

# Proof of Evidence: Planning

Appeal reference: APP/R3705/W/25/3371526

Land South of Warton Recreation Ground,  
Warton

Neil Cox (BA Hons, MA, MRTPI)

November 2025

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## Preface

1. I am Neil Cox. I hold a Bachelor of Arts Degree (with Honours) in Town Planning from the University of Newcastle (1999) and a Masters Degree in Town Planning (2004). I am a Chartered Member of the Royal Town Planning Institute and have been since 2007.
2. I am currently a Director at Evolve Planning & Design, establishing the Planning Team in 2021. Before setting up Evolve Planning I was employed by Pegasus Group, joining as an Associate Planner in 2014 and departing as a Senior Director. Between 1999 and 2013 I have held positions at Lichfield District Council and Tamworth Borough Council. In total, I have over 25 years' experience working within both the public and private sector.
3. I currently undertake a wide range of town planning consultancy work for clients including private landowners, developers and land promoters.
4. In this matter I am instructed by Richborough, Michael Ensor Caton and Andrew Norman Caton ('the Appellant') to present evidence to the Appeal Inquiry following this appeal against the non-determination of the outline planning application by North Warwickshire Borough Council for the construction of 110 dwellings, with access landscaping, sustainable drainage features, and associated infrastructure. All matters are reserved except for primary vehicular access from Church Road (the Appeal Proposal) at Land South of Warton Recreation Ground, Orton Road, Warton.
5. My personal involvement with the application has been as the lead planning consultant involved with the application from pre-application through the submission of the planning application including the preparation of the Planning Statement, Statement of Community Engagement and managing the planning application process on behalf of the Appellant.
6. I am very familiar with the site and its surroundings as well as the legislation and policies pertaining to it. The evidence I have provided, and which provide for this appeal (APP/R3705/W/25/3371526), in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.
7. This evidence should be read in conjunction with the other detailed evidence of my colleagues:

- Ben Pycroft of Emery Planning in relation to Housing Land Supply [**CD8.2**];
- Jame Bullock of Blade in relation to Landscape Character & Appearance [**CD8.3**];
- James Parker of Hub Transport Planning in relation to Access to Services & Facilities [**CD8.4**]; and
- Tony Kernon of Kernon Countryside Consultants and in respect Agricultural Land Classification [**CD8.5**].

## 1. The Appeal Proposals

- 1.1 This appeal follows the non-determination by North Warwickshire Borough Council of planning application reference PAP/2025/0155, which has the following description of development:

***“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”***

- 1.2 The development would provide up to 110 new (Class C3) dwellings, including up to 44 affordable dwellings (40%) in a sustainable location adjacent to the settlement boundary of Warton.
- 1.3 The proposal makes provision for circa. 2 hectares of open space to include amenity green space, children’s play, landscaping, footpaths and sustainable drainage.
- 1.4 Primary vehicular access is proposed to be taken from Church Road, with additional pedestrian access points identified to Church Road to the west and to both the recreation ground and Red Marl Way to the east.
- 1.5 The Appeal Proposal represents a logical extension to the village of Warton. The Appeal Site lies adjacent to the settlement boundary of the village and is well-contained by existing surrounding landform and existing physical highway infrastructure comprising Orton Road to the south and Church Road to the north-west. The site is further enclosed by the presence of robust hedgerows containing native hedgerow trees which limit visibility of the site and views in to and out of the site.
- 1.6 The Design & Access Statement (DAS) [CD1.8] provides detailed information regarding the design rationale. The overall vision is to embrace high-quality sustainable design principles and sensitively integrate the development with the surrounding landscape and built form, to provide a range of new homes that can respond to current housing needs.
- 1.7 The proposal and strategies set out in the DAS provide a framework to deliver the following benefits:

- i. A well-designed development in a sustainable location informed by and responsive to place
  - ii. A mix of housing types and sizes informed by local needs
  - iii. Encouraging healthy lifestyles through the creation of a direct, attractive and safe network of pedestrian routes that connect homes to key destinations to make walking feel like an instinctive choice for people making short journeys
  - iv. The potential to deliver biodiversity net gain through the creation of a variety of complementary habitats
  - v. Reinforcing the existing landscape character through retention and enhancement of the existing trees and hedgerows, and the delivery of a new landscaped edge to maintain a soft transition into the village
  - vi. Delivery of new substantial publicly accessible open space for the village, well connected with the existing movement network, and provision of a circular walk within the site
  - vii. Stimulating the local economy and enhancing the sustainability of the village through an increase in population that can support existing facilities and services
- 1.8 The application was submitted to North Warwickshire Borough Council on 1<sup>st</sup> April 2025 for the above proposals. The application was subsequently validated by the Council on 25<sup>th</sup> April 2025. The Council did not determine the application within the statutory 13-week period.
- 1.9 Evolve, on behalf of the Appellant, submitted a Notification of Intention to Submit an Appeal under the Inquiry Procedure [CD8.1] to the Council (and copied in the Planning Inspectorate) on 22<sup>nd</sup> July 2025. The necessary appeal documents including the Statement of Case (SoC) [CD8.7], draft Statement of Common Ground (SoCG) and draft Core Document List were submitted on 6<sup>th</sup> August 2025.

#### **Reasons for Refusal**

- 1.10 At the time of submitting the appeal, no decision had been issued by the Council, nor had a report been taken to members of the Council's Planning and Development Board with recommendations in respect of the determination of the application. As such the SoC was

progressed on the basis of the merits of the scheme, providing an assessment of the overall planning balance, in the context of national and local policy and other relevant material considerations.

- 1.11 Following the Appellant's appeal against non-determination the Council took a report to a meeting of its Planning and Development Board on Monday 6<sup>th</sup> October 2025 [CD3.1]. The report provides the officers' consideration of the appeal proposals and asked members of the committee to confirm what their position would have been if the determination of the application had remained with the Council. The officers' report recommended the application should be refused with the following five reasons for refusal (RfR):

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.*

- 1.12 Members endorsed the recommendation and five RfR at the Planning and Development Board meeting held on 6<sup>th</sup> October 2025.



## 2. The Appeal Case

### Main Issues

2.1 Following the Case Management Conference (CMC) on the 9<sup>th</sup> October 2025, the following matters were confirmed by the Inspector as the main issues for the appeal:

**Issue 1 The effect of the proposed development on the settlement hierarchy of the borough.**

**Issue 2 The effect of the proposed development on the character and appearance of the area, with particular reference to the surrounding landscape, the design and layout of the proposal, and its spatial integration with existing development.**

**Issue 3 Whether future residents of the proposed development would have appropriate access to facilities and services.**

**Issue 4 The effect of the proposed development on the supply of agricultural land.**

2.2 My evidence deals first with Main Issue 1, and I will also consider Main Issues 2-4 as part of the overall planning assessment. I will undertake an assessment against the relevant policies to this appeal, and I will identify the benefits of the appeal proposal. Following this I will consider the overall planning balance in the context that the presumption in favour of sustainable development applies and the tilted balance is engaged.

2.3 The other witnesses for the Appellant are set out below:

**Table 1: Witnesses for the Appellant**

|                  |                                |                                                |
|------------------|--------------------------------|------------------------------------------------|
| Mr James Bullock | Blade                          | (who deals with landscape character – Issue 2) |
| Mr James Parker  | Hub Transport Planning         | (who deals with access matters – Issue 3)      |
| Mr Ben Pycroft   | Emery Planning                 | (who deals with housing land supply)           |
| Mr Tony Kernon   | Kernon Countryside Consultants | (who deals with agricultural land – Issue 4)   |

2.4 This proof of evidence is structured to address the evidence in the following order:

- i. The appeal proposal, site context and planning history are explored.
- ii. The planning policy framework and context is defined.
- iii. I review the key planning policies to this appeal and show they should be applied.
- iv. The Main Issues 1-4 to this appeal are considered.
- v. Other matters raised by the Council and third parties are addressed.
- vi. The overall planning balance is carried out.
- vii. Summary and conclusions

2.5 It is common ground between the parties that the Council is unable to demonstrate a five-year supply of deliverable housing land and therefore the National Planning Policy Framework's (NPPF or 'Framework') presumption in favour of sustainable development (the presumption) is engaged [CD8.11.1]. Although the Appellant is of the view that the Council's supply is materially lower than the Council assumes, and this is considered in my colleague Ben Pycroft's evidence.

### **3. Appeal Proposal, Site Context & Planning History**

- 3.1 The Appeal Proposal seeks outline planning permission for the construction of up to 110 dwellings, including 40% affordable homes, landscaping, sustainable drainage features and associated infrastructure with primary access from Church Road.
- 3.2 A full description of the Appeal proposal is set out within Section 3 of the Appellant's Statement of Case (SoC) [CD8.7], within the Main SoCG [CD8.11.1] and within the submitted Planning Statement [CD1.7].
- 3.3 Briefly, the Appellant sought pre-application advice on its outline proposals for up to 110 dwellings with associated access on 4<sup>th</sup> February 2025. A public consultation exercise was undertaken with the local community during February 2025 and resulted in a total of 115 responses being received from local people. Full detail of the community engagement is set out within the Statement of Community Engagement [CD1.23] submitted as part of the application.
- 3.4 Following pre-application discussions and pre-application community engagement, the Appellant changed the access strategy for the proposals, moving the primary vehicle access from Red Marl Way to Church Road. Additionally, further work including a Flood Risk Assessment, Landscape and Visual Appraisal, Appearance Strategy, Badger Survey and further engagement with the County Archaeologist was undertaken to inform the Appellant's final proposals and outline planning application.
- 3.5 There is no previous relevant planning history on the appeal site. The site immediately to the east of the appeal site (known as 'Cornfields') was previously promoted by Richborough. The site was not allocated through the adopted North Warwickshire Borough Local Plan as outline consent was granted by the authority in 2018 (Application reference: PAP/2017/0551) [CD10.3] and with reserved matters consent granted in 2019 (Application reference: PAP/2018/0687) [CD10.9], preceding the adoption of the North Warwickshire Local Plan [CD4.1].
- 3.6 A full planning history is set out at Section 4 of the SoC [CD8.7].

## 4. Most Important Policies

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.

4.2 The Development Plan in respect of the appeal site comprises the following:

- North Warwickshire Local Plan (2021) [CD4.1]
- Polesworth Neighbourhood Plan (2025) [CD4.3]

4.3 The National Planning Policy Framework (“NPPF”) is a material consideration for the purposes of sections 70(2) of the TCPA 1990 and section 38(6) of the PCPA 2004. The NPPF represents up-to-date government policy and is, therefore, an important material consideration that must be taken into account where it is relevant to a planning application/appeal. If decision takers choose not to follow the NPPF, where it is a material consideration, clear and convincing reasons for doing so are needed.

4.4 At the heart of the NPPF is a presumption in favour of sustainable development, where Paragraph 11 sets out the policy for decision making. Paragraphs 11(c) and 11(d) set out how this should be done, with 11(d) referred to as the ‘tilted balance’. Before turning to the development plan, it is useful to note some key aspects of recent judgments on the approach to be taken.

### **The NPPF**

4.5 It is agreed that the tilted balance through paragraph 11(d) is engaged in relation to this proposal as set out in the Main SoCG at paragraph 5.8.

4.6 It is further agreed that for the purposes of paragraph 11(d) (i), no Footnote 7 policies apply and therefore one proceeds to paragraph 11(d)(ii).

4.7 With regards to paragraph 11(d), Footnote 8 confirms that the presumption is triggered for applications involving the provision of housing where:

***a) “The local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 78); or***

***b) Where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.”***

- 4.8 Footnote 8 qualifications are not contingent on one another; to engage the presumption, the satisfaction of one will suffice.
- 4.9 With regards to criterion (a), it is agreed the Council cannot demonstrate a five-year supply of deliverable housing land.
- 4.10 The Footnote 8(a) qualification is therefore satisfied, engaging the tilted balance. This means the most important policies in respect of housing supply are deemed out of date. The weight to be given to them is a matter of judgment for the decision taker.
- 4.11 The Supreme Court judgment in *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37 [CD7.1] recognised that if a planning authority that was in default of the requirement of a five-years' supply were to continue to apply its environmental and amenity policies with full rigor, the objective of the Framework could be frustrated; and that the decision taker should be disposed to grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 4.12 It is agreed that the tilted balance is engaged in relation to this proposal as set out in the Main SoCG [CD8.11.1] at paragraph 5.8.

#### **Development Plan Policies**

- 4.13 The planning policies and national guidance that are of most relevance to this appeal are identified in the SoCG [CD8.11.1 para 3.4] and replicated below. The policies ***highlighted in italics*** are where the Council considers a conflict, as confirmed within the RfR set out within the Planning and Development Board Report [CD3.1].

#### **North Warwickshire Local Plan (adopted September 2021) [CD4.1]**

- ***Policy LP1 – Sustainable Development***
- ***Policy LP2 – Settlement Hierarchy***

- Policy LP5 – Amount of Development
- Policy LP7 – Housing Development
- Policy LP8 – Windfall
- Policy LP9 – Affordable Housing Provision
- ***Policy LP14 – Landscape***
- Policy LP15 – Historic Environment
- Policy LP16 – Natural Environment
- Policy LP17 – Green Infrastructure
- Policy LP21 – Services & Facilities
- Policy LP22 – Open Space & Recreation Provision
- Policy LP23 – Transport Assessments
- Policy LP27 – Walking & Cycling
- Policy LP29 – Development Considerations
- ***Policy LP30 – Built Form***
- Policy LP33 – Water & Flood Risk Management
- Policy LP34 – Parking
- Policy LP35 – Renewable Energy & Energy Efficiency
- Policy LP36 – Information & Communications Technologies
- Policy LP37 – Housing Allocations
- Policy LP38 – Reserve Housing Sites

#### **Polesworth Neighbourhood Plan (made June 2025) [CD4.3]**

- Policy PNP1 – Protecting Local Green Space
- ***Policy PNP3 – Sustainable Design and Construction***
- ***Policy PNP4 – Conserving and Enhancing the Landscape***
- Policy PNP7 – Sports, Recreation & Leisure Facilities
- Policy PNP8 – Transport
- Policy PNP9 – Preserving the Separate Identity of Polesworth's Villages

4.14 The SoCG [CD8.11.1] details all relevant development plan policies and material considerations which are relevant to the appeal proposals.

### **The Presumption in Favour of Sustainable Development**

- 4.15 During the determination period of the application, the Council maintained that it could demonstrate a five-year supply of deliverable housing land. Since the submission of the appeal, the Council has now confirmed it cannot demonstrate a five-year supply of deliverable housing land, with the supply being between 1.5 and 2.2 years, as set out within the Planning and Development Board [CD3.1] report at paragraphs 8.47 to 8.51.
- 4.16 It is therefore now agreed that the Council cannot currently demonstrate a five-year supply of housing land as required by the NPPF. For the purposes of this appeal, whilst the parties agree that the Council cannot demonstrate the required five-year housing land supply, the parties do not agree on the level of the shortfall. The evidence of my colleague Ben Pycroft of Emery Planning considers the housing land supply position and concludes that the Borough's supply equates to just 1.53 years [CD8.12.2].
- 4.17 It is agreed that given the Council cannot demonstrate a five-year housing land supply, the presumption in favour of sustainable development applies in accordance with paragraph 11(d) of the NPPF, with the tilted balance engaged for the purposes of determining the appeal proposal.

### **Out of Date Development Policies**

- 4.18 Notwithstanding the above, the lack of housing land supply is not the only reason the policies should be found to be out-of-date in this case. Policies which bear on the decision can be out-of-date irrespective of housing land supply or the Housing Delivery Test result, with the consequence that the tilted balance is triggered on a different basis as per *Oxton Farm v Harrogate BC* [2020] EWCA Civ 805 at [33] [CD7.2].
- 4.19 In *Gladman Developments Ltd v SSHCLG* [2021] EWCA Civ 104, [CD7.3] Sir Keith Lindblom held that:

***"In paragraph 11 [of the NPPF] two main currents running through the NPPF converge: the Government's commitment to the "plan- led" system and its support for "sustainable development [...] the provisions on "decision-taking" in the second part of paragraph 11 set out a policy to guide decision-makers on the performance of their statutory responsibilities under section 70(2) of the 1990***

***Act and section 38(6) of the 2004 Act, in the specific circumstances to which they relate.”***

- 4.20 In *Bloor Homes East Midlands Ltd v SSCLG & Anor* [2014] EWHC 754 (Admin), the High Court defined “out of date” (in the older NPPF (2012) paragraph 14 at [45]: [CD7.4].

