education Needs (SEN).
- 10.3 It is considered that this contribution meets all of the statutory tests. It is necessary to make the development acceptable in planning terms, because education provision was identified in the Infrastructure Delivery Plan 2020 (IDP), which accompanied the Local Plan. This identified projects that are necessary with particular residential allocations in the Local Plan, to ensure sustainable development. That Delivery Plan refers to additional places being needed throughout the Borough. Additionally, the contribution would satisfy Local Plan policies LP1 on sustainable development and LP21 on the provision of services and facilities. It would also comply with para 100 of the NPPF in particular. It is also considered that the contribution is directly related to the development in that

it has been calculated with reference to the up to date local evidence and the nature of the proposal. It also satisfies the final and third test as it has been calculated on the up to date Government Guidance on calculating pupil numbers in each Local Education Authority. As such the contribution is supported.

b) Recreation and Leisure

- 10.4 A request in total of £374,415.28 has been made for recreation and leisure provision. This request is made up from a request towards swimming, gym/fitness provision, studio, 3G pitch, sports pitches, play space, youth provision, parks and garden, greenspace and allotments. There is also potential for an additional amount if a local play area (LAP or LEAP) is not on-site.
- 10.5 The figure for indoor provision would go towards proposed provision at Polesworth with the balance coming to the Borough Council with its purpose being focussed on outdoor provision at Polesworth and locally enhanced play and youth provision.
- 10.6 The overall contribution is considered to satisfy the relevant tests. There is reference in the IDP to the need for the provision of play areas throughout the Borough; for the replacement and refurbishment of leisure facilities and in the Council's Playing Pitch Strategy of 2023, for additional outdoor sports facilities. It would also accord with Local Plan policies LP1, LP21 and LP29 (4). Of note amongst these is LP29 (4) which seeks to promote healthier lifestyles for activity outside of homes and places of work. This is reflected in the NPPF at paragraphs 96 (c) and 98. It is also soundly based on the evidence available in the Council's adopted documents and strategies and it has been calculated in line with the appropriate up to date 2023 "Planning Obligations for Sport, Recreation and Open Space". It thus satisfies the third test concerning being fairly and reasonably related in scale and kind. As such the contribution is supported.

c) Highways

- 10.7 The Warwickshire County Council as Highway Authority has asked for a number of contributions, however the detail of these has not yet been established. The Board will be updated verbally at the meeting. It is anticipated that these will include contributions towards:
- a) Streetlighting along Church Road between site access to connect with existing lighting to the east.
 - b) A Traffic Regulation Order to provide an extension of the 30mph speed limit on Church Road from the east, so as to include the proposed access through a Traffic Regulation Order.
 - c) A formal pedestrian crossing facility over the Church Road access (not just the existing dropped kerbs).
 - d) Route P12 in the County Council's WCC LCWIP so as to provide suitable cycle linkages and connections between Warton and Polesworth to involve the widening and surfacing of footways, improved crossings and possible speed limit changes.
 - e) Alterations to the junction geometry at Linden Lane to reduce the crossing width for pedestrians and /or cyclists.

- f) Towards a 3m shared footway/cycleway through Warton Recreation Ground connecting to Ivycroft Road, Church Road and Red Marl Way.
 - g) Bus infrastructure as yet unspecified.
- 10.8 Some of these are considered to be compliant in order to promote access to public transport facilities and improve cycle and pedestrian access set out in the Local Plan at policies LP27, LP29 (5) and in the NPPF at paragraph 109 (e) and 115. Some could be provided via a Grampian condition or through section 38 or 278 Agreements under the Highway Act. As indicated above, Members will be updated at the meeting if possible.
- 10.9 Rights of way improvements are sought to maintain the public rights of way in the vicinity of the site, there are a number and therefore it is considered that in this instance it is compliant and accords with Local Plan policies at LP27, LP29 (5) and in the NPPF at paragraph 109 (e) and 115
- 10.10 The Warwickshire County Council as Highway Authority has asked for a contribution towards sustainable travel packs it is considered that this can be dealt with by a planning condition.

d) Other Contributions

The applicant has included “affordable housing” in his table of Section 106 matters yet. the Council considers that the provision of affordable housing is best dealt with through a Section 106 Obligation. This is because recent experience with reference to an “affordable housing provider” has not always been successful and other options have had to be considered – e.g. off-site contributions in lieu of on-site provision and the possibility of “gifted” units to the Council. These potential transactions are inappropriate for the precision “test” required by a planning condition. The overall provision would accord fully with Local Plan policy LP9 and with paragraphs 63 to 66 of Section 5 of the NPPF.

The Warwickshire County Council has requested a contribution of £2408 towards library facilities. The closest Libraries are at Dordon and Polesworth. The contribution would satisfy the tests in respect of compliance with Local Plan policies LP1 and LP21.

The George Eliot NHS Trust has sought a contribution of £123,095 to assist in the provision of its services. However, there is now case-law which has established that contributions sought to close a funding gap that an Infrastructure provider may be experiencing, do not satisfy the Section 106 “tests”. It should not be included in the Heads of Terms in this case.

Warwickshire Police also sought contributions of £28,532 towards recruitment and equipment of officers this is similar to the NHS contribution in that it does not satisfy the Section 106 “tests”.