***“If the plan does have relevant policies these may have been overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason, so that they are now “out-of-date... If the policies which are most important for determining the planning application have been overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date, the decision makers must apply the tilted balance expressed in the presumption in favour of sustainable development.”.***

- 4.21 The phrase, “the policies most important for determining the application,” has been the subject of judicial consideration. In *Wavendon Properties Ltd v SSHCLG* [2019] EWHC 1524 (Admin) [CD7.5] Dove J held at [58] that:

***“In my view the plain words of the policy clearly require that having established which are the policies most important for determining the application, and having examined each of them in relation to the question of whether or not they are out of date applying the current framework [...] an overall judgement must be formed as to whether or not taken as a whole these policies are to be regarded as out-of-date for the purpose of the decision.”***

- 4.22 Having regard to these authorities, and for the purposes of this Appeal, I consider that the most important policies are Local Plan Policies (i) LP1 Sustainable Development, (ii) LP2 Settlement Hierarchy, (iii) LP14 Landscape, (iv) LP30 Built Form, (v) PNP3 Sustainable Design & Construction and (vi) PNP4 Conserving & Enhancing the Landscape.
- 4.23 With regard to those policies which are not highlighted in paragraph 4.13 above, a summary of the policy compliance position can be found in **Appendix A** of this proof of evidence.



## **North Warwickshire Local Plan (2021)**

- 4.24 The North Warwickshire Local Plan [CD4.1] was adopted by the Borough Council on 29<sup>th</sup> September 2021 following receipt of the Inspector's Report issues on 20<sup>th</sup> July 2021 [CD4.9]. The Local Plan was submitted for examination in March 2018 and prepared and examined in the context of the 2012 NPPF, under transitional arrangements set out in the 2018 and then the 2019 versions of the NPPF.
- 4.25 The Council is at the very early stages of preparing a new Local Plan. The Council's most up to date Local Development Scheme (LDS) anticipated that an Issues and Options consultation would take place in 'Spring 2025'. No such consultation has taken place yet. As such, a review of the current Local Plan has not reached a stage whereby it attracts any weight.

### **Local Plan Policy LP1 Sustainable Development**

- 4.26 Policy LP1 embeds the presumption in favour of sustainable development within the Development Plan, reflecting national guidance. The presumption in favour of sustainable development allows for a position where there may be some conflict with the Development Plan and this would need to be considered through a planning balance exercise.
- 4.27 The second part of the policy sets out a number of qualities that all development must achieve to ensure high quality. These are broad and overarching qualities which are further detailed within other policies set out within the Plan.
- 4.28 The final part of the policy refers to the implementation of proposals and infrastructure and reaffirms that infrastructure will be sought where it is necessary, directly related to the development and is fairly and reasonably related in scale and kind to the development. The policy confirms that such infrastructure will be secured through conditions and legal agreements to ensure delivery. Where development is proposed in excess of the requirements set out within the plan, which would assist in the provision of enabling infrastructure, particularly where this would facilitate development in the long term or provide additional affordable housing, this will carry weight in favour of granting permission.
- 4.29 It is agreed that the tilted balance is engaged, and it is my view that the proposed development accords with the list of qualities set out in Policy LP1. In addition, through the submitted Section 106 Agreement [CD8.10] and draft conditions [CD8.11], the proposal would

deliver the necessary infrastructure to mitigate the impact arising from the appeal scheme in accordance with the third limb of this policy.

### **Local Plan Policy LP2 Settlement Hierarchy**

4.30 Policy LP2 establishes a settlement hierarchy which has regard to services and facilities within each respective settlement. The Policy seeks to distribute new development in line with the settlement hierarchy and is a key policy that relates to housing delivery. It is common ground that the Borough Council cannot demonstrate a 5 year supply of deliverable housing land and the spatial strategy has also delivered a shortfall in housing to date, some 544 homes short of the requirement as determined by the stepped trajectory.

4.31 The stepped trajectory relates to the delivery of critical infrastructure, with improvements to the A5 trunk road forming the key plank of the spatial development strategy and the timescales for the delivery proposed housing allocations.

4.32 A Written Statement prepared by Warwickshire County Council to the Local Plan Examination in Public (EiP) [CD10.12] provides a good overview of the capacity issues on the A5 corridor, the components of the improvements necessary to support the delivery of the Local Plan spatial development strategy and the approach to funding the proposed improvements.

4.33 The Written Statement notes:

*"The key infrastructure requirements to support the Local Plan were identified through the Strategic Transport Assessment (STA) October 2017 and identified key highway infrastructure measures necessary to support the delivery of the Local Plan proposals. Additionally the development impacts were tested across a series of years to provide an indicative phasing plan for the infrastructure delivery."*

4.34 An A5 Growth Corridor Study was prepared in 2018 on behalf of the A5 Partnership which corroborated the findings of the STA. In respect of the outcome of this study, the Written Statement states:

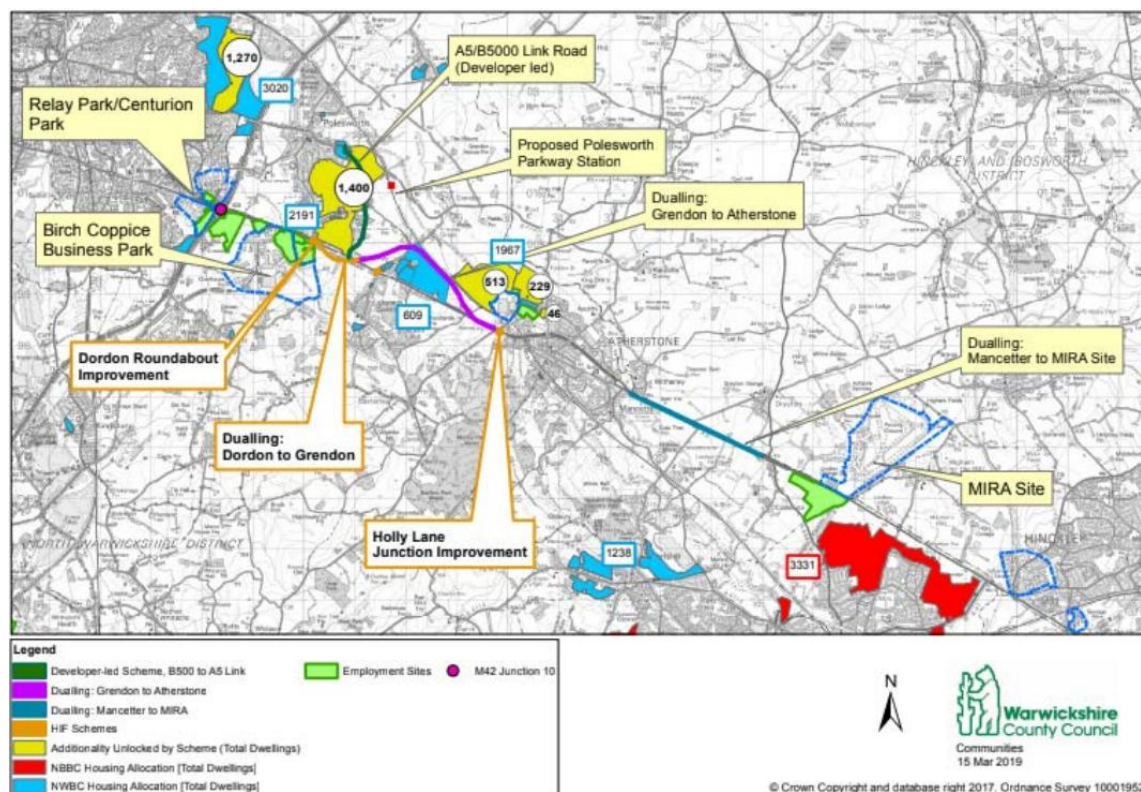
*"The outcome of this study cemented the conclusions that the additional schemes identified towards the end of the STA work will be essential in facilitating all of the growth identified in the Local Plan proposals whilst maintaining an acceptable level of network operation."*

- 4.35 The Written Statement identifies those A5 improvement schemes “*which are considered essential for delivery by the end of the Plan period on the basis of the current trajectory and development proposals identified.*”
- 4.36 The essential A5 improvements within North Warwickshire, including the dualling north of Grendon, was included in a £55m Homes England Housing Infrastructure Fund (HIF) bid submitted in March 2019. The A5 HIF submission supported 100% funding (as no other funding sources were identified) for the following improvements:
- Offline dualling south of Dordon - including a new offline roundabout to provide access to Dordon and new roundabout at eastern end to reconnect with existing A5 and link into the dualling north of Grendon (identified in purple (Fig. 1)
  - Spon Lane roundabout improvements – approach and circulatory widening for additional lanes
  - Holly Lane roundabout improvements – approach and circulatory widening for additional lanes
  - The existing A5 south of Dordon would become a local access road with improved pedestrian and cycle facilities
- 4.37 The expected delivery timescales for the above components were as follows:

**Table 2: STA Timescales for A5 HIF Works**

| SRN Scheme in STA                | STA Mitigation Requirement | Expected Delivery by |
|----------------------------------|----------------------------|----------------------|
| Holly Lane                       | 2021                       | March 2024 (HIF)     |
| A5 Bypass Phase 1                | 2026                       | March 2024 (HIF)     |
| Dordon Signals                   | 2026                       | March 2024 (HIF)     |
| Holly Lane – widening approaches | 2026                       | March 2024 (HIF)     |
| Grendon Roundabout               | 2026                       | March 2024 (HIF)     |
| A5 Holly Lane                    | 2031                       | March 2024 (HIF)     |
| Bypass Roundabout                | 2031                       | March 2024 (HIF)     |

- 4.38 Figure 1 below shows the relationship between the necessary A5 improvements, and the Local Plan allocations clustered along the A5 corridor between Tamworth and Nuneaton.

**Figure 1: Relationship between A5 improvements and Local Plan Allocations**

- 4.39 The HIF guidance stated that schemes are to be completed, and all monies spent by March 2024.
- 4.40 The bid was supported by National Highways, and £79.5m funding was earmarked in 2020 by the Government, which was intended to replace the HIF bid. Funding of the improvements between Hinckley and Tamworth were identified for consideration through the Road Investment Strategy for the period 2025-2030 (RIS3).
- 4.41 In April 2025 the funding for the A5 upgrade was withdrawn by National Highways and the RIS3 interim funding statement [CD10.21] was issued excluding the A5 improvement works. Reports state that the funding was withdrawn due to a projected cost overrun of £190m along with a four-year scheduling delay for the works. With no alternative funding source secured. The critical/necessary improvements required to support the spatial development strategy have not been delivered in line with the STA timescales as set out above.
- 4.42 In light of this change in circumstances, post adoption of the Local Plan, proportionate distribution of growth in accordance with the Borough's settlement hierarchy is not capable of boosting deliverable housing land in the short term or delivering the minimum housing

requirement within the Plan period to 2033. This is considered in greater detail in section 5 of my evidence.

4.43 The spatial strategy, including settlement hierarchy, is linked to the current housing delivery failure as set out in the evidence of Mr Pycroft [**CD8.12.2**]. In light of the above, it is contended that Policy LP2 should be afforded only limited weight.

4.44 As set out in section 9 of my evidence, it is considered that the level of conflict with Policy LP2 is limited to the quantum of development proposed outside, but adjacent to, the settlement boundary of Warton.

#### **Local Plan Policy LP14 Landscape**

4.45 Policy LP14 states that within landscape character areas as defined by the Landscape Character Assessment of 2010 [**CD4.13**], Arden Landscapes Guidelines (1993) and the Historic Landscape Characterisation Project (2010) or successor documents, development should look to conserve, enhance and where appropriate, restore landscape character. The policy also seeks to promote a resilient, functional landscape which is able to adapt to climate change.

4.46 As set out in Mr Bullock's evidence [**CD8.12.3**] it is considered that the Appeal proposal is in accordance with Policy LP14.

#### **Local Plan Policy LP30 Built Form**

4.47 Policy LP30 states that all development, in terms of its layout, form and density should reflect and respect the existing pattern, character and appearance of its setting. The policy continues and provides a range of criteria which development proposals should take account of through their design. The second part of the policy relates to specific types of development including infill development, alterations, extensions and replacements, none of which are applicable to the appeal proposals.

4.48 It is considered that the Appeal proposal conforms to Policy LP30.

## **Polesworth Parish Neighbourhood Plan (2025)**

- 4.49 Warton lies within Polesworth District which was designated as a Neighbourhood Area in September 2017. The Neighbourhood Plan was prepared and examined in the context of the adopted North Warwickshire Local Plan (2021) and the 2023 NPPF.
- 4.50 Through the formulation of the Neighbourhood Plan, a local housing need figure for the Parish was not defined and the Neighbourhood Plan and fails to allocate sites to meet a local housing need.
- 4.51 The Neighbourhood Plan [CD4.3] was 'made' in June 2025 following the issue of the Examiners report [CD4.16] and a positive referendum.

### **Neighbourhood Plan Policy PNP3 Sustainable Design & Construction**

- 4.52 Policy PNP3 requires all new development within the neighbourhood area to respond positively to the areas key attributes including key local design features. The second part of the policy requires development to exceed minimum standards for energy efficiency and provides a range of criteria which contribute toward good design. Proposals which do not meet the criteria will not being supported.
- 4.53 It is considered that the Appeal proposal conforms to Policy PNP3.

### **Neighbourhood Plan Policy PNP4 Conserving & Enhancing the Landscape**

- 4.54 Policy PNP4 states that new development should conserve, enhance and where appropriate restore local landscape character by complying with a range of criteria including maintaining and enhancing the landscape setting, features, field and settlement pattern, and conserving heritage assets. The policy goes further and states that where new planting and landscaping is provided this should consist of native species and be designed to be appropriate to the wider landscape context. Where development is proposed on settlement edges, it should enhance views of the settlement edge from the surrounding countryside and not lead to an inappropriate incursion.
- 4.55 As set out in Mr Bullock's evidence [CD8.12.3] it is considered that the Appeal proposal is in accordance with Policy PNP4.



### **Conclusion on the Development Plan & NPPF Paragraph 11**

- 4.56 The appeal proposals are considered to accord with all relevant and up-to-date policies of the North Warwickshire Local Plan (2021) [CD4.1] and the Polesworth Parish Neighbourhood Plan (2025) [CD4.3], with the exception of limited conflict with Policy LP2. I attribute limited weight to this conflict with the most important policies as these are out of date by reason of an acute shortfall in deliverable housing land and the inability of the spatial development strategy to deliver the minimum housing requirement by the end of the Plan period.
- 4.57 As demonstrated above and with the Council's agreement, in the present case, paragraph 11(d) of the NPPF applies. In light of this, and in the absence of any applicable Footnote 7 policies, the decision-taker must proceed to limb (ii) and determine the application accordingly.
- 4.58 Planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework 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. I undertake that assessment in the 'Planning Balance' at section 16.

## 5. Housing Delivery Failure

5.1 Current Government policy has emphasised that Britain is enduring a housing crisis – what has been termed ‘the most acute housing crisis in living memory’. Addressing the cause of the crisis, the Government has revealed ambitions to deliver some 1.5 million homes over the current parliament. Addressing the Housing, Communities and Local Government Committee on 20<sup>th</sup> November 2024 [CD5.5, in answer to Q2], Housing Minister Matthew Pennycook stated that a lower target would be an “inadequate response to what is an acute and entrenched housing crisis in England”. As set out in Chapter 6 of this PoE, this has been a consistent message from Government since their General Election victory, with Matthew Pennycook stating *“That is why the Plan for Change committed to rebuild Britain, with the hugely ambitious goal of delivering 1.5 million new homes this Parliament, and the vital infrastructure needed to grow our economy and support public services.”* Within the Written Ministerial Statement [CD5.6, paragraph 2] issued alongside the publication of the revised NPPF.