Recommendation

That the Council's position for the outstanding appeal against its non-determination of this application for planning permission is that it should be **REFUSED** for the following reasons:

1. The proposal would be contrary to the Council's spatial planning policy as represented in its settlement hierarchy as defined in the North Warwickshire Local Plan 2021. Warton is a Category Four Settlement within that hierarchy and owing to the limited services and facilities within it, the proposal would represent a wholly disproportionate and unsustainable addition to the settlement. It is considered that the benefits of the proposal, including the engagement of the titled balance as outlined by the applicant do not outweigh this significant harm. The proposal is thus contrary to Local Plan policies LP1, LP2 and LP30 together with policy PNP3 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.
2. The proposal would result in an unacceptable intrusion into the open countryside that would give rise to landscape and visual harm. Further, the scheme would give rise to harm to the settlement morphology of Warton, given the site reads as an adjunct to the settlement, rather than integrating with the settlement. The proposal is thus contrary to Local Plan policies LP1, LP14 and LP30 together with PNP3 and PNP4 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.
3. The proposal would give rise to harm to social cohesion. Warton has seen a considerable quantum of development in the recent past and an additional increase in 110 dwellings to the settlement would give rise to new residents failing to integrate effectively into the settlement. The proposal is thus contrary to Local Plan policies LP1, LP14 and LP30 together with PNP3 and PNP4 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.
4. The provision of affordable housing at the edge of the settlement would not result in the residents of these units integrating effectively into the settlement and the creation of a balanced and integrated community.
5. The proposal would result in the permanent loss of an area of approximately 5.7 hectares of best and most versatile agricultural land. As such the application proposals would be contrary to policy LP1 of Local Plan and contrary to paragraph 187 of the National Planning Policy Framework 2024.

Appendix A – Site location Plan



Appendix B – Aerial Image

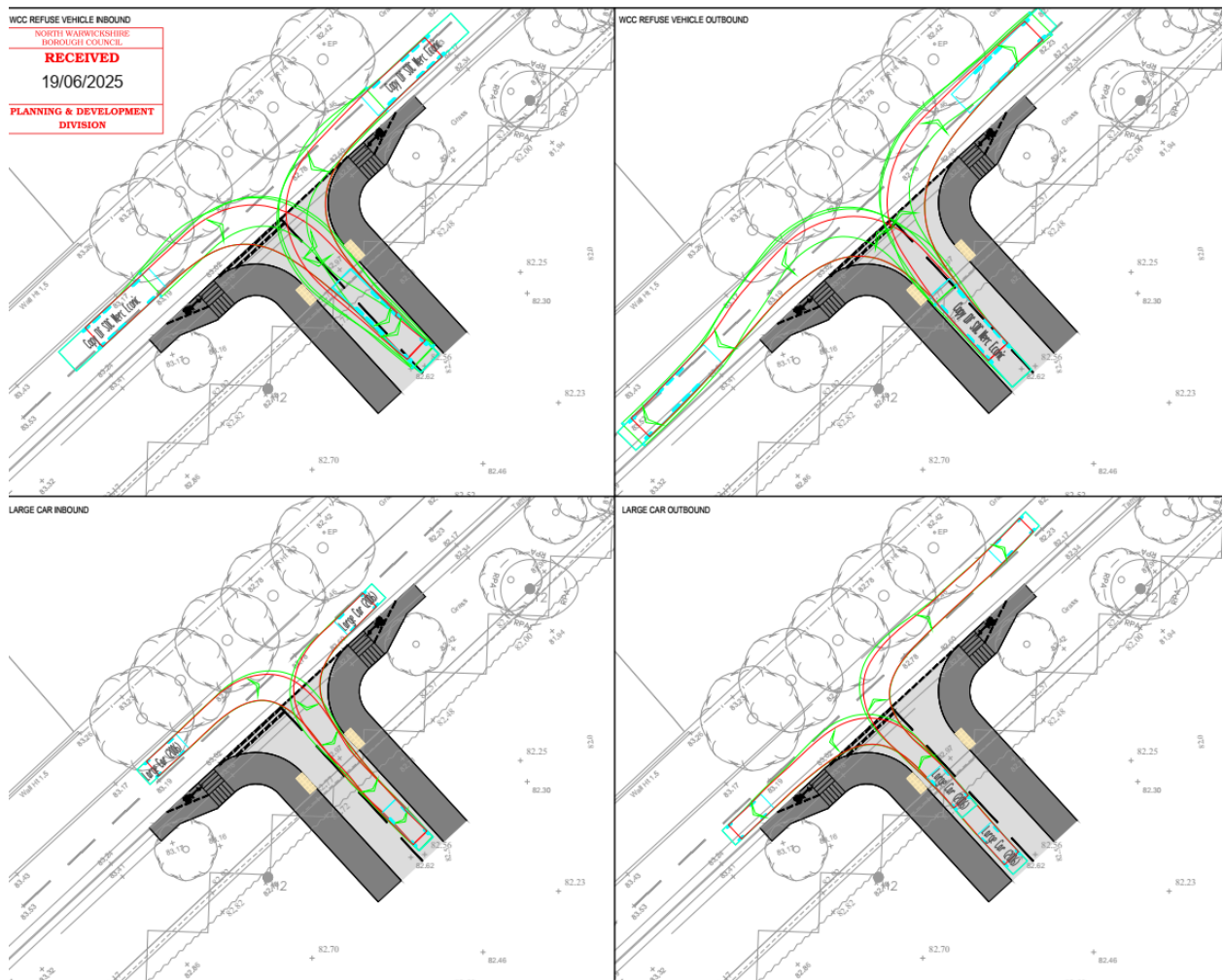


Appendix C – Parameters Plan



-  Site Boundary
-  Proposed Residential Development
-  Proposed Open Space and Paths
-  Proposed Highway
-  Proposed Sustainable Drainage
-  Existing Recreation Ground
-  Proposed Access/Egress for All Modes
-  Proposed Access/Egress for Pedestrians
-  Potential Future Access
-  Existing Landscape

Appendix D – Vehicle access and pedestrian access



APPENDIX E

PAP/2025/0155

NORTH WAIRWICKSHIRE
BOROUGH COUNCIL

RECEIVED

01/04/2025

**PLANNING & DEVELOPMENT
DIVISION**

PLANNING STATEMENT

LAND NORTH OF ORTON ROAD, WARTON

MARCH 2025



8. PLANNING ASSESSMENT

Principle of Development

- 8.1 The application seeks approval from North Warwickshire Borough Council for outline permission with all matters reserved, save for access.
- 8.2 The adopted Local Plan Policy LP2 identifies Warton as a Category 4 settlement where development within development boundaries will be supported in principle. In addition, Policy L2 states that development directly adjacent to settlement boundaries may also be acceptable.
- 8.3 The site is contiguous with Warton's settlement boundary and therefore is in accordance with this policy. The site will make effective use of this site to help meet future housing needs.
- 8.4 Policy LP2 continues that all development will be considered on its merits; having regard to other policies in the Local Plan and will cater for windfall housing development usually on sites of no more than 10 units at any one time depending on viability, services and infrastructure delivery.
- 8.5 Whilst this site is for up to 110 homes the following planning assessment demonstrates that the site is in accordance with all other plan policies, providing a sustainable extension the village of Warton.
- 8.6 As set out in Chapter 7 of this Statement, whilst the Council maintain that they can demonstrate a five-year housing land supply against current local housing needs, the latest Housing Delivery Test result (2023) confirmed that North Warwickshire achieved a result of 81%. Therefore, this means that in accordance with paragraph 79 of the NPPF, a 20% buffer applies. The Council is now unable to demonstrate a five-year supply of housing land.
- 8.7 Accordingly in line with paragraph 11 of the Framework, the presumption in favour of sustainable development is now engaged and the tilted balance set out in paragraph 11d applies. This means that where the policies which are most important for determining applications are out-of-date (which includes situations where the local planning authority cannot demonstrate a five-year supply of housing) granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. This also includes having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

- 8.8 In this context it is imperative that the Council boost the supply of housing within the Borough. The Council is therefore reliant on sustainable locations coming forward now to help reduce this deficit and meet the Government's objective to boost the supply of housing as outlined in the recent planning reforms.
- 8.9 The site is in a sustainable location, with the proposal delivering up to 110 dwellings, making effective use of land and providing much needed affordable homes. In line with paragraph 11 dii of the Framework, these are all now factors which weigh in favour of the application in the tilted balance.
- 8.10 Material considerations therefore indicate that the principle of residential development on this sustainable site is acceptable, specifically the provision of up to 110 new dwellings proposed as part of this application.

Access & Highways

- 8.11 Proposed primary vehicular access to the site is to be provided in the form of simple priority junction formed off Church Road, with a 5.5m wide carriageway and adjacent 2m wide footways proposed in accordance with the Warwickshire Design Guide for a Link Road / Tertiary Road. A separate pedestrian access is also proposed to be served from Church Road at the western boundary of the site, which is to connect with existing footways that directly lead to Polesworth.
- 8.12 Paragraph 115 of the NPPF seeks to ensure that applications for development have taken opportunities to promote sustainable transport modes, achieve a safe and suitable access for all users, that the design of streets and parking areas reflect current national guidance and any significant impacts on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree.
- 8.13 Paragraph 117 adds that applications for development should give priority to pedestrian and cycle movements, address needs of people with disabilities, create places that are safe, secure and attractive, allow for the efficient delivery of goods, and access by service and emergency vehicles and be including provision for EV and low emission vehicles.
- 8.14 Policy LP23 requires Transport Assessments & Travel Plans appropriate to the scale of development proposed to accompany development proposals. It elaborates that development will be expected to link with existing road, cycle and footpath networks. Developments that are likely to generate significant amounts of traffic and particularly larger developments will be expected to focus on the longer-term management of new trips; encourage the use of public and shared transport as well as appropriate cycle and pedestrian links.

- 8.15 Policy LP27 requires developments to consider what improvements can be made to encourage safe and fully accessible walking and cycling.
- 8.16 A Transport Assessment (TA) and Travel Plan (TP) has been submitted as part of the application. They find that the site is in a sustainable location in transport terms, with local facilities within a comfortable walking and cycling distance of the site, and bus services connecting the site to large settlements to the north and south of the village.
- 8.17 The TA has considered the proposed access and finds that a safe and suitable vehicular access to the site can be provided via Church Road.
- 8.18 The additional traffic generation associated with the proposed development is forecast to be minimal and will not be noticeable across the highway network.
- 8.19 The TA finds that there are no existing highway safety issues in the vicinity of the site, nor will the proposed development have a material impact on highway safety.
- 8.20 Active travel permeability has been provided through the provision of a further footpath/cycleway links to Church Road to the west and Warton Recreation Ground.
- 8.21 The number, format and layout of parking spaces for cars and bicycles will be agreed at the reserved matters stage, taking into account prevailing local standards at that time, however, all dwellings will be provided with an Electric Vehicle (EV) charging facility and meet parking standards contained within Appendix 5 of the Core Strategy.
- 8.22 In line with the NPPF, the development will not have a severe impact on the operation of the local highway network, nor an unacceptable impact on highway safety; as such, there are no reasons why the proposals should be resisted on traffic or transportation grounds. Furthermore, the proposals are in accordance with Local Plan Policies LP23 and LP27 and Neighbourhood Plan Policy PNP8.

Landscape & Visual Impact

- 8.23 Blade was commissioned by the applicants to carry out a non-EIA Landscape & Visual Assessment (LVA) to accompany this application.
- 8.24 The LVA provides a description of the existing landscape and visual conditions of the site and its surroundings, commentary regarding the impacts of the proposed development and an appraisal of the likely effects of the proposed

development on the landscape resource, landscape character and views from public viewpoints.