5.2 As detailed further in Chapter 6, there have been continued and repeated statements from Ministers regarding the Government’s strong will to significantly increase housebuilding across the country to address the housing crisis.

### Past Failure

5.3 The Local Plan through Policy LP5 (Amount of Development), establishes a minimum housing requirement of 9,598 new dwellings to be delivered between 2011 and 2033 (436dpa) [CD4.1]. This includes a contribution of 540 dwellings towards meeting the needs arising within the Coventry & Warwickshire Housing Market Area (CWHMA) to 2031, a contribution of 3,790 homes to meet Birmingham City’s needs to 2031 and a further contribution towards needs arising within neighbouring Tamworth Borough.

5.4 The Local Plan sets out a stepped trajectory for meeting the housing requirement. This stepped trajectory increases the annual delivery requirement from 203 dwelling in years 2011-2016 to 775 in years 2027-2033. The stepped trajectory was agreed through the Local Plan Examination in Public to rationally align with anticipated infrastructure provision and site delivery trajectories, recognising that a significant element of the development proposed via the Plan, is reliant on upgrades to the A5 (around which allocations are primarily focused).



- 5.5 The Local Plan, through Policy LP38 (Reserve Housing Sites), identifies three reserve housing sites comprising a total yield of 794 dwellings, to be released if there is a need to enable supply against the five year housing land supply (i.e. if annual monitoring data indicates that forecast land supply falls lower than 5.5 years relative to the stepped trajectory). To date, no progress has been made in bringing these three reserve sites forward and they do not form part of the deliverable housing land supply.
- 5.6 Policy LP2 (Settlement Hierarchy) allows for development within development boundaries but also states that development directly adjacent to settlement boundaries may also be acceptable. This reference to development outside, but directly adjacent to settlement boundaries was discussed in the Inspector's Report [CD4.9 para. 91] and introduced as a Main Modification [CD4.10] by the Local Plan Inspector to reflect how development has come forward incrementally in the Borough in pursuit of needs and to provide the necessary justification for Policy LP8 (Windfall Allowance) which provides a windfall allowance of 660 dwellings between 2022 and 2033 (60dpa).
- 5.7 Despite the introduction of reserve sites and the additional flexibility introduced through Policy LP2 to potentially allow development directly adjacent to settlement boundaries, the Council has repeatedly failed to deliver homes in line with annual requirement as determined by the stepped trajectory.
- 5.8 As set out in **Table 3** overleaf, the Borough Council has failed to meet the annual requirement in 8 of the first 14 years of the Local Plan resulting in a shortfall of 544 dwellings against the minimum requirement on 1<sup>st</sup> April 2025.

**Table 3: Housing Completions Since Start of Plan Period**

| Year           | Requirement  | Completions (net) | Over/Under Provision | Cumulative |
|----------------|--------------|-------------------|----------------------|------------|
| 2011/12        | 203          | 75                | -128                 | -128       |
| 2012/13        | 203          | 38                | -165                 | -293       |
| 2013/14        | 203          | 110               | -93                  | -386       |
| 2014/15        | 203          | 223               | 20                   | -366       |
| 2015/16        | 203          | 251               | 48                   | -318       |
| 2016/17        | 265          | 363               | 98                   | -220       |
| 2017/18        | 265          | 195               | -70                  | -290       |
| 2018/19        | 265          | 300               | 35                   | -255       |
| 2019/20        | 265          | 223               | -42                  | -290       |
| 2020/21        | 265          | 151               | -114                 | -411       |
| 2021/22        | 265          | 375               | 110                  | -301       |
| 2022/23        | 265          | 168               | -97                  | -398       |
| 2023/24        | 265          | 278               | 13                   | -385       |
| 2024/25        | 390          | 231               | -159                 | -544       |
| <b>Total</b>   | <b>3,525</b> | <b>2,981</b>      | <b>-544</b>          |            |
| <b>Average</b> | <b>252</b>   | <b>213</b>        |                      |            |

#### Future Failure

- 5.9 The stepped trajectory introduced through Local Plan Policy LP5 (Amount of Development) establishes an annual delivery requirement far lower than an annualised requirement across the Plan period (436dpa) in the monitoring period 2011 to 2025. The annual requirement

increases significantly to 700 dwellings in 2025/26, 725 dwellings in 2026/27 and 775 dwellings from 2027 to the end of the Plan period. In the Plan period to date, the highest completion rate equates to 375 dwellings (2021/22). This is less than half of the annual delivery requirement in years 2027-2033 as determined by the stepped trajectory.

- 5.10 As set out above, the spatial development strategy set out in the Local Plan is predicated on the proposed upgrades to the A5 corridor between Dordon and Atherstone, around which allocations are mainly focused. In 2019, Warwickshire County Council applied for Housing Infrastructure Funding (HIF) and successfully secured an £80m grant in 2020 for improvements to support housing growth identified within the Local Plan. The various elements of the A5 improvements are identified as being critical or necessary in the Infrastructure Delivery Plan (IDP) [CD10.9]. ‘Critical’ is defined as infrastructure, without which development cannot commence.
- 5.11 In April 2025 the funding for the A5 upgrade was withdrawn by National Highways, citing a projected cost overrun of £190m along with a four-year scheduling delay for the works and no alternative funding source has been secured.
- 5.12 The withdrawal of funding for the A5 upgrade significantly reduces the opportunities to deliver new homes in locations along the A5 between Dordon and Atherstone, including the Category 1 Market Towns of Atherstone and Polesworth with Dordon and the Category 3 Local Service Centre of Grendon. This includes planned delivery as set out in Local Plan Policies LP37 and LP38 and any windfalls required to significantly boost supply in the short term.

### **Affordable Housing**

- 5.13 Housing affordability within North Warwickshire is a significant issue. The Updated Assessment of Housing Need (2015) estimated the level of net affordable housing need to equate to 92 affordable homes per annum between 2011 and 2031. An Affordable Housing Needs Update document that informed the Local Plan EiP identified an annual affordable housing need of 267dpa [CD4.9, para. 139].
- 5.14 The most recent published position on affordable housing need is set out within the Coventry and Warwickshire Housing and Employment Needs Assessment 2022 (CWHEDNA) [CD10.13]. This concludes an estimated annual need for social/affordable rented housing for North Warwickshire of 133dpa [CD10.13, Table 8.45].

- 5.15 The Annual Monitoring Report 2023/2024 (AMR) [CD10.1] demonstrates the shortfall in affordable homes being delivered over the last five years in comparison to the estimated net annual need set out in the CWHEDNA. This is shown in **Table 4** below.

**Table 4: Affordable Housing Completions in North Warwickshire (5 year period)**

| Year         | Net Completions | No. of Affordable Completions | % of Affordable against total net completions | Over/Under Provision |
|--------------|-----------------|-------------------------------|-----------------------------------------------|----------------------|
| 2019/20      | 223             | 28                            | 13%                                           | -105                 |
| 2020/21      | 151             | 93                            | 62%                                           | -40                  |
| 2021/22      | 374             | 76                            | 20%                                           | -57                  |
| 2022/23      | 164             | 32                            | 20%                                           | -101                 |
| 2023/24      | 278             | 17                            | 6%                                            | -116                 |
| <b>Total</b> | <b>1,190</b>    | <b>246</b>                    | <b>21%</b>                                    | <b>-419</b>          |

- 5.16 The AMR recognises that *“to reach the target of 40% of all completions to be affordable by 2033 this will need to be monitored closely over the coming years as the need for affordable housing is not diminishing.”*
- 5.17 Monitoring demonstrates that the delivery of affordable housing has persistently fallen short of meeting identified needs. In the 5 year period where monitoring information is available, there was an under supply of -419 affordable homes against the identified need of 665 [CD10.13, Table 8.45] equating to just 37% of affordable needs being met.
- 5.18 In light of the identified affordable housing need, it is clear that a step change in affordable housing delivery is needed now within the Borough to address the current shortfall and to ensure the future Borough-wide needs for affordable housing can be met.
- 5.19 The Planning Board Report [CD3.1] at paragraph 8.8 states *“such housing should ideally be located in settlements which have easy and ready access to local services, facilities and employment.”* This fails to recognise that the identified affordable housing needs are Borough-

wide and affordable needs are also present within the Category 4 settlements, such as Warton.

5.20 This is evidenced through pre-application discussions undertaken in February 2025. The housing officer provided waiting list data which highlighted 74 applicants wish to live in Warton. Of these, 61 applicants live within the Borough and 12 applicants live outside. The confirmed housing needs were as follows:

- 18 x 1 Bed Flats
- 1 x 2 Bed Flat
- 3 x 2 Bed Bungalows
- 31 x 2 Bed Houses
- 10 x 4 Bed Houses

5.21 Limiting development proposals beyond settlement boundaries to no more than 10 dwellings in the Category 4 settlements further restricts opportunity to deliver affordable homes and other infrastructure in these locations, further compounding the acute Borough-wide shortfall in affordable housing delivery.

## 6. National Policy

- 6.1 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The focus is primarily on achieving sustainable development and is a material consideration in the determination of planning applications and appeals.
- 6.2 A new version of the NPPF was published in December 2024, post adoption of the North Warwickshire Local Plan and was introduced by the new Labour Government following its victory in the General Election in July 2024.
- 6.3 Since coming into Office, the Government has brought a sharp change of direction, with the Government driving forward reforms including the publication of the revised NPPF to boost the delivery of new housing. The Government have identified a need for 1.5 million new homes in this parliament as was set out within its manifesto in the lead-up to the General Election.
- 6.4 The following paragraphs set out a clear and strong narrative in respect of the Government's drive to increase housing delivery across the county. Such ministerial statements and speeches clearly illustrate this drive and should be tributed considerable weight alongside the NPPF which itself provides the national policies to deliver on Government's ambitions.
- 6.5 A few days after the Labour Party's (8th July 2024) win at the General Election, the new Chancellor of Exchequer, Rachel Reeves MP, delivered her first speech [CD5.1] in post, setting out the actions that the new Government intends to take.
- 6.6 In this speech, the Chancellor reaffirmed the new Government's ambitions to carry out planning reforms and build 1.5 million homes in England over the course of the Parliament. She set out her view that:

***"Nowhere is decisive reform needed more urgently than in the case of our planning system [...] Planning reform has become a byword for political timidity in the face of vested interests and a graveyard of economic ambition."***

- 6.7 The Chancellor concluded by setting out her view that:

***“Any development may have environmental consequences, place pressure on services and rouse voices of local opposition, but we will not succumb to a status quo which responds to the existence of trade-offs by always saying no.”***

- 6.8 The State Opening of Parliament took place on 17<sup>th</sup> July 2024. The King’s Speech [CD5.2] set out the present Government’s legislative agenda for the forthcoming Parliamentary session. Early in the speech, the King introduces the Government’s intention to accelerate housing delivery through a new Planning and Infrastructure Bill, stating that:

***“My Ministers will get Britain building, including through planning reform, as they seek to accelerate the delivery of high quality infrastructure and housing.”***

- 6.9 Shortly after the Kings Speech, on 30<sup>th</sup> July 2024, the then Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government, Angela Rayner MP, set out through a Written Ministerial Statement (WMS) [CD5.3] that the Government would take major steps to ‘build the homes this country needs.’ The WMS set out that through reforms to the planning system, the Government sought to bring about a step change in housing delivery. The WMS introduced consultation on planning reforms including changes to the NPPF, the majority of which were ultimately introduced through the December 2024 NPPF.

- 6.10 Further to the above, on July 30<sup>th</sup> 2024, the Housing Minister Matthew Pennycook wrote to industry stakeholders about the government’s plan to build the homes the country needs [CD5.4 para 2]. He confirmed:

***“The Government has been clear that the only route to improving the prosperity of our country and the living standards of working people is through sustained economic growth. We have also been clear that this will not happen without radical and decisive reform to our planning system, and reversing the decline in social and affordable housing.”***

- 6.11 Reaffirming the Governments pro-growth approach he stated:

***“In keeping with the scale of our ambition, we are going further and revising the existing standard method, raising the overall level of these targets from around 300,000 to approximately 370,000. The new method provides a stable and balanced approach.”***

6.12 Following the consultation of revisions to the NPPF in the summer of 2024, the revised Framework was published by Government on 12<sup>th</sup> December 2024. The publication of the revised Framework was accompanied by the Building the Homes We Need WMS by the Minister of State for Housing and Planning Matthew Pennycook [CD5.6]. The 12<sup>th</sup> December 2024 WMS again stressed the Government's key aim to deliver increased housing delivery through its reforms to the planning system.

6.13 More recently, following his appointment, the new Secretary of State for Housing, Steve Reed, has indicated an even stronger position and emphasis on the next phase of getting Britain building faster by issuing a "call to arms" to key developers and housebuilders to "build, baby, build". This "call" is set out within a press release issued by the Housing Secretary, alongside the Housing Minister Matthew Pennycook [CD5.7] which states:

***"I want us to build, baby, build, so we can put the key to a decent home into the hands of every single family that needs it."***

***"We are doubling down on our plans to unleash one of the biggest eras of building in our country's history and we are backing the builders all the way."***

6.14 This was followed by a further press release, on 13<sup>th</sup> October 2025 [CD5.8], as the Planning and Infrastructure Bill was being considered in the House of Lords, which continued the Governments emphasis on delivering new homes.

6.15 The above, allied to the changes to the NPPF in December 2024, shows the very clear drive from Government to significantly boost the delivery of housing across the country, particularly in areas where housing land supply is in chronically short supply.

6.16 Paragraph 7 confirms that the purpose of the planning system is to contribute to the achievement of sustainable development. As such, the objective of sustainable development is summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

6.17 Paragraph 8 outlines three overarching objectives for achieving sustainable development – economic, social and environmental. These are independent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).



- 6.18 In addition to paragraph 11 considerations, as set out in section 4, the NPPF is a material consideration. Section 5 is particularly material in ensuring the delivery of a sufficient supply of homes. I address relevant aspects of the NPPF in my consideration of the main issues and in my planning balance exercise set out in section 16.
- 6.19 The Council's latest statement on Five-Year Housing Land Supply Calculations [**CD10.6**] was provided to the Appellant on 16<sup>th</sup> October 2025. This confirms that at 1<sup>st</sup> April 2025, the Council concludes a deliverable housing land supply of 1.5-2.2 years.
- 6.20 It is common ground that the presumption in favour of sustainable development is engaged [**CD8.11.1**].

## 7. SPDs & Other Documents

- 7.1 The following chapter of this PoE provides consideration of relevant Supplementary Planning Documents (SPDs) and other relevant documents which are of material relevance to this appeal.

### **Affordable Housing SPD (and addendum)**

- 7.2 The purpose of the Affordable Housing SPD [CD4.4], and its Addendum [CD4.5], is to provide a guidance on the implementation of the Borough Council's planning policies on affordable housing. It should be noted that both supplement Policies in the North Warwickshire Local Plan 2011 (adopted in 2006), were published a number of years before the adopted Local Plan. It does however provide general guidance on the quantum of provision, size and mix, standards and design, occupancy, tenure and viability.

### **Planning Obligations for Sport, Recreation & Open Space SPD**

- 7.3 The purpose of the Planning Obligations for Sport, Recreation & Open Space SPD [CD4.8] is to set out the Borough Council's approach to securing planning obligations in respect of open space, sport and recreation. The SPD provides a formula based approach for calculating the level of financial contributions towards the provision, enhancement or protection of sports pitches, facilities and open spaces.
- 7.4 This has guided the contributions for open space, sport and recreation as part of the Section 106 Agreement.

### **Air Quality SPD**

- 7.5 The purpose of the Air Quality SPD [CD4.6] is to improve air quality and health impacts in North Warwickshire, having particular regard to particulate concentrations.
- 7.6 The Council's Environmental Health Team has confirmed there is unlikely to be any adverse impact from/to air quality arising from this proposal.

### **Settlement Sustainability Assessments (2018 and 2023)**

- 7.7 The Settlement Sustainability Assessment 2023 [CD4.12] updates the previous assessment undertaken in 2018 [CD8.11], and that formed part of the evidence base for the adopted Local

Plan. The Assessment [CD4.12] highlights the services and facilities available within each settlement and ranks them accordingly.

- 7.8 For Warton, the overall facilities score has remained constant between the 2018 and 2023 Assessments. The evidence confirms Warton's position as a Category 3 Settlement, noting the Assessment does not consider settlements beyond the Borough boundary. An overall score of 17 for Warton places it in the middle of the Category 4 assessment with the highest scoring (Hurley) at 26 and the lowest (Ridge Lane and Birchley Heath) at 8. This indicates that there is a significant difference in the level of services and facilities within Warton to the lower scoring settlements in the same category of the settlement hierarchy such as Ridge Lane.
- 7.9 The methodology and approach taken within the Settlement Sustainability Assessment has remained consistent across various editions of the document, since the first assessment was carried out in 2010. The methodology takes a relatively arbitrary approach of attributing a score to certain types of services or facilities. This score is then multiplied by the number of that type of facility located within a settlement. For example, a primary school being present within a settlement scores two points and therefore a settlement with three primary schools would score six points.
- 7.10 Such an approach, whilst seeking to provide an analysis of the availability of services and facilities is a rather crude metric, would simply mean that larger settlements will score more highly. Clearly a smaller settlement would not have several primary schools (by way of example) as this would not be an appropriate distribution of provision for the settlement.
- 7.11 The approach to assessing settlement sustainability represents a binary approach of counting facilities without providing a more nuanced assessment of whether the level of services and facilities within a settlement is suitable for its population and context. A smaller rural village would not, for example, support multiple primary schools or GP surgeries, rather one local facility would be more appropriate and serve the same purpose.
- 7.12 In addition, the assessment fails to recognise that some settlements, including Warton, are close to higher category settlements (Polesworth) and afford residents access to services and facilities within acceptable walking and cycling isochrones.

- 7.13 The Assessment provided evidence for the Local Plan which was considered proportionate by the Inspector, although as referenced in his report [CD4.9 para. 54] he accepts that “it contains some ‘double-counting’” in respect of facilities.
- 7.14 It is also noted that the study was prepared prior to the revisions to the NPPF which introduce a step change for many authorities in respect of their housing requirements. Such a step-change will require authorities to reconsider their spatial approach to development and provide a wider distribution of development to meet needs. In this context the Settlement Sustainability Assessment is only one piece of evidence to assess overall sustainability, and it is one which will have to be reviewed to inform the forthcoming Local Plan review within the Borough.

#### **Infrastructure Delivery Plan (2020)**

- 7.15 The Council’s Infrastructure Delivery Plan (IDP) was most recently updated in 2020 [CD10.9] and formed part of the evidence base for the adopted Local Plan. The IDP notes that infrastructure improvements “will be fundamental” to achieving the growth ambitions set out within the adopted Local Plan to 2033 and beyond.
- 7.16 As noted above, much of the adopted Local Plan’s spatial approach is reliant upon significant improvements to the A5 corridor. The IDP [CD10.9] details that these significant improvements will be crucial in facilitating much of the development within the Local Plan with an estimate cost (at 2020) of approximately £109,750,000 for all elements of the required A5 improvements [CD10.9, **Appendix G**]. Appendix B of the IDP identifies that the A5 improvements as being critical and necessary in terms of the level of risk it would pose to the Local Plan. The IDP notes funding from a combination of sources including from Highways England (now National Highways), planning obligations and other sources of funding. As stated previously, National Highways funding was withdrawn in April 2025.
- 7.17 No further update to the IDP has been prepared by the Council since 2020 nor has any update been provided having regards to the withdrawal of Highways England funding for the A5 improvements. The IDP identifies the A5 improvements as being of critical importance to the delivery of the Local Plan, and therefore without secured funding, it is now very clear that the spatial strategy of the plan is no longer deliverable.

## 8. Planning Policy Assessment – Main Issues

8.1 This section addresses the Main Issues identified by the Inspector alongside the reason for refusal, including my views on the issue and the extent to which impact concerns can be addressed, compliance with relevant development plan and NPPF policies and the weight to be attached in the planning balance.

8.2 The Main Issues, as identified through the CMC, are as follows:

**Issue 1:** The effect of the proposed development on the settlement hierarchy of the borough.

**Issue 2:** The effect of the proposed development on the character and appearance of the area, with particular reference to the surrounding landscape, the design and layout of the proposal, and its spatial integration with existing development.

**Issue 3:** Whether future residents of the proposed development would have appropriate access to facilities and services.

**Issue 4:** The effect of the proposed development on the supply of agricultural land.

8.3 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA), the starting point for the determination of any planning application or appeal is the development plan. The planning system is plan-led and planning law requires that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.4 In this matter, the Development Plan comprises the adopted North Warwickshire Local Plan (adopted September 2021) [CD4.1] and the Polesworth Neighbourhood Plan ('made' June 2025) [CD4.3] which was adopted following the submission of the application for the appeal proposal.

8.5 Additionally, the Borough Council has several adopted Supplementary Planning Documents (SPDs) providing further guidance.

8.6 Further material considerations for any proposal include national policy and guidance contained within the National Planning Policy Framework (NPPF) (published 12<sup>th</sup> December 2024), the Planning Practice Guidance (PPG) and Written Ministerial Statements, as well as any relevant Supplementary Planning Documents (SPDs) adopted by the Council.

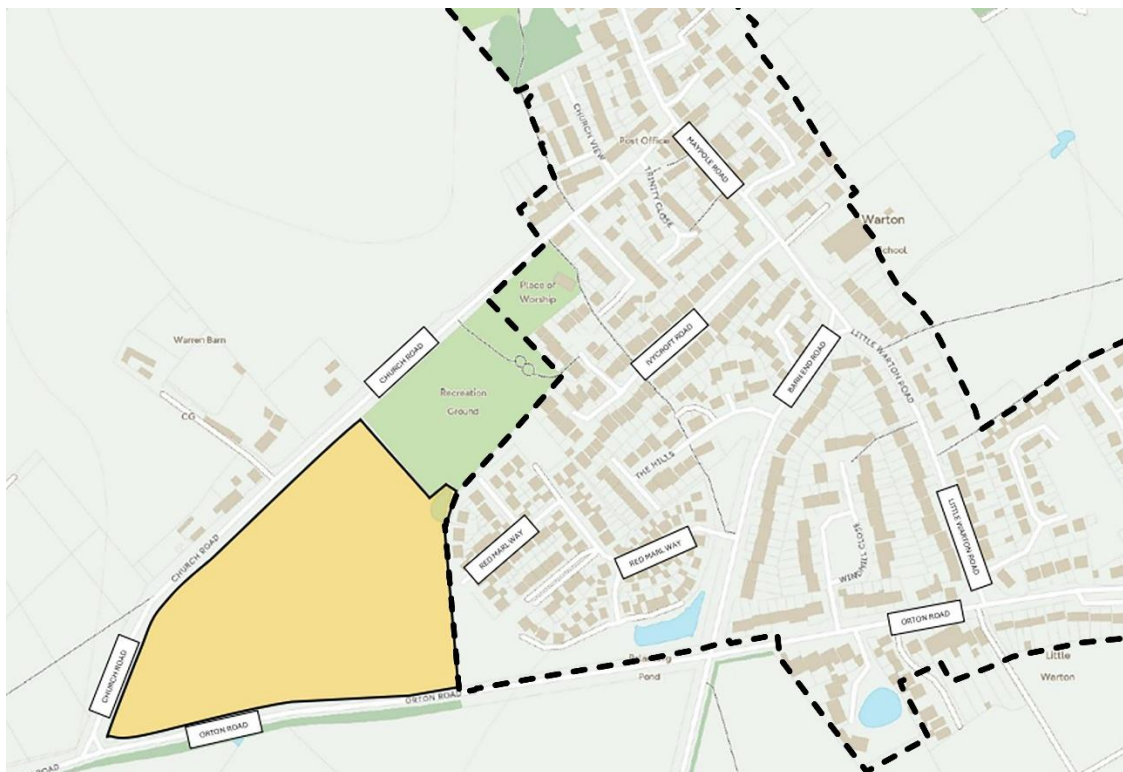
- 8.7 The Main Issues are considered in sections 9 to 12 of my evidence, the matter relating to social cohesion is set out in section 13 and other matters raised by third parties are addressed in section 14.
- 8.8 The implications of not proceeding with the scheme are set out in section 16 alongside the planning balance.

## 9. Main Issue 1: Effect of the Proposed Development on the Settlement Hierarchy of the Borough

- 9.1 Policy LP2 establishes a settlement hierarchy which has regard to services and facilities within each respective settlement. The Policy seeks to distribute new development in line with the settlement hierarchy and is the key strategic policy that relates to housing delivery.
- 9.2 Policy LP2 identifies Warton as a Category 4 Settlement within this hierarchy. Evidence, in the form of the Council's Settlement Sustainability Assessment 2023 [CD4.12] demonstrates the relative level of sustainability has remained constant for Warton with the provision of a range of facilities including a primary school, shop with post office, public house and a number of community spaces. In addition, the village is served by a regular bus service providing access to facilities within Polesworth and Tamworth.
- 9.3 Policy LP2 states development directly adjacent to settlement boundaries may also be acceptable. All development will be "considered on its merits," having regard to other policies in this 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." (my emphasis)
- 9.4 As is evident from the annotated extract from the NWLP Policies Map overleaf (**Fig 1**), the appeal site lies adjacent to the Settlement Boundary for Warton. This is accepted in the Planning Board Report, which states:

***"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."***

**Figure 1: Relationship of Appeal Site to Settlement Boundary**



9.5 Policy LP2 allows for development outside the Settlement Boundaries “usually” on sites of no more than 10 units. This does not preclude a larger site as no maximum threshold has been set.

9.6 This is acknowledged within the Planning Board Report [CD3.1] which states at paragraph 8.4:

***“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 to 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.”***

9.7 The test being applied is one of the availability or delivery of services and infrastructure and other material considerations.



### Services & Facilities

- 9.8 The Council makes reference to the Curlew Close, Warton appeal decision (Reference APP/R3705/W/22/3312660 - 30 June 2023) [CD6.5.1]. In my view, this decision is very different to the circumstances of this case, notably in respect of the level/detail of the evidence.
- 9.9 The Inspector concluded at DL8 that *“while the village does offer a few services and facilities, they are insufficient to cater for daily living requirements of residents,”* whilst acknowledging that *“the presence of additional residents could potentially support and enhance the existing services and facilities.”*
- 9.10 However, it should be noted that the Inspector stated that she had not been provided with a timetable and *“could not be certain that the routes of timings would be viable for the typical daily needs of future occupants. In the absence of alternative 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.”*
- 9.11 It is also notable that no signed Section 106 Agreement was provided to the Inspector that would allow for contributions towards maintaining existing services and facilities, including public transport improvements.
- 9.12 The level of services and facilities within Warton has remained broadly constant since the Settlement Sustainability Assessment in 2018. The 2023 Assessment provides a comparison [CD4.12, Table 2]. Warton benefits from a primary school which is being expanded with completion expected in 2026 as confirmed by Warwickshire County Council. In addition, a shop, post office, church, village hall, a working men’s club and a pub are all located within easy walking distance of the Appeal site as demonstrated by Mr Parker in his Proof of Evidence [CD8.12.4].
- 9.13 The nearest bus stop is located approx. 625m from the centre of the Appeal Site and provides eight buses a day (service 785/786) providing access to nearby Polesworth and Tamworth, providing opportunities for work, leisure and shopping.
- 9.14 The Section 106 Agreement [CD8.10] provides for a financial contribution to improve this service by increasing the number of services Mon-Sat. The proposed timetable extends to ten

buses and provides an extension of the route on a number of these services to Ventura Park, Tamworth. Ventura Park provides access to higher order retail and leisure facilities.

- 9.15 The evidence provided by Mr Parker [CD8.12.4] demonstrates that the site is within walking and cycling distance of local facilities in Warton and Polesworth and will benefit from peak and off-peak bus travel to Polesworth and Tamworth, including to and from Tamworth railway station for multi-modal trips.
- 9.16 Within the context of paragraphs 83, 110 and 115 of the NPPF the appeal site is therefore a sustainable location for housing.
- 9.17 The sustainability of Warton as a settlement has also been considered through the determination of a number of major housing planning applications, including the Appellant's previous land interests to the immediate east of the site.
- 9.18 In respect of outline application for 72 dwellings on Land Opposite 84 to 104 Orton Road, Warton (PAP/2016/0280), the officer's Planning Board Report considered on 5<sup>th</sup> February 2018 stated [CD10.10, page 7/26, third paragraph]:

***"The site will have direct vehicular and pedestrian access onto Orton Road. Little Warton Road has a bus shelter less than 20 metres from the proposed site entrance with a bus service between Tamworth and Atherstone. There is a shop and post office in Warton and a primary school further along Little Warton Road on Maypole Road. These pedestrian linkages comply with the requirements of Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities.***

***Based on the above it is considered that the site proposed is in a sustainable location being located adjacent to the development boundary of Warton."***

- 9.19 In respect of outline planning application for 56 dwellings on Land Rear of 29 to 49, Little Warton Road (PAP/2017/0202) the officer's report considered on 5<sup>th</sup> February 2018 states [CD10.11, page 7/43, third paragraph]:

***"The site will have direct vehicular and pedestrian access onto Little Warton Road. Little Warton Road has a bus shelter less than 20 metres from the***

*proposed site entrance with a bus service between Tamworth and Atherstone. There is a shop and post office in Warton and a primary school further along Little Warton Road on Maypole Road. These pedestrian linkages comply with the requirements of Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities.*

*Based on the above it is considered that the site proposed is in a sustainable location being located adjacent to the development boundary of Warton."*

- 9.20 Finally, in respect of the adjacent Cornfields development, the officer's Planning Board Report, considered on 9<sup>th</sup> April 2018, for the 100 dwelling outline scheme (PAP/2017/0551) states [CD10.2, page 5/48, second paragraph]:

*"The site will have direct vehicular and pedestrian access onto Barn End Road. A bus service between Tamworth and Atherstone operates from the village (although improved access to bus stops would be a necessary requirement of the development). There is a shop and post office in Warton and a primary school on Maypole Road. There are pedestrian linkages to services within the village which comply with the requirements of Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities.*

*Based on the above it is considered that the site proposed is in a sustainable location being located adjacent to the development boundary of Warton."*

- 9.21 Whilst the above applications were determined against the former North Warwickshire Core Strategy, that prior Local Plan contained a similar settlement hierarchy and the same approach to the distribution of growth as set out in Policy NW2 (Settlement Hierarchy) [CD4.15, Policy NW2]. Paragraph 6.7 of the Core Strategy set out an approach of a broad distribution pattern for development, with the majority of development being directed to the Main Towns, in order to achieve vibrant sustainable communities within a sustainable pattern of development. Policy NW2 stated:

*"Development within the Borough will be distributed in accordance with the Borough's settlement hierarchy as given in Appendix C. Where necessary,*

***changes to development boundaries will be made in the appropriate Development Plan Document, or once development has taken place, whichever is the earlier.”***

- 9.22 In respect of Category 4 Settlements with a development boundary, which included Warton, Policy NW2 stated:

***“Development will be limited to that identified in this Plan or has been identified through a Neighbourhood or other locality plan. In Green Belt settlements development will not be supported outside the current development boundaries.”***

- 9.23 As the Settlement Sustainability Assessment 2023 [CD4.12] demonstrates, there has been no change to the relative sustainability merits of Warton which has retained a ‘score’ of 17 over the five year monitoring period and the period since the previous major housing developments were approved in Warton by the Council. It remains a sustainable location for housing growth.