- 8.25 The site is on the southwestern edge of Warton Village, which has a similar landform as the site. The centre of the village is found at approximately 91m AOD at the junction of Church Road and Maypole Road. The landscape context for this proposal is not simply open agricultural land of the site; it includes the peri-urban landscape of Warton and the wider built context of the village, which provide the setting for this proposal.
- 8.26 Overall, it is considered that the site could successfully accommodate the proposed residential development with minor adverse impacts on the landscape resource, character and visual amenity of the site and surrounding area.
- 8.27 From a landscape perspective, the LVA concludes the proposals as now formulated, will deliver a coherent and logical development of new homes on the southwestern edge of Warton village providing a high quality new landscape with a new social landscape function, and would preserve the distinctiveness of the village, as well as the open countryside setting of the No Mans Heath to Warton – Lowlands Landscape Character Area, and its nucleated settlement pattern.
- 8.28 The scheme will replace the site's agricultural character, but a substantial degree of naturalness will remain, albeit in a different form to that which currently exists.
- 8.29 A Landscape Strategy Plan prepared by Blade has been submitted with the application setting out the proposed landscaping across the site. This includes strengthening of existing trees and hedgerows, the introduction of new native trees (including traditional orchard planting) and creation of dedicated habitats for biodiversity net gain including species rich grassland, tussock and wetland meadow planting.
- 8.30 The proposed development accords with relevant national and local policies and guidance, including Policy LP14 and LP16 of the adopted Local Plan and Policy PNP4 of the Neighbourhood Plan.

Public Open Space

- 8.31 The masterplan demonstrates the delivery of 2ha of open space, with 0.83ha of Amenity Green Space and 1.17ha of Natural and Semi Natural Green Space.
- 8.32 The open space is proposed in the form of a focal green space and a circular corridor that extends to all site boundaries, incorporating natural play

opportunities. A potential link through to Warton Recreation Ground is also identified, providing access to existing playing fields and equipped play.

- 8.33 The green spaces will integrate the development into its setting, providing a soft development edge to the open countryside, deliver a range of benefits for both people and nature and respond positively to the local context. Therefore, it enhances landscape character, local ecology and creates a space for people.
- 8.34 The proposed open space exceeds the Council's Green Space Strategy (2019-2033) in respect of amenity green space and natural and semi-natural green spaces as set out below:

OPEN SPACE REQUIREMENTS			
Type	Requirement (Ha per 1000 pop)	On-Site Requirement (Ha)	Provision (Ha)
Amenity Green Space	0.50	0.13	0.83
Natural & semi-Natural Green Space	0.50	0.13	1.17
Parks & Public gardens	0.50	0.13	-
Allotments	0.50	0.11	-
	Total:	0.50	2.00

- 8.35 Whilst the proposal does not provide additional allotment space, the landscape strategy plan identifies an area of traditional orchards which provides an alternative sustainable food production opportunity within the community.
- 8.36 The outstanding parks, public gardens and allotment requirements will be delivered through financial contributions secured through the Section 106 Agreement.
- 8.37 As the proposal provides green space in line with the Green Space Strategy, it is in accordance with Policy LP20.

Flood Risk and Drainage

- 8.38 Link Engineering was instructed by the applicants to prepare a Flood Risk Assessment (FRA) and Drainage Strategy to support this application.
- 8.39 The site is located within Flood Zone 1 and is assessed as being at low or very low risk of flooding from fluvial and pluvial sources.
- 8.40 A Surface Water Drainage Strategy has been prepared to demonstrate that a sustainable drainage solution can be provided for the proposed development. The Surface Water Drainage Strategy has been designed largely in accordance with current sustainable development best practice and meets the requirements

of North Warwickshire Borough Council and Warwickshire County Council (as the LLFA).

- 8.41 The proposed development will discharge to the local drainage network at rates equivalent to existing conditions. The surface water drainage system shall be designed to ensure that flood storage volumes are retained onsite for critical storm events up to the 1 in 100-year return period plus an allowance for the effects of climate change.
- 8.42 To further mitigate the flood risk to properties in the event of a failure within the drainage system, surface levels will be designed to ensure that flood flows are not directed toward dwellings.
- 8.43 A SuDS attenuation basin is proposed to the south east of the site which will treat and store flows ahead of discharge. The development drainage system is to have a controlled outfall east beneath Orton Road, before ultimately discharging into the existing Seven Trent Water (STW) public sewer at the junction between Orton Road to the surface water sewer. The development proposals ensure that the nature and behaviour of the surface water drainage replicates that of the pre-developed site.
- 8.44 SuDS Management Trains will provide suitable treatment of run-off by removing pollutants prior to discharge.
- 8.45 A foul water drainage strategy has been prepared which implements measures to discharge foul water flow from the proposed development. Foul water will connect into an existing public foul water sewer located at the junction between Orton Road and Barn End Road.
- 8.46 The FRA and Drainage Strategy report demonstrates that the proposed development will not result in any detrimental impact onto the existing surrounding properties. The proposed drainage scheme will neither result in nor cause an increase of flood risk to surrounding properties or the development site. The proposed development is therefore in line with NPPF requirements and Local Plan Policy LP33.

Ecology

- 8.47 Blade was instructed by the applicants to undertake a Preliminary Ecological Assessment of the application site.
- 8.48 The site comprises arable land and a pond associated with willow scrub. Species rich hedgerow form the boundaries of the site.