#### **Cumulative Pressures on Services & Facilities**

- 9.24 Concerns have been raised by the Council, Warton Residents Association and local community in respect of cumulative pressures on existing services. As set out at paragraph 8.5 of the Planning Board Report [CD3.1], the Council considers the appeal site *“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.”* The Council has not quantified, empirically, the ‘tipping point’ of local services and facilities.
- 9.25 The matter of cumulative pressures on existing services was considered through the determination of PAP/2017/0551 on the adjacent site [CD10.2, page 5/51, fourth paragraph].
- 9.26 As concluded by the Council in respect of that site:

***“Education providers, health providers, the highways authority and the Borough Council (as the provider of formal sports and recreation provisions) have all set out financial contributions that would be appropriate to cater for the needs arising from the development. These are set out in the submitted draft Section 106 Agreement.”***

***In such circumstances, it can be concluded that the development would appropriately address the needs arising as a result of it."***

- 9.27 In this case, the Appellant has agreed to a number of financial contributions in line with reasonable requests: WCC in respect of education, transport, libraries and public rights of way; the Integrated Care Board in respect of health; and the Borough Council in respect of open space, sport and recreation. In addition, the Appeal Site will provide new publicly accessible open space to include a Local Area of Play (LAP) and informal natural play. In such circumstances, it can be concluded that the development would appropriately address the needs arising as a result of it to avoid any cumulative pressures.
- 9.28 Additional development can also support and enhance existing services and facilities. An increase in homes would provide additional spending to support existing commercial facilities such as the village shop, post office and public house. An increase in the population would also support patronage on the local bus service that also serves other Category 4 settlements including Shuttington, Newton Regis and Austrey.
- 9.29 Moreover, the agreed bus contribution and infrastructure improvements secured would also benefit the wider Warton community and strengthen the sustainability credentials of the settlement. This is considered further under Main Issue 3 below.
- 9.30 In conclusion, I consider the appeal proposal would serve to maintain and enhance the vitality of Warton as required under Policy LP2.

#### **Role of Warton in the Settlement Strategy**

- 9.31 The Main Issue and original RfR refers to the alleged harm that would be caused to the settlement hierarchy. It is therefore necessary to consider the role of Warton in the wider spatial development strategy as determined by the adopted Local Plan.
- 9.32 The Local Plan Inspector who examined the plan states at paragraph 198 of his report [CD4.9] that *"it is inherently challenging to capture precisely the varying and changeable, scale, form and role of different settlements in a settlement hierarchy."*
- 9.33 The spatial development strategy as outlined by Policy LP2 is to be delivered through those housing allocations outlined in Policy LP37. Table 5 below shows the distribution of housing growth relative to the settlement hierarchy:

**Table 5: Distribution of Housing Growth by Settlement**

| Category          | Settlement                   | NWLP Planned Growth | %            |
|-------------------|------------------------------|---------------------|--------------|
| <b>Category 1</b> | Atherstone with Mancetter    | 1,902               | 30.9%        |
|                   | Polesworth with Dordon       | 1,675               | 27.2%        |
|                   | Coleshill                    | 30                  | 0.5%         |
|                   | <b>Subtotal:</b>             | <b>3,607</b>        | <b>58.6%</b> |
| <b>Category 2</b> | Tamworth                     | 1,270               | 20.6%        |
|                   | Sutton Coldfield             | 141                 | 2.3%         |
|                   | <b>Subtotal:</b>             | <b>1,411</b>        | <b>22.9%</b> |
| <b>Category 3</b> | Baddesley with Grendon       | 54                  | 0.9%         |
|                   | Hartshill with Ansley Common | 850                 | 13.8%        |
|                   | New & Old Arley              | 0                   | 0%           |
|                   | Kingsbury                    | 0                   | 0%           |
|                   | Water Orton                  | 48                  | 0.8%         |
|                   | <b>Subtotal:</b>             | <b>952</b>          | <b>15.5%</b> |
| <b>Category 4</b> | Ansley                       | 12                  | 0.2%         |
|                   | Austrey                      | 0                   | 0%           |
|                   | Curdworth                    | 0                   | 0%           |
|                   | Fillongley                   | 0                   | 0%           |
|                   | Hurley                       | 0                   | 0%           |
|                   | Newton Regis                 | 21                  | 0.3%         |
|                   | Piccadilly                   | 0                   | 0%           |
|                   | Ridge Lane                   | 0                   | 0%           |

|                  |              |             |
|------------------|--------------|-------------|
| Shuttington      | 24           | 0.4%        |
| Shustoke         | 0            | 0%          |
| Warton           | 128          | 2.1%        |
| Whitacre Heath   | 28           | 0.5%        |
| Wood End         | 0            | 0%          |
| <b>Subtotal:</b> | <b>213</b>   | <b>3.5%</b> |
| <b>Total:</b>    | <b>6,155</b> | <b>100%</b> |

- 9.34 The table above demonstrates that the spatial distribution of planned growth within the Local Plan does not take a proportionate approach to a settlement's placement within the hierarchy. There is also no proportionate distribution of growth between settlements within the same settlement category. The spatial strategy, in its formulation, recognises other policy and local drivers including presence of Green Belt and comprehensive infrastructure delivery in determining the distribution of growth between settlements; notably the necessary A5 corridor improvements.
- 9.35 Warton is just one example. As a settlement, it is afforded a greater level of housing growth than the Category 1 settlements of Coleshill and all the Category 3 settlements with the exception of Hartshill with Ansley Common.
- 9.36 In light of the level of planned growth focused to Warton through the adopted spatial development strategy, Warton is a sustainable location for housing development.
- 9.37 The Appeal Proposal's delivery of a further 110 dwellings within Warton with the necessary supporting infrastructure would not have the effect of elevating the role of the settlement or change its position within the settlement hierarchy identified in Policy LP2 or undermine those settlements within higher categories of the hierarchy.
- 9.38 It is accepted that further development would result in a level of growth being delivered in the village which is in excess of other Category 4 settlements. However, this maintains the approach already determined through the adopted spatial development strategy. The additional growth would also not result in Category 4 settlements collectively delivering a greater level of housing growth than those settlements within Category 3.

- 9.39 Allowing an additional 110 dwellings adjacent to the settlement boundary would also not alter Warton's position within the settlement hierarchy. A settlement hierarchy that permits development adjacent to the settlement boundary where services and facilities exist and where development would enhance or maintain the vitality of the community. More importantly, the effect to the settlement hierarchy would not be one of harm.
- 9.40 It is therefore my view that the Appeal Proposals are broadly consistent with Policy LP2, in that they would provide residential development adjacent to the existing village settlement boundary and would provide new and improvements to existing social infrastructure for the village which enhances the sustainability of the village, strengthening its role at a Category 4 Settlement and is therefore consistent with policy LP2.



## 10. Main Issue 2: Effect of the Proposed Development on the Character & Appearance of the Area

- 10.1 In addressing this Main Issue, I have had regard to Mr Bullock's Proof of Evidence [CD8.12.3].
- 10.2 Local Plan [CD4.1] Policy LP14 states that *"new development should look to conserve, enhance and where appropriate, restore landscape character,"* so as to reflect that as identified in the North Warwickshire Landscape Character Assessment of 2010 [CD4.12]. This aligns with Local Plan Policy LP1, which says that development must *"integrate appropriately with the natural and historic environment"* and also with Policy LP30 which states, *"that proposals should ensure that they are well related to each other and harmonise with both the immediate and wider surroundings."*
- 10.3 Neighbourhood Plan [CD4.3] Policy PNP4 seeks to maintain and enhance the landscape setting, landscape features, field and settlement pattern of the neighbourhood area and minimise the encroachment of development into visually exposed landscapes. Where development is proposed on the edge of the village, Policy PNP4 states development should enhance views of the settlement edge from the surrounding countryside and not lead to an inappropriate incursion into the surrounding countryside by reason of its siting, design, materials or use of landscaping.
- 10.4 Local Plan Policy LP30 states that all development, in terms of its layout, form and density should reflect and respect the existing pattern, character and appearance of its setting. The policy continues and provides a range of criteria which development proposals should take account of through design.
- 10.5 Neighbourhood Plan PNP3 requires that all new development within the neighbourhood area should respond positively to the area's key attributes including key local design features.

### Landscape & Visual Harm

- 10.6 The Council contend that the Appeal Proposals conflict with Local Plan Policy LP14 (Landscape) and Neighbourhood Plan Policy PNP4 in relation to the form of the proposals resulting in an *"unacceptable intrusion into the open countryside" that would give rise to landscape and visual harm* (RfR2).

- 10.7 As set out in the SoCG [CD8.11.1, para.5.22], it is agreed however that the landscape impact would be local in both extent and impact, not affecting the overall character of the Landscape Area.
- 10.8 A Landscape and Visual Assessment (LVA) [CD2.10] has been undertaken and submitted as part of the outline planning application. This concludes that the site could successfully accommodate the proposed residential development with only minor adverse impacts on the landscape resource, character and visual amenity of the site and surrounding area.
- 10.9 The evidence of Mr Bullock [CD8.12.3] considers the matter of landscape and visual harm which also forms part of RfR 1 and 2. I do not repeat his evidence here and rely on the findings of Mr Bullock's evidence which finds that the level of visual and landscape harm is very localised and not inappropriate given the village edge context. The Appeal Proposal would not lead to landscape harm to the wider open countryside of No Man's Heath to Warton – Lowlands (Landscape Character Area 1) Landscape Character Area, and within the setting of the village, there would be a long-term minor, adverse effect.
- 10.10 The Council considers development at the proposed Appeal site would read as an *"adjunct to the settlement, rather than integrating with the settlement."* As set out in the evidence of Mr Bullock, the site lies adjacent to residential built form and is located between two roads leading to and from the village. The site does not read as part of the swathe of open countryside to the north, south and west of the site and relates more readily to the village.
- 10.11 Related to the above, the Council also considers the proposal would *"harm the settlement morphology of Warton."* Reference is made by the Council and Warton Residents Association to the linear nature of development in the vicinity of the Appeal site. As set out in the evidence of Mr Bullock [CD8.12.3], the linear pattern has now diminished and become lost within the southern half of the village, where the settlement has a distinct 'development in depth' character, which is definitely not linear in form.
- 10.12 In light of the above, I consider that the proposal conforms to Local Plan Policies LP1, LP14 and LP30 and Neighbourhood Plan Policies PNP3 and PNP4 and consider there is no basis on which to refuse the proposal on landscape or design grounds.
- 10.13 Matters relating to integration are considered further in section 13 of my evidence.

## 11. Main Issue 3: Appropriate Access to Facilities & Services

- 11.1 In addressing this Main Issue, I have had regard to Mr Parker's Proof of Evidence [CD8.12.4].
- 11.2 Paragraph 110 of the NPPF recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The NPPF advises (paragraph 83) that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Villages should be provided with opportunities to grow and thrive, especially where this will support local services. Additionally, it is acknowledged that development in one small settlement may support services in a nearby village.
- 11.3 The proposed development needs to be considered in the context of paragraph 89 of the NPPF which recognises that some rural areas may not be as well served by public transport as urban areas. Paragraph 110 states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be considered through the decision-making process. Paragraph 115 requires sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location.
- 11.4 The submitted Transport Assessment [CD1.9, page 23, para 4.46] concludes that the appeal site *"is readily accessible by a variety of modes of transport that have the potential to reduce reliance on the private car, particularly as there are several facilities located within a reasonable walking distance within the villages of both Warton and Polesworth, whilst further facilities are accessible either by cycle or the local bus services, which stop within a short walking distance of the application site."*
- 11.5 The appeal site benefits from having a number of facilities nearby, all which fall within reasonable walking and cycling distance, including appropriate education facilities and local retail, health and leisure facilities.
- 11.6 This is explored further in the evidence of Mr Parker [CD8.12.4] who concludes the appeal proposals accord with the guiding principles of the NPPF.
- 11.7 Policy LP1 requires the delivery of infrastructure where it is necessary, directly related to the development and is fairly and reasonably related in scale to the kind of development. Policy LP2 states that development directly adjacent to settlement boundaries should also meet a qualitative test to *"enhance or maintain the vitality of rural communities."*

- 11.8 The provision of services and facilities forms part of this qualitative test. As set out above under Issue 1, the level of services and facilities has remained broadly constant in Warton between 2018 and 2023 as demonstrated through the Council's Settlement Sustainability Assessment [CD4.12].
- 11.9 The appeal proposal is accompanied by a draft Section 106 Agreement [CD8.10] which identifies a range of financial obligations to support existing services and facilities within the village and nearby. This includes a financial contribution for the existing bus service to increase frequency in the evening and extend the current service to Ventura Park, Tamworth which provides access to higher order retail/leisure facilities and walking, cycling and wheeling improvements towards Polesworth.
- 11.10 In light of the above, the appeal proposal would be afforded appropriate access to services and facilities, and access will be improved through the following measures:
- A sum of £238,608 towards public transport improvements, to extend the local bus service (785/786) to Ventura Park and operate an additional later journey at 19h25 from Tamworth, Monday to Saturday.
  - A proportionate contribution towards improved walking, cycling and wheeling provision towards Polesworth taking the route of P12 as identified in WCCs LCWIP with 50% to be paid upon commencement to allow for design works and consultations and the remaining contribution to be paid prior to occupation of 25% of the development. The exact figure is under discussion with WCC.
- 11.11 The financial contributions set out within the submitted draft S106 agreement [CD8.10] would ensure that the services and facilities would not only be maintained, but in some cases, enhanced to the benefit of the wider residents within Warton, providing compliance with Policy LP2 and the relevant section of Policy LP1.

## 12. Main Issue 4: Effect of the Proposed Development on the Supply of Agricultural Land

- 12.1 In addressing this Main Issue, I have had regard to Mr Kernon's Proof of Evidence [CD8.12.5].
- 12.2 Policy LP1 is an overarching sustainable development policy. The officer's analysis of loss of agricultural land within the Planning Board Report [CD3.1] also cites Policy LP16 (Natural Environment) which states *"the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced as appropriate relative to the nature of development proposed."* Neither policy, nor the Local Plan as a whole, makes any reference to agricultural land.
- 12.3 The Council contend that the appeal proposal conflicts with Policy LP1 (Sustainable Development) and paragraph 187 of the NPPF as the proposed development of the site would result in the permanent loss of an area of approximately 5.7ha hectares of best and most versatile agricultural land (RfR5).
- 12.4 The putative Reason for Refusal 5 refers only to the NPPF paragraph 187, which protects soils of identified quality in the development plan, and requires that the economic and other benefits of BMV land be recognised. The Planning Board Report [CD3.1] makes no attempt to explain why the soils are to be protected, or what the economic benefits are. The report does not explain why they are considered to have been harmed to the extent that the appeal should be dismissed.
- 12.5 The evidence of Mr Kernon [CD8.12.5] has identified the economic benefits of the appeal site from an agricultural land perspective. He concludes that the land does not contribute directly to human food consumption and the farmers report generally poor yields from the land, with the field only representing circa. 2% of the farm holding. The economic benefits of a land parcel of this size are limited with a theoretical economic benefit of around £1,200 per annum.
- 12.6 As the soils on the appeal site have no statutory status, and soil as a resource has no identified quality in the development plan, I consider there is no conflict with the NPPF or the development plan on this matter.