Designated Sites

- 8.49 No statutory or non-statutory designated sites are present within the site boundary. The site falls within the risk zones of Birches barn Meadow SSSI and Alvecote Pools SSSI. It is currently undetermined how many units the scheme will propose or the level of discharge. However, if it is above 100 units and/ or more than 5m³/day of water or liquid waste is discharged than Natural England will need to be consulted.
- 8.50 It is therefore concluded that the development will not have a significant impact on any Statutory Nature Conservation Sites.

Habitats

- 8.51 *Arable:* the land is utilised for arable purposes. Crop production dominates the site.
- 8.52 *Pond:* a pond is situated at the north-east of the site. It is overshadowed by goat willow scrub, reaching 4m in height, with minimal aquatic vegetation present. Common nettle dominates the banks.
- 8.53 *Hedgerows:* four hedgerows are present within the application site. Hedgerow was the only habitat identified as meeting the criteria to be classified as Habitat of Principle Importance criteria under the local and/or national BAP. The vast majority of hedgerow will be retained. Habitat offering a low ecological value at the site level includes improved grassland, and dense/continuous scrub. Habitat offering higher ecological value includes hedgerow and mature broadleaved trees.
- 8.54 The proposal would remove small sections of hedgerow to facilitate the development of the site through the provision of access.
- 8.55 Mitigation and compensation for the loss of this habitat can be accommodated through the creation and enhancement of species-rich grassland within the proposed open space provision.

Fauna

- 8.56 *Great Crested Newts (GCN):* It is unknown whether the on-site pond or those within 500m of the application site support GCN. Therefore, surveys will be required of all ponds within 250m to confirm presence / absence of newts. These surveys have been commissioned and will be submitted in due course.
- 8.57 *Birds:* The habitats on-site to be impacted (arable) are not unique or scarce in the context of the surrounding landscape. Furthermore, it is anticipated that

schemes with large biodiversity areas and retention of hedgerows holds the opportunity to provide a benefit for bird species at Site level post-development.

- 8.58 However, as Alvecote Pools (SSSI) located c.19km north-west supports a regionally important bird community, with over 100 species recorded annually and between 60 to 70 species breeding on-site, it is recommended that an initial scoping survey for birds is undertaken. These surveys have again been commissioned and will be submitted in due course.
- 8.59 *Bats:* all mature hedgerows and trees are to be retained and protected as part of the proposals. Should any mature trees be impacted (removal due to health and safety reasons, change of layout, post-development light spill etc.); tree inspections for bats will be required to identify any potential suitable roosting features (PRFs) and presence / absence of bats.
- 8.60 The Framework Plan indicates that large biodiversity buffers will be afforded around all boundary hedgerows. Maintaining these as dark corridors, incorporating 'bat friendly' planting and providing bat boxes would provide a benefit for bat species at Site level. As no loss or impact upon commuting / foraging routes is anticipated.

Conclusion

- 8.61 Subject to the adoption of the recommendations detailed in the Preliminary Ecological Assessment, the development proposals would fully accord with national, regional and local policy, including adopted policies LP14 and LP16 and Neighbourhood Plan Policies PNP4 and will avoid any significant impacts on any designated sites for nature conservation.

Biodiversity Net Gain

- 8.62 Blade was commissioned by the app[licants to undertake a BNG Assessment of the proposed development.
- 8.63 Following calculations based upon the illustrative proposals undertaken using DEFRA Biodiversity Metric Calculation Tool, it can be seen that a net gain in biodiversity can be delivered as a result of the proposed development. Specifically, an increase in habitat units from 12.23 units to 13.97 units which equates to an 14.24% increase overall. An increase in hedgerow units has also been calculated, from 18.17 units to 20.59 units (which equates to a 13.3% increase).
- 8.64 It has been demonstrated that the proposed development will achieve a 10% overall net gain in biodiversity over the existing situation in line with national requirements and Policies LP16 and LP17.

Arboriculture

- 8.65 Policy LP16 of the Local Plan seeks to protect the natural environment, including important woodland/trees/hedges. The policy encourages development which conserves, enhances, connects, restores or recreates natural assets.
- 8.66 A Tree Survey and Arboricultural Impact Assessment has been submitted with the application. It finds that the proposed development would result not result in any Category A, B or C trees being removed, however the proposed access from Church Road will result in the loss of 15m of low quality and declining hedgerow. A single tree is proposed to be removed; however, this will inevitably die and fall in a short time frame irrespective of whether the site is developed.
- 8.67 The small section of hedgerow removal required to facilitate the proposed vehicular access is not considered to result in a significant visual amenity impact and replacement tree and hedgerow planting is proposed within the site to mitigate any impact. There are extensive opportunities to deliver a net increase of hedgerow and trees on the site as a result of the proposed development. An illustrative planting strategy is shown on the submitted Landscape Strategy Plan.
- 8.68 The proposed development will not require any works to be completed within the Root Protection Areas of retained trees and all retained trees will be fully protected by the installation of tree protection barriers prior to the commencement of development. Tree protection measures are set out in the report.
- 8.69 The proposals are therefore in accordance with Policy LP16 of the Local Plan and PNP4 of the Neighbourhood Plan.

Cultural Heritage & Archaeology

- 8.70 RPS was instructed to by the applicants to prepare both a Heritage Statement and an Archaeological Statement in respect of the proposed development.
- 8.71 The Heritage Statement considers the potential impact of the proposed development on the setting and significance of those designated and non-designated heritage assets located in the vicinity of the application site.
- 8.72 The assessment identified two Listed Buildings, and twenty-one potential non-designated built heritage assets located within a 1km search radius around the site. The report has also considered a Grade I Listed Building located outside of the search area.