## 13. Social Cohesion

### Social Cohesion

- 13.2 The Council's Planning Board report [**CD3.1, paragraph 8.20**] states there is harm due to *"the lack of continuity and links to the existing village. This development will lead to an isolated community with limited connections to the existing community"* (RfR3). The impacts on the community and the social cohesion of the village is also a matter raised by WRA [**CD8.4**]. However, the CMC Note makes clear that this is not a main issue in its own right and will be addressed through both the character and appearance evidence and the planning evidence.
- 13.3 Connectivity to the village and all facilities/services is provided in the form of a principal vehicular access to Church Road with further footway/cycle connections to the adjacent Warton recreation ground and to the west of the site to support active travel.
- 13.4 Following pre-application engagement, the access proposals for the appeal site were amended to provide primary vehicular access from Church Road, with no through access to the site from Red Marl Way. It is noted that during these discussions the highways authority, and importantly, local residents, were of the view that such an access would not be required nor would it be acceptable locally. Concerns were raised at the cumulative number of homes being provided via a single access on to Barn End Road. Following these comments, the matter of access was considered in detail by the Appellant and the proposed access from Church Road was introduced as part of the proposals. This directly addresses the concerns of local people and the highways authority.
- 13.5 The Appellant has a legal agreement with the landowner to provide a vehicular link in the form of a road with footways from Red Marl Way to the application site. This legal agreement enables the access to be provided from September 2026 onwards and evidenced in a Transfer Summary at **Appendix B** to this PoE. However, the Appellant's position is that this vehicular/footway link is no longer necessary for the present Appeal proposal, given the changes to the principal access arrangements and the overall local context.
- 13.6 The Proof of Evidence of James Parker [**CD8.12.4**] explains how the additional connection from the appeal site via Red Marl Way is in no way necessary for the proposed development. Indeed, owing to the proposed pedestrian connections to Church Road and the recreation ground, access to the services and facilities within the village by foot would not be

shorter/quicker through Red Marl Way. Such an access would decrease the walking distance from the appeal site to the Primary School by approximately 15m which is not considered a materially significant benefit. The walking distances from the centre of the appeal site to local facilities within Warton via Church Road and via a pedestrian link through to Red Marl Way are set out in Table 6 below:

**Table 6: Comparative Distances to Services**

| Facility                                       | Distance via Church Road | Distance via Red Marl Way |
|------------------------------------------------|--------------------------|---------------------------|
| Warton Recreation Ground                       | 300m                     | 425m                      |
| Holy Trinity Church                            | 400m                     | 540m                      |
| The Office PH                                  | 500m                     | 635m                      |
| Warton Stores & Post Office                    | 600m                     | 745m                      |
| Warton Village Hall                            | 625m                     | 770m                      |
| Warton Club                                    | 725m                     | 870m                      |
| Warton Nethersole Primary School (and nursery) | 750m                     | 735m                      |

- 13.7 The proposed access strategy provides a safe, direct and logical pedestrian route to all the services and facilities in Warton. These services and facilities represent the key locations to foster social interaction and cohesion within the local community. A further connection with Warton Recreation Ground, which can also be accessed via the adjacent Cornfields development and existing properties off Ivycroft Road, would also provide access to the new linked publicly accessible open space within the proposed development, providing further opportunity for social interaction and cohesion with the inclusion of play, a circular walk and an attractive green link to the existing Public Right of Way to the west of Church Road.
- 13.8 On the theme of social cohesion, WRA has raised concern that the scale of recent growth of the village has had a negative impact upon the community's ability to integrate the new households [CD8.4, para 5.5]. Their Statement of Case notes that *"long-standing residents describe a loss of everyday familiarity and informal social contact."* Whilst also noting that community grounds and facilities are operating at, or close to, capacity with waiting lists. Rather than demonstrating a lack of integration this highlights that there is a range of services,

facilities, community groups, associations and activities within the village available to residents this points to a vibrant community which provides a range of opportunities for residents, new and old, to meet and interact.

- 13.9 WRA also note that there is a perceived increase in crime and anti-social behaviour, particularly associated with the recreation ground. No evidence is provided to demonstrate that such instances are a result of the residents of new development. However, as set out at section 5 of this PoE a contribution towards recruitment and equipping of police officers and staff, police vehicles and office accommodation is to be provided which will assist in addressing crime and antisocial behaviour.
- 13.10 It should also be noted, as set out in section 15, a contribution to expand the Warton Nethersole Primary School (and nursery) is to be secured through legal agreement to ensure nursery and primary children arising from the development are integrated into the village school. Expansion to Warton Nethersole Primary School is scheduled for completion in 2026 and will further foster social inclusion.
- 13.11 The above demonstrates that there are a range of opportunities within the village for people to engage and interact at all ages.

### **Affordable Housing Integration**

- 13.12 A similar theme is also raised within the fourth RfR specifically in relation to the residents of the proposed affordable housing failing to integrate into the village and therefore the proposals not creating a balanced and integrated community. It is unclear from the officer's report [CD3.1] how they have reached a conclusion that residents from the appeal proposals would not 'integrate' into the existing community, in particular having regard to the appeal proposal's provision of a policy compliant level of affordable homes adjacent to the village.
- 13.13 The appeal proposal includes a level of affordable housing and a tenure mix that complies with Local Plan Policy LP9 (Affordable Housing Provision). The integration of affordable housing is a matter for a future detailed application (tenure blind/pepper-potted). As recognised within the Planning Board report [CD3.1, para. 8.52], the appeal proposal would reflect recently permitted and constructed homes in Warton, where 40% on-site provision has also been secured. Integration of a policy compliant level of affordable housing is not an issue raised in respect of the other recently permitted and constructed homes in Warton.



## 14. Matters Raised by Third Parties

- 14.1 This section of my evidence deals with other objections raised by third parties in relation to the appeal proposal, notably those issues beyond the main issues identified by the Inspector.
- 14.2 Submissions have been received from several interested parties, these being Warton: Residents Association; Polesworth Parish Council; and Mr O'Dell. I set out my consideration of these submissions in turn below.
- 14.3 The matters raised by Warton Residents Association (WRA) are set out within its Statement of Case [CD8.4], many of which have been addressed elsewhere within this PoE. Paragraph 4 of the Inspectors Pre-Conference Note [CD9.1] confirms that WRA and Polesworth Parish Council will participate as a Rule 6 Part collectively. Polesworth Parish Council's statement is consistent to that provided by WRA and I therefore take their submissions together to avoid any repetition.
- 14.4 The matters raised by WRA and Polesworth Parish Council can be summarised as relating to; conflict with local plan and neighbourhood plan, role of Warton as a Category 4 settlement, landscape character and the availability of services and facilities accessible to the village and social cohesion. These matters are dealt with elsewhere within this PoE and I do not seek to repeat these here.
- 14.5 One further matter raised by WRA relates to parking issues as a result of those using Warton Recreation Ground, particularly local football teams. WRA note that due to a lack of onsite parking, during match days there is significant off-road parking on local roads including Church Road which restricts visibility, displaces pedestrians and creates issues for safety and residential amenity. Such issues, where they take place, relate to the existing users of the recreation ground, this is unlikely to be exacerbated by additional homes at the appeal site as residents would be likely access this by foot. Therefore, whilst such issues may be experienced it is not something which would be caused by the proposed development. A detailed Transport Assessment [CD1.9] and Transport Plan [CD1.10] has been provided and assesses the transport impacts of the proposals. There is no objection in principle from the Highways Authority, subject to the imposition of conditions and planning obligations.
- 14.6 The matters raised by Mr O'Dell [CD8.9] can be summarised as relating to road safety and highways matters (including related to parking issues associated with the recreation ground),

the lack of facilities and amenities within the village, including capacity issues at the local primary school, concerns over the treatment of foul water and conflict with the adopted Local Plan. Many of these matters are related to the main matters which have been addressed elsewhere within this PoE or in the evidence of Mr Parker.

- 14.7 One further matter raised by Mr O'Dell is the capacity of the waste water treatment facilities to adequately deal with sewage and surface water. Severn Trent Water is responsible for water treatment facilities and would be consulted by the Borough Council on proposals such as those for the appeal site. Seven Trent Water has not commented upon the planning application, which would be the approach taken if there were an issue with the capacity of sewage treatment facilities.
- 14.8 In respect of surface water, an updated Flood Risk and Drainage Strategy [**CD2.3.1**] has been submitted following initial comments from the Lead Local Flood Authority (LLFA) and this sets out the proposed sustainable drainage strategy for the site. There is no objection in principle from the LLFA, subject to the imposition of conditions.
- 14.9 Other matters raised through the determination of the application are summarised in the Planning Board Report [**CD3.1, paras 6.1 and 6.2**]. None of these represent any basis for refusal. In summary:
- i. Conflict with the Local Plan & Neighbourhood Plan and over development
  - ii. Biodiversity & Wildlife
  - iii. Traffic & Highways Concerns
  - iv. Lack of Infrastructure
  - v. Change to Village Character
  - vi. Concerns in respect of Community Engagement
  - vii. Landscape character
  - viii. Reduction in firefighting capacity
  - ix. Capacity of children's play area
  - x. Loss of agricultural land
  - xi. Lack of detail on energy efficiency

- xii. Change of Use & Human Rights Concerns
- xiii. Flood Risk
- xiv. Presence of Nickel in soil
- xv. Noise Pollution

## 15. S106 Obligations & Conditions

### Section 106 Agreement

- 15.2 A signed Section 106 agreement will be submitted to the Inquiry.
- 15.3 The S106 will confirm that, if the Inspector decided to allow the appeal, then the obligation identified would be necessary to make the development acceptable in planning terms.
- 15.4 Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 sets out the limitations on the use of Planning Obligations and confirms that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- a) Necessary to make the development acceptable in planning terms;
  - b) Directly related to the development; and
  - c) Fairly and reasonably related in scale and kind to the development.
- 15.5 To be lawful, planning contributions must comply with these legal tests. The basis for seeking an obligation can be underpinned by policy which once tested, adopted and applied correctly is likely to indicate a material degree of compliance with these tests, as set out below.
- 15.6 I am yet to have sight of the Council's CIL compliance statement but based on the information presently available, I am of the view that the obligations within the draft agreement meet the tests in Regulation 122(2) of the CIL Regulations 2010.
- 15.7 The agreed Heads of Terms are as follows:

#### On-Site Provision

- 40% Affordable Housing Provision (85% Affordable Rent/15% Intermediate)
- On-site Open Space Provision and Management Company

#### Education

- Early Years/Pre School Contribution: £250,657
- Primary Education Contribution: £820,332
- Secondary Education Contribution: £585,936
- Post 16 Education Contribution: £112,680
- Primary SEN Contribution: £130,033

- Secondary SEN Contribution: £139,321

### **Highways**

- Bus Service Provision Contribution: £238,608
- A proportionate contribution towards improved walking cycling & wheeling provision towards Polesworth
- £5,500 (£50 per dwelling) to support road safety initiatives within the community associated with the development
- TRO associated with a 30mph reduction on Church Road: £6,000

### **Open Space, Sport & Recreation**

- Youth Provision/Children's Play Provision Contribution: £105,099.53
- Youth Provision/Children's Play (Revenue) Contribution: £80,801.75
- Swimming Contribution: £58,378
- Gym / Fitness Contribution: £16,796
- Studio Contribution: £10,467
- 3G Pitch Contribution: £24,495
- Sports Pitches Contribution: £27,181
- Changing facilities Contribution: £51,195

### **Public Rights of Way**

- Contribution to maintain public rights of way which fall fully or partly within a 1.5m radius of the site: £6,303.83

### **Libraries**

- Contribution to improve, enhance and extend the facilities or services of a specified library service point: £2,408

### **Health**

- Contribution to provide additional health care services to meet patient demand arising from the development: £123,095

### **Police**

- Contribution towards recruitment and equipping of officers and staff, police vehicles and office accommodation: £28,532.90

### **Monitoring**

- £700 + (5 hours x £40 officer time x number of triggers) for the monitoring and administration of County Council obligations
- Contribution for the monitoring and administration of Borough Council obligations

- 15.8 The contributions proposed as part of the Section 106 Agreement have been formulated, where relevant, in accordance with the Borough Council's SPDs including the Open Space, Recreation & Sport SPD **[CD4.8]** and the Affordable Housing SPD **[CD4.5]** and are considered CIL Regulation 122(2) compliant.

### **Planning Conditions**

- 15.9 Discussion between the Appellants and the Council have confirmed an agreed set of conditions and these have been submitted **[CD8.11]**.

## 16. Overall Planning Balance

- 16.1 In this section I set out how I consider that the decision taker should approach the determination of this appeal, before going on to identify the issues that need to be weighed in the overall planning balance.

### **The decision-taking framework**

- 16.2 Decision makers have a statutory duty to determine applications or appeals in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a decisive material consideration, and in paragraph 11, the Government has set out its policy to guide decision makers in the performance of their statutory duty. As policy, paragraph 11 cannot displace the primacy of the development plan and functions within the statutory arrangements for decision taking but can act as a weighty material consideration to justify not following the development plan, as is the case here.
- 16.3 The development plan relevant to this appeal comprises the North Warwickshire Local Plan (2021) [CD4.1] and the Polesworth Parish Neighbourhood Plan (2025) [CD4.3]. The most important policies are Local Plan Policies LP1, LP2, LP14 and LP30 and Neighbourhood Plan Policies PNP3 and PNP4.
- 16.4 It is common ground that the presumption in favour of sustainable development in paragraph 11 (d) from the NPPF, the tilted balance, is engaged in this appeal by virtue of the Council's inability to demonstrate a five-year housing land supply [CD8.11.1]. Footnote 8 thus deems the policies most important for determining the appeal out-of-date.
- 16.5 In the absence of any applicable Footnote 7 policies, the decision-taker must proceed to limb (ii) of NPPF paragraph 11(d) and determine the application accordingly. This states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework 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. Footnote 9 notes that this further detail in paragraph 11(d) relates to those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12. I have regard to these policies in undertaking the planning balance below.

16.6 In order to assess the benefits of the development, and any harm that would arise, it is useful to conduct this exercise in the context of the Government's approach to achieving sustainable development and the three overarching objectives of the planning system, set out in paragraph 8 of the NPPF.

16.7 Having set out the framework for decision taking, I will now go on to identify the positive benefits and any adverse effects which I have taken into account and reach my own conclusions.

**The benefits of the appeal proposals:**

16.8 I consider that the appeal proposals, if allowed, would secure important benefits which respond to all three of the overarching objectives for sustainable development (economic, social and environmental) set out at paragraph 8 of the NPPF.

16.9 In conducting the planning balance, I assume weighting in accordance with the above and also in light of the weight that can be attributed to policies when the titled balance is engaged.

16.10 I assume equal weighting where there is reference to the application of 'significant' or 'substantial' weight. For the purposes of my planning balance, I apply the scale of 'significant', 'moderate', 'limited' and 'no weight.'

***Social Benefits:***

16.11 To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.

16.12 The Council cannot demonstrate a five-year supply of deliverable housing land. The Council's position is stated to be between 1.5 and 2.2 years, which represents an acute shortfall. The Council has also failed to meet the annual Local Plan housing requirement in all of the last 14 years, with an undersupply of 544 homes between 2011 and 2025 utilising the stepped trajectory.

16.13 As a result of the Council's shortfall in delivery over the Plan period to date and the acute shortfall in deliverable housing land to meet needs in the next 5 years, **significant positive weight** should be afforded to the delivery of 110 homes within the next 5 years.



- 16.14 Whilst a significant positive benefit is acknowledged by the Council, the Appellant considers that the shortfall in supply is more acute and the weight that can be attributed to the adopted spatial strategy, including Policy LP2 is out of date.
- 16.15 The NPPF states at Paragraph 66 that when considering major development it is expected *"that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures."*
- 16.16 The appeal proposals would provide for 40% affordable homes (up to 44 homes) which would meet a significant proportion of the identified needs of those requiring affordable homes within Warton and assist in meeting the needs of the wider Borough. I afford the provision of affordable homes, in the context of a persistent shortfall in affordable housing delivery against identified need, **significant positive weight**.
- 16.17 The appeal proposals would include the creation of new green infrastructure, including local areas of play and informal play, publicly accessible to both new and existing residents and the improvements to existing infrastructure within the village, including the bus service. The provision of such infrastructure I apply **moderate positive weight**.

***Economic Benefits:***

- 16.18 Paragraph 85 of the Framework sets out that 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.
- 16.19 Firstly, I consider that **moderate positive weight** should be afforded to expenditure on construction and investment in the area as a result of the appeal proposals. Economic benefits in respect of construction and supply-chain logistics as well as increasing local spend contributing to the economic dimension of sustainable development.
- 16.20 It is widely accepted that construction of residential schemes has knock on effects on other sectors which leads to increased demand for building materials and equipment at the construction phase as well as furnishings following completion ("first occupation spend"). This supports employment in other sectors.
- 16.21 I also consider that the provision of homes for the economically active will support the economic role of the village and nearby Polesworth, including the existing services and

facilities such as the public house and local shop. New residents can help to sustain local services and facilities by bringing additional expenditure to the area on a day-to-day basis. To this I attribute **moderate positive weight**.