- 8.73 The statement established that only the Holy Trinity Church (Grade II) and St Edith Church (Grade I) have the potential for their significance to be affected by the site's development, through changes within their settings.
- 8.74 The assessment concludes that the site comprises a neutral element within the setting of both of these designated heritage assets whereby it makes no contribution to their significance. The development will result in a small visual change within their settings, which will have no effect on how their significance is appreciated or understood.
- 8.75 The proposed development will therefore not cause harm to the significance of these designated and non-designated heritage assets. In the determination of the planning application, the NPPF testing of paragraphs 214, 215 and 15 need not be engaged.
- 8.76 The Archaeological Statement assesses whether there are any likely archaeological constraints to development of the site and identifies whether there will be a requirement for any further archaeological investigation.
- 8.77 It concludes that, there are no archaeological constraints to the site's development, and it is unlikely that the site will contain any archaeological remains that will need to be preserved in-situ or to be designed around.
- 8.78 The identified activity on the adjacent site to the east was investigated through trial trenching post consent and there is no evidence that any of the features extend into this site. It would therefore be appropriate for any further archaeological works that the planning archaeologist might recommend, to ground-truth the geophysics results, to be secured by an appropriately worded planning condition.
- 8.79 Therefore, the proposed development accords with relevant national and local policies and guidance, including Policy LP14 and LP29 of the adopted Local Plan and Policies PNP4 of the Neighbourhood Plan.

Noise

- 8.80 Policy LP29 on development considerations seeks to avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution.
- 8.81 A Noise Assessment has been submitted in support of this application. The assessment relates to the potential impact of existing noise sources on the proposed external amenity areas and on the living rooms and bedrooms within the proposed development.

- 8.82 The Noise Assessment demonstrates the feasibility of the site for residential use, assuming proposed dwellings are located a reasonable notional setback distance within the proposed developable area.
- 8.83 The assessment finds that noise can be satisfactorily controlled by the design of the development. The proposals are therefore in accordance with local Policy LP29.

Sustainable Development

- 8.84 As discussed previously in Chapter 6 of this statement, the NPPF sets out three dimensions to sustainable development which the proposed development should be assessed against.

Economic Benefits

- 8.85 The Government has consistently attached significant weight to the need to secure economic growth and employment. Indeed, the NPPF states (para 85): 'Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'
- 8.86 The main economic benefits of developing up to 110 dwellings and public open space on Land north of Orton Road can be summarised as:
- Employment supported by the construction phase;
 - Contribution of the construction phase to economic output;
 - Growing labour force;
 - Increased household spend and which a substantial proportion would be retained within North Warwickshire;
 - First occupation expenditure linked to new properties; and
 - Increased Council Tax income and New Homes Bonus.

Social Benefits

- 8.87 In terms of social benefits, the planning application will deliver a mix of market and affordable properties that are aligned to local need and demand.
- 8.88 The provision of market housing will also contribute towards meeting the wider housing needs arising within the district, contributing towards the Council's

housing land supply. The provision of affordable homes will contribute to meeting identified affordable housing needs within the district.

- 8.89 Delivery of new public open space provides new opportunities to support recreation and contribute towards healthy, safe and sustainable communities.

Environmental Benefits

- 8.90 The site is not subject to any specific environmental designations and there are few environmental sensitivities.
- 8.91 Moreover, as set out in detail above, a number of environmental and technical assessments have been undertaken, which confirm that the development of the site would not give rise to any unacceptable impacts in terms of landscape character and visual amenity, ecology, heritage, flooding, drainage and traffic. The technical assessments, together with the feedback from engagement with key stakeholders, have informed the preparation of the proposal to ensure that appropriate mitigation has been embedded to address any potential impacts that may arise from the development.
- 8.92 The proposed development seeks to make the most efficient use of this site that is well connected to the existing settlement of Warton and is sensitively integrated within the landscape.
- 8.93 The proposal would secure a Biodiversity Net Gain in excess of the 10% required, through on-site ecological enhancement.
- 8.94 The application includes measures to promote the utilisation of sustainable modes of transport such as walking and cycling and provides opportunity for local residents to access existing services, facilities and employers in close proximity to the site. All dwellings will have EV charging points.
- 8.95 The provision of SuDS through the inclusion of an attenuation basin fulfils a functional role to ensure flood risk is not increased as a result of the development whilst simultaneously enhancing and promoting biodiversity.
- 8.96 Overall, it can be demonstrated that the proposal will result in a net gain in biodiversity.

Planning Balance

- 8.97 The Policies most important for determining the application are out of date because the Council cannot demonstrate a five-year supply of deliverable housing sites under the terms of paragraph 78 of the Framework. Policies relating

to the delivery of housing, including Policy LP2 are now out of date and the weight to be attributed to them is reduced.

- 8.98 Under the provision of the presumption in favour of sustainable development the application should be granted unless there are protected areas or assets of particular importance that provide a strong reason to refuse the development (p11di) or any adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (p11dii).
- 8.99 The harms associated with the proposed development are limited to the site's location outside of, but adjacent to, the settlement boundary and the minor adverse landscape impacts focused at the local level. In addition, the site represents best and most versatile agricultural land.
- 8.100 There are no protected areas or assets of particular importance that provide a strong reason to refuse the development.
- 8.101 The measurable benefits of the proposed development include:

Social Benefits

- Market Housing within the context of an increasing housing need and the provision of a housing mix to meet local needs – significant weight;
- 40% Affordable Housing within the context of a significant, and increasing, local need and shortfall in supply – very significant weight;
- Creation of new green space and play area publicly accessible to both new and existing residents – moderate weight.

Economic Benefits:

- The proposal would result in a number of economic benefits, notably job creation during construction, increased local spend at shops and facilities, increased Council Tax receipts and a New Homes Bonus payment. These economic benefits would accrue moderate weight in the planning balance.