***Environmental Benefits:***

- 16.22 I afford **limited positive weight** to the ecological/biodiversity enhancements that will be delivered on the site, including the provision of a biodiversity net gain in excess of 10%.
- 16.23 Overall, it is clear that the proposals will deliver a range of benefits in accordance with the objectives to achieve sustainable development as set out in the NPPF. These benefits when taken together weigh heavily in favour of the appeal proposal.

**The harms associated with the appeal proposals:**

***Compliance with the Development Plan***

- 16.24 The tilted balance as per paragraph 11d of the NPPF is engaged. For decision-taking this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is an important material consideration in this case. There are no protected areas or assets of particular importance that provide a strong reason to refuse the benefits of the proposed development.
- 16.25 As I have set out above in this proof of evidence, I consider that with the exception of some limited conflict with Policy LP2 in relation to the quantum of homes proposed outside of the settlement boundary of Warton, the appeal proposals do not conflict with the policies contained within the Development Plan.
- 16.26 In the context of the titled balance being engaged I believe any conflict in respect of Policy LP2 should be afforded very limited weight given national policy's clear steer that in such instances where a five-year supply is not present that the policies restricting the delivery of housing must be considered to be out of date. In addition, noting the loss of funding towards the critical improvements to the A5, the Council's adopted spatial strategy which is reliant on such improvements is now undeliverable, this would further reduce the weight which can be afforded any conflict with Policy LP2.

16.27 I therefore attribute **limited harm** to the settlement hierarchy as set out in Policy LP2.

***Landscape and Visual Harm***

16.28 I have attributed **limited harm** in respect of landscape and visual harm. As set out in the Proof of Evidence of Mr Bullock [CD8.12.3] the level of visual and landscape harm is very localised and not inappropriate given the village edge context. The proposal would not lead to landscape harm to the wider open countryside of No Man's Heath to Warton – Lowlands (Landscape Character Area 1) Landscape Character Area, and within the setting of the village, there would be a long-term minor, adverse effect.

***Harm to social cohesion***

16.29 The Council's reasons for refusal include reference to harm to social cohesion, however no explanation as to how and where this harm would arise is provided. WRA set out its concern regarding the lack of integration of residents of new development within their Statement of Case [CD8.4]. As detailed at Sections 13 and 14 of this PoE I consider that the village offers a range of opportunities for social interaction and therefore no harm is afforded. As set out within this PoE, the proposals would provide for a mix of market and affordable homes to meet the housing needs of the village and Borough in accordance with the Council's own adopted policies in respect of housing mix and affordable homes.

16.30 I do not accept that there would be harm to the social cohesion of the village as a result of the proposals, furthermore the proposals would provide a mixed and sustainable community with good links to existing facilities which the provision of social cohesion within the village and therefore **no harm** is afforded.

***Loss of best and most versatile agricultural land***

16.31 I have attributed **limited harm** in respect of the loss of best and most versatile agricultural land. As set out within the Proof of Evidence of Mr Kernon [CD8.12.5] the appeal site, although BMV, does not contribute directly to human consumption and provides a very limited benefit in terms of the overall farm holding. National policy requires consideration of the economic benefits of the land which are demonstrated to be limited.

### ***Conclusion on the overall harms***

- 16.32 The harms associated with the proposed development are limited to the scale of development outside of, but adjacent to, the settlement boundary and the minor adverse landscape and visual impacts focused on the local level. In addition, the site represents best and most versatile agricultural land where the economic benefits of the land are limited.
- 16.33 The above has demonstrated that, when taking the development plan as a whole, the proposals are acceptable. This includes also having regard to wider policies in relation to matters of principle.
- 16.34 This is a substantial package of benefits which weigh in favour of the scheme and are consistent with the Government's objective of significantly boosting housing supply.

### ***Consequences of not allowing the appeal***

- 16.35 The Inspector's CMC Note paragraph 9 [CD9.3] refers to the consequences of not allowing the appeal as a matter to be address within the planning evidence, but not a Main Issue. If the appeal was not allowed, it is clear that the opportunity to provide 110 new homes, of which 40% would comprise affordable homes, in a sustainable location would be lost. This is in the context of an acute shortfall in the supply of deliverable housing, both open market and affordable, within the Borough.

### ***Overall conclusion on planning balance***

- 16.36 The weight to be afforded to each matter in the planning balance is a matter of planning judgement for the decision-taker.
- 16.37 In assessing the planning balance of the proposals, it is my view that the proposals would accord with the policies contained within the Development Plan and where there is minor conflict this harm is limited and clearly outweighed by the positives of the proposal. The presumption in favour of sustainable development as set out in paragraph 11d of the NPPF is engaged, the 'tilted balance', and in exercising that balance I have not identified any adverse impacts of granting planning permission for this development that would significantly and demonstrably outweigh the identified benefits.

16.38 My final planning balance is summarised below. I start with summarising my position in response to the alleged harm before going on to set out the benefits and relevant weight that should be applied.

| Benefit                                                                                                                 | My position                          |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| Provision of open market housing of the type and size proposed in the context of a significant housing supply shortfall | <b>Significant weight (positive)</b> |
| Provision of affordable housing in Warton                                                                               | <b>Significant weight (positive)</b> |
| Provision of new green infrastructure and improvement to existing infrastructure including bus service                  | <b>Moderate weight (positive)</b>    |
| Additional economically active residents and expenditure of new residents into local economy,                           | <b>Moderate weight (positive)</b>    |
| Contribution towards GVA, construction employment and supply chain benefits.                                            | <b>Moderate weight (positive)</b>    |
| Enhancements to on-site biodiversity.                                                                                   | <b>Limited weight (positive)</b>     |

| Alleged Harm                                          | My Position         |
|-------------------------------------------------------|---------------------|
| Harm in respect of the Council's settlement hierarchy | <b>Limited harm</b> |
| Landscape and visual harm                             | <b>Limited harm</b> |
| Harm to social cohesion                               | <b>No harm</b>      |
| Loss of best and most versatile agricultural land     | <b>Limited harm</b> |

16.39 As discussed, the only harm present relates to the limited harm arising from conflict with the spatial strategy and the moderate harm of the loss of best and most versatile agricultural land. I have demonstrated that the proposals are broadly in accordance with the Development Plan when read as a whole.

16.40 Overall, I consider that there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits.

16.41 Even in the scenario where one were to apply a normal/flat balance, i.e. the presumption is not engaged, the benefits of the scheme would clearly outweigh any harm.

16.42 17.44 As such the proposals are supported by paragraph 11d of the NPPF.

## 17. Summary & Conclusions

17.1 This section forms my Summary Proof of Evidence and explains why I consider the appeal proposals represent sustainable development. There are no harms which outweigh the significant benefits of the scheme.

17.2 My evidence is structured having regard to the following main issues of this appeal:

**Issue 1      The effect of the proposed development on the settlement hierarchy of the borough.**

**Issue 2      The effect of the proposed development on the character and appearance of the area, with particular reference to the surrounding landscape, the design and layout of the proposal, and its spatial integration with existing development.**

**Issue 3      Whether future residents of the proposed development would have appropriate access to facilities and services.**

**Issue 4      The effect of the proposed development on the supply of agricultural land.**

17.3 I have also considered other matters raised by third parties as well as undertaking an assessment against relevant planning policies. Finally, I conduct the overall planning balance.

17.4 My main findings can be summarised as follows:

**Issue 1: The effect of the proposed development on the settlement hierarchy of the borough.**

17.5 Policy LP2 of the adopted Local Plan [CD4.1] establishes a settlement hierarchy which has regard to the services and facilities available to residents with each settlement. The Policy seeks to distribute new developments in accordance with this hierarchy and is the key strategic policy relating to housing delivery.

17.6 Warton is identified within the policy as a Category 4 settlement, with evidence supporting the plan, including the Settlement Sustainability Assessment 2023 [CD4.12] which demonstrates there is a range of services and facilities within the settlement including a

primary school, shop with post office, public house and community spaces. The village is also served by a regular bus service.

- 17.7 Policy LP2 allows for development adjacent to village settlement boundaries with such proposals being considered on their merits ‘usually on sites of no more than 10 units’. The appeal site is adjacent to the village settlement boundary and therefore falls to be considered in light of Policy LP2 having regard to the availability of services and facilities.
- 17.8 The level of services and facilities within Warton has remained broadly consistent since the Settlement Sustainability Assessment in 2018 [CD4.11]. The available services and facilities are within easy walking distance of the appeal site, as demonstrated in Mr Parker’s proof of evidence [CD8.12.4]. The application site is accessible to local bus services which provide access to nearby Polesworth and Tamworth and provide further opportunities for multi-model trips. The submitted Section 106 Agreement [CD8.10] provides financial contribution to improve the bus service by increasing the number of services between Monday and Saturday and providing an extension to the service to Ventura Park, Tamworth.
- 17.9 In the context of NPPF paragraphs 83, 110 and 115 the appeal site represents a sustainable location for housing.
- 17.10 The sustainability of Warton as a settlement has also been considered through the determination of several major housing applications. Whilst these applications were determined against the former North Warwickshire Core Strategy [CD4.15], the settlement hierarchy was broadly consistent with that set out within the adopted Local Plan [CD4.1] and included the same proportionate approach, including a degree of development at Warton. The consideration and approval of those major housing planning applications further support the position that Warton has and still represents a sustainable location for housing growth.
- 17.11 The Council and local community have raised concerns in respect of the cumulative pressures on existing services and facilities. As set out at paragraph 8.5 of the Planning Board Report [CD3.1], the Council considers the appeal site *“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.”* The Council has not quantified, empirically, the ‘tipping point’ of local services and facilities.



- 17.12 The Appellant has agreed to a number of financial contributions in line with requests to provide improvements to services and facilities serving the village. It can be concluded that the development would, therefore, appropriately address the needs arising as a result of any cumulative pressures. Furthermore, additional development can also support and enhance the existing services and facilities by providing additional spend and patronage to support services such as the shop, public house and bus service. Therefore, I consider that the appeal proposals would serve to maintain and enhance to level of service provision within the village as is required by Policy LP2.
- 17.13 Main Issue 1 relates to the harm that would be caused to the settlement hierarchy. The spatial distribution of growth within the adopted Local Plan does not take a proportionate approach to a settlement's placement within the hierarchy, rather it recognises other local drivers including the presence of Green Belt and infrastructure delivery when distributing growth.
- 17.14 By way of example, Warton is provided a greater level of housing growth as a Category 4 settlement than Coleshill (Category 1 Settlement) and the majority of Category 3 settlements within the adopted spatial strategy. This indicates that the Council accept Warton as a sustainable location for housing growth. The settlement hierarchy allows for growth at Warton and permits development outside but adjacent to settlement boundaries where the development would maintain or enhance the vitality of the community.
- 17.15 The delivery of the appeal proposals would not lead to the elevation of Warton within the settlement hierarchy or undermine those settlements within higher categories of the hierarchy. Whilst the appeal proposals would lead to a level of growth being delivered in excess of other Category 4 settlements, it would not result in the category 4 settlements collectively delivering a greater level of growth than those settlements in higher tiers.
- 17.16 It is therefore my view that the appeal proposals are broadly consistent with Policy LP2, they would provide residential development adjacent to the existing village settlement boundary and would provide new and improvements to existing social infrastructure for the village which enhances the sustainability of the settlement and is therefore consistent with Policy LP2. The proposal is therefore in accordance with the development plan in this respect for the purposes of s38(6) PCPA 2004.

**Issue 2: The effect of the proposed development on the character and appearance of the area, with particular reference to the surrounding landscape, the design and layout of the proposal, and its spatial integration with existing development.**

- 17.17 The Council contend that the appeal proposals conflict with Policy LP14 of the Local Plan [CD4.1] and Policy PNP4 of the Neighbourhood Plan [CD4.3] and would result in an “unacceptable intrusion into the open countryside” that would give rise to landscape and visual harm” (RfR2). As set out within the SoCG [CD8.11.1] it is agreed by the parties that the landscape impact would be local in both extent and impact and not affect the character of the Landscape Area.
- 17.18 A LVIA [CD2.10] has been undertaken and concludes that the site could successfully accommodate the proposed residential development with only minor adverse impacts. The evidence of Mr Bullock [CD8.12.3] finds that the level of visual and landscape harm is localised, and not inappropriate given the context of the site on the village’s edge. The appeal proposals would not lead to landscape harm to the wider open countryside and within the setting of the village there would be a long-term minor, adverse effect.
- 17.19 The Council consider the appeal proposals would read as an “*adjunct to the settlement, rather than integrating with the settlement*”. Mr Bullock’s evidence demonstrates that the site lies adjacent to the residential built form of the settlement, located between two roads leading into the village. The application site does not read as part of the open countryside to the north, south and west of the site and more readily relates to the village.
- 17.20 Reference is also made to harm to the settlement morphology of Warton in the context of the linear nature of the settlement. As set out within Mr Bullock’s evidence, this linear pattern has now diminished and lost within the southern half of the village where the character is no longer linear in form.
- 17.21 In light of the above, I consider that the proposal conforms to Local Plan Policies LP1, LP14 and LP30 and Neighbourhood Plan Policies PNP3 and PNP4 and find no basis on which to refuse the proposal on landscape or design grounds.

**Issue 3: Whether future residents of the proposed development would have appropriate access to facilities and services.**

- 17.22 National Policy (**paragraph 83**) recognises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of those communities. Villages should be provided with opportunities to grow and thrive, especially where this will support local services. Additionally, it is acknowledged that development in one small settlement may support services in a nearby village.
- 17.23 The appeal site benefits from being closely located to several nearby facilities within the village within a reasonable walking and cycling distance. The evidence of Mr Parker [**CD8.12.4**] considers the accessibility of the services and facilities and concludes that the appeal proposals accord with the guiding principles of the NPPF.
- 17.24 Policy LP1 requires the delivery of infrastructure which is necessary, directly related to the development and is fair and reasonably related in scale and kind. Policy LP2 states that development directly adjacent to settlement boundaries should also meet a qualitative test to *“enhance or maintain the vitality of rural communities.”*
- 17.25 The level of services and facilities has remained broadly consistent within Warton since 2018 as evidenced within the Settlement Sustainability Assessment 2023 [**CD4.12**]. Indicating the level of services and facilities remains appropriate for the village and at the level the Council previously determined appropriate to allow for the further growth of the village.
- 17.26 The appeal proposal is accompanied by a draft Section 106 Agreement [**CD8.10**] which identifies a range of financial obligations to support existing services and facilities within the village. These contributions would ensure that the services and facilities would not only be maintained, but in some cases enhanced to the benefit of the wider residents within Warton, providing compliance with Policy LP2 and the relevant section of Policy LP1.

**Issue 4: The effect of the proposed development on the supply of agricultural land**

- 17.27 The Council contend that the appeal proposal conflicts with Policy LP1 (Sustainable Development) and paragraph 187 of the NPPF as the proposed development of the site would result in the permanent loss of an area of approximately 5.6ha hectares of best and most versatile agricultural land (RfR5). The evidence of Mr Kernon [**CD8.12.5**] has identified the economic benefits from the appeal site from an agricultural land perspective are limited. The

land does not contribute directly to human food consumption and the provides generally poor yields for the farmer. The site represents only 2% of the farm housing and the economic benefits of a land parcel of this size are limited with an economic benefit of approximately £1,200 per year.

- 17.28 The soils on the appeal site have no statutory status, and as a soil resource has no identified quality in the development plan I consider there is no conflict with the NPPF or the development plan on this matter.