Environmental Benefits:

- The ecological enhancement on site securing Biodiversity Net Gain above the required 10%.

- 8.102 It is the case that there are no adverse impacts of the development that significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

10. CONCLUSIONS

- 10.1 This planning statement has been prepared on behalf of the applicants in support of an outline planning application for the delivery of up to 110 dwellings, public open space, landscaping and planting, associated infrastructure and enabling works. Primary vehicle access is to be constructed via Church Road.
- 10.2 Section 38(6) of The Planning and Compulsory Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.3 The policies relating to the delivery of homes are, however, now out-of-date in NPPF terms given that the Council is unable to demonstrate a five-year supply of deliverable land for housing.
- 10.1 Land north of Orton Road is continuous with the settlement boundary for Warton. Warton is identified as a Category 4 settlement within the adopted Local Plan. It therefore provides a sustainable extension to the settlement whilst also helping address the Council's housing shortage.
- 10.2 A range of technical and environmental assessments have been undertaken to inform the preparation of the development proposals and ensure appropriate mitigation is included to address any impacts that may arise from the development. These have been summarised in Chapter 8 and demonstrate that the site is not subject to any insurmountable constraints, that it is a suitable location for growth, and that any impacts that would arise from the development of this site are minimal.
- 10.3 There are, therefore, no adverse impacts that would (individually or collectively) 'significantly and demonstrably' outweigh the clear and substantial benefits of the proposed residential development of the application site and part (ii) of paragraph 11d of the NPPF is passed.
- 10.4 The application proposals constitute sustainable development and would contribute towards meeting the identified local housing needs of the district. Therefore, it is respectfully requested that the Council grant planning permission within the framework set by Section 38(6) of The Planning and Compulsory Purchase Act 2004.



Appeal Decision

Site visit made on 31 May 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/R3705/W/22/3312660

Land off Curlew Close, Warton, Tamworth, Warwickshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Piper (Barley Developments) against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2020/0246, dated 6 May 2020, was refused by notice dated 8 June 2022.
 - The development proposed is described as erection of 34 dwellings including associated landscaping, car parking and other ancillary works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the banner heading above is taken from the planning application form. However, during the application stage the number of proposed dwellings changed from 34 to 28 affordable dwellings. The above description therefore differs from that on the decision notice which is 'erection of 28 affordable dwellings including associated landscaping, car parking and other ancillary works.' My decision is based on this description from the decision notice, since it more accurately described the proposal. It is also shown on the appeal form, so the appellant would not be prejudiced by my use of it.
3. The Council's decision notice refers to Policy LP29(6), which relates to highways. However, the Council has confirmed that this was a typographical error, which should have referenced Policy LP29(9). The appellant is aware of this issue and referred to it in paragraph 74 of their statement of case. As such, I have proceeded on this basis, and no parties would be prejudiced by my use of Policy LP29(9).

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the proposed dwellings having regard to the development plan policy;
 - the proposal's effect on the character and appearance of the area; and
 - the proposal's effect on living conditions of neighbouring occupiers.

<https://www.gov.uk/planning-inspectorate>

Reasons

Suitability of location

5. Policy LP2 of the North Warwickshire Local Plan (2021) (Local Plan) defines the borough's settlement hierarchy and steers most development to the main towns, with a cascade approach in other settlements and with very little development directed towards the countryside. This is to ensure that development is provided in accessible locations in accordance with its range of services and facilities, and to protect the countryside. Warton is identified by Policy LP2 as a Category 4 settlement where development adjacent to its settlement boundary may be acceptable. Policy LP2 goes on to state, 'All development will be considered on its merits; having regard to other policies in the plan and will cater for windfall housing developments usually on sites of no more than 10 units at any one time depending on viability, services and infrastructure deliverability.'
6. The appeal site comprises agricultural land, located off Curlew Close. The proposed development would result in an extension of the village beyond the development boundary into open countryside.
7. The reason for the limitation of 10 dwellings in Category 4 settlements is to ensure that small communities are not swamped by new developments but could grow organically and naturally to be sustainable. I accept that the policy states that windfall housing would be catered for *usually* on sites no more than 10 units at any one time and therefore allows for exceptions. Indeed, some of the allocations are in excess of this amount.
8. However, in this instance, the proposal of 28 dwellings would exceed the 10 units of housing by more than double. The proposed development would therefore result in a significant expansion on the outskirts of a small village. Furthermore, while the village does offer a few services and facilities, they are insufficient to cater for the daily living requirements of residents. Although I acknowledge that the presence of additional residents could potentially support and enhance the existing services and facilities, I find that easy access to shops, services and job opportunities would heavily rely on the use of private motor vehicles.
9. Although there is a bus service nearby, I have not been provided with a timetable and so cannot be certain that the routes of timings would be viable for the typical daily needs of future occupiers. In the absence of alternative sustainable modes of transport such as regular bus or train services, future occupants are more likely to rely on private vehicles to access services and facilities as well as employment undermining the development strategy.
10. Consequently, the proposal would be in conflict with Policies LP1 and LP2 of the North Warwickshire Local Plan (2021) (Local Plan). Amongst other things, these policies restrict development outside development boundaries and focus new development within a defined settlement hierarchy, and seek to secure sustainable development with access to a range of services and facilities. In addition, the proposal would fail to accord with the National Planning Policy Framework (Framework) in respect of achieving sustainable development.

Character and Appearance

11. The appeal site is located within the 'No Man's Heath to Warton – Lowlands' Landscape Character Area, as defined in the Council's Landscape Character Assessment (LCA). This describes the area as being a mixed open agricultural landscape, with a scattering of small red brick nucleated hill-top villages of which Warton is an example. The LCA identifies the need to conserve and strengthen the rural character and dispersed settlement pattern recommending that new developments should reinforce the existing settlement pattern of the existing villages. The undeveloped and rural character of the appeal site contributes positively to that landscape character.
12. The prevailing pattern of development near to the appeal site is characterised by residential properties with long private rear gardens positioned along and to either side of Austrey Road. There are also some small cul-de-sac developments leading off Austrey Road, with the existing dwellings fronting the road.
13. The proposal would be accessed off a small cul-de-sac known as Curlew Close, and therefore not directly from Austrey Road. This detached relationship would be a marked change from the existing built form fronting Austrey Road, and the existing cul-de-sac being accessed directly off Austrey Road. The proposal would therefore appear as an add-on to the village, rather than an integral component of it.
14. Although the proposal would be adjacent to existing development along Austrey Road and Curlew Close, most of the proposed development would abut long rear gardens of adjacent dwellings. It would extend deeper into the plot beyond the existing built form and into open countryside, altering the established linear built form and rear garden environment. As such, the proposal would not be contained by existing built form and would not infill a gap in an existing built-up part of the village. Furthermore, the site's undeveloped open nature emphasises a transition from the built form to the rural context beyond.
15. The proposal would provide a range of dwelling sizes and layout. Nevertheless, the siting and mass of the proposed development would be out of keeping with the prevailing pattern of the existing residential development in the area. The proposal would create an incongruous form of development adjacent to a well-established rear garden environment and would not respond positively to the overriding spacious character of the area.
16. During my site visit I observed open views across the site and from the surrounding area, despite the presence of some boundary vegetation. These included views from Curlew Close. Whilst landscape planting could be designed to provide some degree of screening, the proposal would nevertheless be visible from the site entrance, and in views from neighbouring properties. Therefore, the proposal would be a visually intrusive form of development that would unacceptably detract from the character and appearance of the surrounding area.
17. For the reasons given, the proposal would cause unacceptable harm to the character and appearance of the area. Accordingly, it would fail to accord with Policies LP1 and LP14 of the Local Plan. These policies, amongst other things, require development to conserve, enhance and where appropriate, restore

landscape character, and positively improve the individual settlement's character and appearance. Given these identified Local Plan conflicts, the proposal would not be supported by Policy LP2. In addition, the proposal would fail to accord with the design objectives of the Framework.

Living Conditions

18. Due to the sufficient separation distances between the proposed dwellings and the existing neighbouring dwellings, the proposal would not cause an unacceptable loss of privacy through overlooking to neighbouring residents. Similarly, adequate outlook for existing residents would be maintained, due to the scheme's layout and positioning of rear gardens adjacent to existing built form.
19. As such, for this main issue, the proposal would accord with Policy LP29(9) of the Local Plan. Amongst other things, this policy seeks to ensure new development avoids and addresses unacceptable impacts upon neighbouring amenities.

Planning Balance and Conclusion

20. Although the Council is able to demonstrate a five year supply of housing the proposal would contribute towards the Government's objective of significantly boosting that supply. In that context I give the provision of 28 units moderate weight.
21. It is proposed that the housing would be provided as 100% affordable. This would contribute to the social aspect of sustainability and the need for affordable housing within the area which has been confirmed by the Council. The appellant's Financial Viability Assessment states that it is imperative that only the policy compliant level of affordable housing be secured by a S106 agreement to allow the housing association to raise stronger capital on the homes over and above the 40%. However, I do not have any signed Section 106 legal agreement before me to secure any provision.
22. I have had regard to the advice in the Planning Practice Guidance on whether it would be appropriate to secure provision via a condition¹. It confirms that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency. It goes on to state that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk.
23. I am not convinced that the development is complex or strategically important or that its delivery would otherwise be at serious risk. Furthermore, neither party has suggested such a condition. While the delivery of affordable housing would be a benefit of the scheme, given the overall shortfall, I cannot be sure that it would be delivered at 100%. I therefore attach only moderate weight to this benefit.

¹ Paragraph: 010 Reference ID: 21a-010-20190723

24. The proposal would deliver bungalows that would make a small contribution to a need for this type of accommodation and would enable housing choice in this respect. However, these benefits are modest relating to only a small number of proposed bungalows.
25. The proposal would make an economic contribution during the construction period and subsequently from future occupiers in terms of spending in the local area, which would help to support local businesses, facilities, and services.
26. The proposed scheme would not have an adverse impact with regard to residential amenity, highway safety, flooding and drainage. I also note the suggested biodiversity enhancements. However, these are neutral factors and do not weigh in favour of the proposal.
27. The proposal would be at odds with the spatial strategy in the development plan. It would also result in harm to the character and appearance of the area for the reasons given. It would therefore be contrary to the development plan as a whole. These matters I have outlined above, while of some benefit would not outweigh that conflict.
28. The appeal is therefore dismissed.

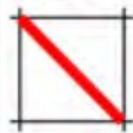
H Smith

INSPECTOR

Appendix G – Indicative Landscape Plan



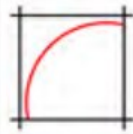
LEGEND



Boundary



Existing trees retained



Existing trees removed



Existing hedgerows to be removed



Existing hedgerows to be retained (+ enhanced)



Existing hedgerows recently planted



Existing scrub retained



Proposed species-rich native hedgerow undersown with EH1



Proposed traditional orchards



Proposed native trees



Proposed modified grassland



Proposed other neutral grassland (EM3 Species-rich grassland)



Proposed other neutral grassland
(EM10 Tussock meadow)



Proposed other neutral grassland
(EM8 Wetland meadow)



Proposed other neutral grassland
(EP1 Pond edge)



Proposed fencing



Existing pond



Proposed development parcels