### **Social Cohesion**

- 17.29 The Council's Planning Board [CD3.1] report states there is harm due to "the lack of continuity and links to the existing village." This development will lead to an isolated community with limited connections to the existing community" (RfR3).
- 17.30 Connectivity with the village is provided in the form of a principal access to Church Road which provides footway connections to Church Road and, with further footway and cycle connections to the adjacent Warton Recreation ground to the west of the site to support active travel.
- 17.31 Primary access onto Church Road was introduced following pre-application discussions and feedback from the local community directly addressing the concerns of the highways authority and local residents.
- 17.32 The proposed access strategy provides safe, direct and logical pedestrian routes to the services and facilities within the village from the application site. These services and facilities represent the key locations to foster social interaction and cohesion within the local community. It should also be noted that a contribution to expand the village primary school and nursery is proposed to ensure children arising from the development are integrated into the local school.
- 17.33 In respect of social cohesion, the Council through RfR4 raise concern that the residents of the proposed affordable housing will fail to integrate into the village and the proposals, therefore, do not create a balanced and integrated community. It is unclear how the Council have reached such a conclusion, particularly having regard to the proposals provision of a policy compliant level of affordable housing and tenure mix adjacent to the village.

**Other matters raised by third parties**

- 17.34 Several matters have been raised by third parties in relation to the appeal proposals, with many of these relating to the main matters identified by the inspector. However, there are several matters raised which are beyond the main issues identified by the Inspector.
- 17.35 Warton Residents Association (WRA) has raised concerns that the extent of recent development has impacted the community's ability to integrate new households into the community [CD8.4] with new residents having limited opportunity to integrate through local groups, associations and facilities. WRA state that many of the community groups and facilities are operating at close to full capacity which contains the ability of new residents to integrate into the community. Rather than indicating a lack of community cohesion, it is considered this indicates that there is a range of opportunities and places for new residents to integrate with existing residents and shows there is a vibrant community within the village.
- 17.36 Further to this WRA indicate that there has been a perceived increase in crime and antisocial behaviour as a result of recent development. Whilst there is no evidence presented that this is a result of the new development, a contribution towards police recruitment, equipment, vehicles and office accommodation is to be provided to assist in addressing such impacts.
- 17.37 One further matter raised by WRA relates to parking issues as a result of those using Warton Recreation Ground, particularly local football teams [CD8.4]. WRA note that due to a lack of onsite parking, during match days, there is significant off-road parking on local roads including Church Road which restricts visibility, displaces pedestrians and creates issues for safety and residential amenity. Such issues, where they take place, relate to the existing users of the recreation ground, this is unlikely to be exacerbated by additional homes at the appeal site as residents would be likely access this by foot. Therefore, whilst such issues may be experienced it is not something which would be caused by the proposed development. A detailed Transport Assessment [CD1.9] and Transport Plan [CD1.10] has been provided and assesses the transport impacts of the proposals. There is no objection in principle from the Highways Authority, subject to the imposition of conditions and planning obligations.
- 17.38 A further interested party, Mr O'Dell [CD8.9], raised concerns regarding the capacity of the water treatment facilities to deal with sewage and surface water. Severn Trent Water is responsible for water treatment facilities and has not commented upon the planning

application, which would be the approach taken if there were an issue with the capacity of sewage treatment facilities.

- 17.39 In respect of surface water, a Flood Risk and Drainage Strategy [CD2.3.1] has been submitted and addresses comments from the LLFA and this sets out the proposed sustainable drainage strategy for the site. There is no objection in principle from the LLFA, subject to the imposition of conditions.

### **The overall planning balance**

- 17.40 For the reasons explored in the Main Issues, the proposal is in accordance with the development plan in this respect for the purposes of s38(6) PCPA 2004.
- 17.41 Owing to the Council's inability to demonstrate a five year supply of deliverable housing land the appeal should also be determined in the context of the 'titled balance' as set out at paragraph 11d of the NPPF. This means the decision taker must consider whether any adverse impacts arising from granting planning permission would significantly and demonstrably outweigh the benefits. The proposals will deliver a range of economic, social and environmental benefits which can be afforded varying levels of weight

| Benefit                                                                                                                 | My position                          |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| Provision of open market housing of the type and size proposed in the context of a significant housing supply shortfall | <b>Significant weight (positive)</b> |
| Provision of affordable housing in Warton                                                                               | <b>Significant weight (positive)</b> |
| Provision of new green infrastructure and improvement to existing infrastructure including bus service                  | <b>Moderate weight (positive)</b>    |
| Additional economically active residents and expenditure of new residents into local economy,                           | <b>Moderate weight (positive)</b>    |
| Contribution towards GVA, construction employment and supply chain benefits.                                            | <b>Moderate weight (positive)</b>    |
| Enhancements to on-site biodiversity.                                                                                   | <b>Limited weight (positive)</b>     |

| Alleged Harm                                          | My Position         |
|-------------------------------------------------------|---------------------|
| Harm in respect of the Council's settlement hierarchy | <b>Limited harm</b> |
| Landscape and visual harm                             | <b>Limited harm</b> |
| Harm to social cohesion                               | <b>No harm</b>      |
| Loss of best and most versatile agricultural land     | <b>Limited harm</b> |

17.42 I do not consider that the appeal proposals give rise to any adverse impacts which would significantly and demonstrably outweigh the above benefits in the planning balance.

### **Final Conclusion**

17.43 In conducting the overall planning balance, I reach the conclusion that the proposals represent a suitable and sustainable form of development in this location. The proposals are in accordance with the Development Plan when read as a whole for the purposes of s38(6) PCPA 2004. There is only limited conflict with part of one policy: Policy LP2. That policy is considered out of date, for the reasons set out earlier.

17.44 As such the proposals are supported by paragraph 11d of the NPPF.

17.45 In light of this the Inspector is respectfully requested to uphold this appeal and grant outline planning permission for this development.

## **Appendix A: Summary of Compliance with Development Plan Policies**





The following table provides a summary of compliance with development plan policies as set out at paragraph 4.13. The Statement of Common Ground [CD8.12] sets out the agreed position of the parties in respect of the policies relevant to this appeal.

Only those policies not highlighted by the Council as conflicting with the proposals are included below.

| Policy Number                                       | Policy Name                  | Compliance                                                                                                                                                                                                                                                                |
|-----------------------------------------------------|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>North Warwickshire Local Plan (adopted 2021)</b> |                              |                                                                                                                                                                                                                                                                           |
| Policy LP5                                          | Amount of Development        | Compliant – proposed development would contribute towards meeting identified needs.                                                                                                                                                                                       |
| Policy LP7                                          | Housing Development          | Compliant – proposals allow for mix of housing and density in accordance with policy. Appropriate infrastructure to be provided.                                                                                                                                          |
| Policy LP8                                          | Windfall                     | Not applicable – details level of windfall to be anticipated across plan period.                                                                                                                                                                                          |
| Policy LP9                                          | Affordable Housing Provision | Compliant - The proposals seek to provide 40% affordable housing, as set out within the draft S106 and Heads of Terms within the Planning Statement [CD1.7]. Provision is in accordance with Policy LP9.                                                                  |
| Policy LP15                                         | Historic Environment         | Compliant – Heritage Statement submitted as part of planning application. Confirms development will not cause harm to the significance of identified heritage assets.                                                                                                     |
| Policy LP16                                         | Natural Environment          | Compliant – Proposals accompanied by appropriate technical assessments. Confirms development will enhance natural environment and ensure BNG in excess of 10%                                                                                                             |
| Policy LP17                                         | Green Infrastructure         | Compliant – site not within green infrastructure network                                                                                                                                                                                                                  |
| Policy LP21                                         | Services & Facilities        | Compliant – proposals would not lead to loss of community service and facilities. Additional residential development to support the vitality of such services and facilities. Proposals include provision of open space and contributions towards services and facilities |

|             |                                           |                                                                                                                                                                                                                                                                                                                                                   |
|-------------|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy LP22 | Open Space & Recreation Provision         | Compliant – open space provision in accordance with local plan requirements.                                                                                                                                                                                                                                                                      |
| Policy LP23 | Transport Assessments                     | Compliant – Transport Assessment and Travel Plan submitted with application and informed proposals.                                                                                                                                                                                                                                               |
| Policy LP27 | Walking & Cycling                         | Compliant – proposals include connections to footway network. Detail of further walking and cycling provision within the site to be provided at Reserved Matters stage.                                                                                                                                                                           |
| Policy LP29 | Development Considerations                | Compliant – proposals accord with development considerations set out within policy.                                                                                                                                                                                                                                                               |
| Policy LP33 | Water & Flood Risk Management             | Compliant – flood risk and drainage strategy has informed proposals and 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. |
| Policy LP34 | Parking                                   | Compliant – proposals can provide a policy compliant level of parking in accordance with Council standards.                                                                                                                                                                                                                                       |
| Policy LP35 | Renewable Energy & Energy Efficiency      | Compliant – development will meet energy efficiency standards set out in building regulations                                                                                                                                                                                                                                                     |
| Policy LP36 | Information & Communications Technologies | Compliant – development will meet requirements of the policy.                                                                                                                                                                                                                                                                                     |
| Policy LP37 | Housing Allocations                       | Not applicable – relates to allocated sites.                                                                                                                                                                                                                                                                                                      |
| Policy LP38 | Reserve Housing Sites                     | Not applicable – relates to allocated reserve sites.                                                                                                                                                                                                                                                                                              |

#### **Polesworth Neighbourhood Plan (made 2025)**

|             |                                         |                                                                                              |
|-------------|-----------------------------------------|----------------------------------------------------------------------------------------------|
| Policy PNP1 | Protecting Local Green Spaces           | Not applicable – site is not designated as a Local Green Space                               |
| Policy PNP7 | Sports, Recreation & Leisure Facilities | Compliant – proposals will provide access to and improvements to Warton Recreation Ground    |
| Policy PNP8 | Transport                               | Compliant – improvements to transport infrastructure to be provided in accordance with S106. |

Policy PNP9      Preserving the Separate  
Identity of Polesworth's  
Villages

Not applicable – site is not identified within policy

## **Appendix B: Summary of Transfer Terms**

### **(Red Marl Way)**

Prepared for the benefit of Richborough Estates Group Limited only

Date: 23 October 2025

### Summary of Transfer Terms

|                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Transfer Date                                   | 22 November 2018                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Transferor                                      | Michael Nesor Caton and Andrew Norman Caton                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Transferee                                      | Bellway Homes Limited                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Property Transferred                            | Land edged red (excluding ransom strip between points X and Y measuring 30cm as shown on Plan 1 attached)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Retained Land                                   | Land remaining in title number WK484494 excluding the Property and ransom strip (as referred to above)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Rights Granted for Benefit of the Retained Land | <b>Rights Reserved</b> <ol style="list-style-type: none"> <li>1. Right of way all times and all purposes over the Temporary Access Route (which is a route from the Retained Land to and from Barn End Road between the points marked A and B on Plan 2 and also over the Seller's Access Road Corridor) being the land cross-hatched black on Plan 2 (or any other reasonable route as may be agreed between the parties)</li> <li>2. Right of support and shelter</li> <li>3. Right of passage with or without vehicles (except for construction vehicles) for all times and all purposes to and from the Retained Land over the Road and the Road Corridor) being part of the Pink Land hatched black on Plan 2 including over any pavement or verge</li> <li>4. Right of way for all times and all purposes with or without vehicles (except for construction vehicles) over the Road and the Seller's Connecting Road and right of way by foot over the pavement comprised within the Road and the Seller's Connecting Road (once constructed) to and from the adopted highway (provided that this right may not be exercised in a manner that would interfere with the</li> </ol> |

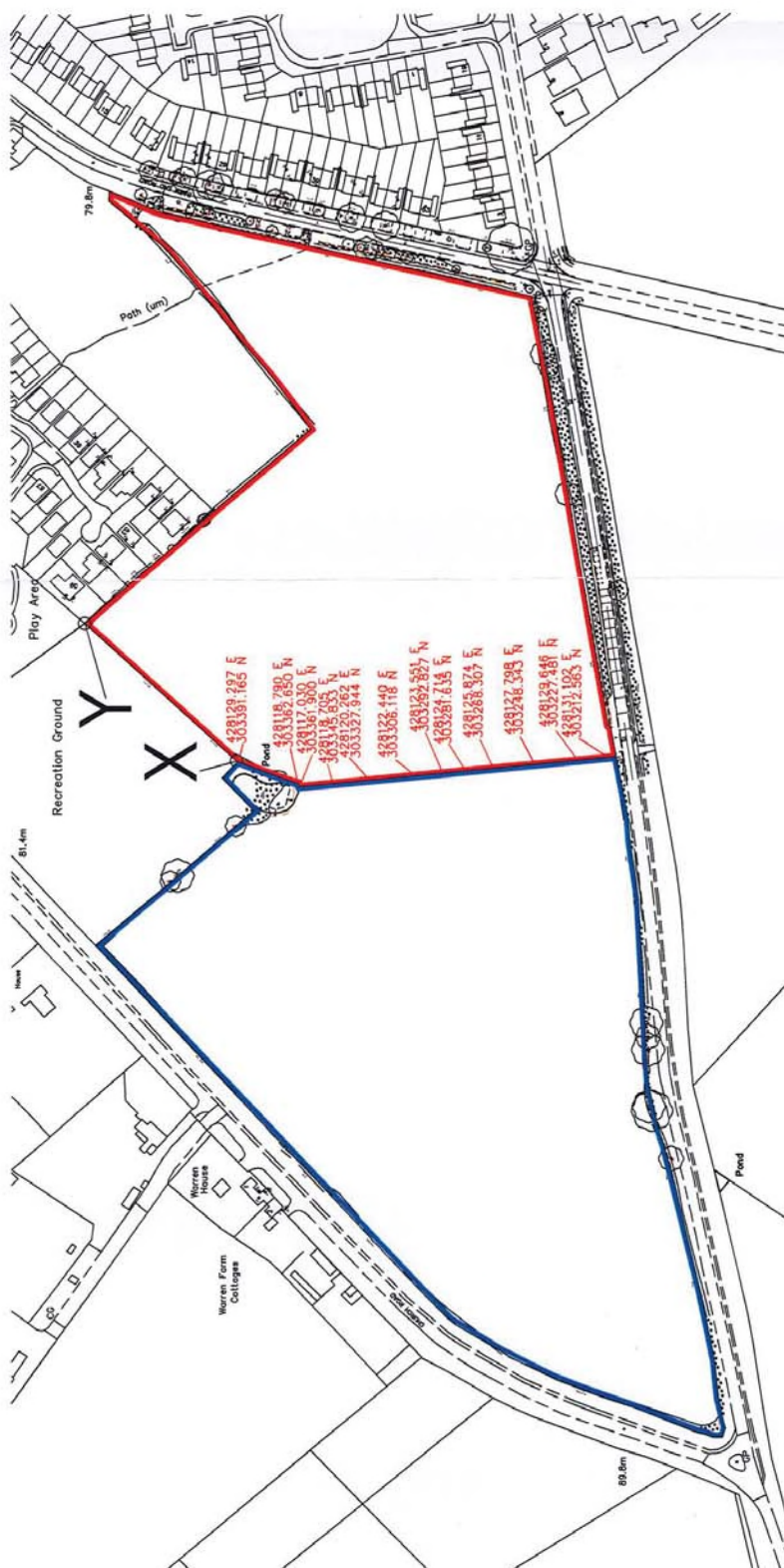
Prepared for the benefit of Richborough Estates Group Limited only

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>prejudice the adoption of the Road or any service media within the land transferred);</p> <ol style="list-style-type: none"> <li>5. Right to lay service media connect into the same until they are adopted over any service media laid over, in or under the land transferred and for the free passage of services through such service media;</li> <li>6. Right to access the Road Corridor with or without vehicles, plant machinery and equipment to construct the Seller's Connecting Road and service conduits;</li> <li>7. Right to enter such parts of the Pink Land (being the land shaded pink on plan 2) with or without vehicles, plant machinery and equipment to upgrade any service media and to lay new service media under the Road in locations recently approved by the owner of the Property;</li> <li>8. Rights to develop the Retained Land notwithstanding that this may affect the rights of light and air to the Property;</li> <li>9. Right to access the Second Access Road Corridor with or without vehicles, plant machinery and equipment to construct the Seller's Second Access Connecting Road (subject to requirements to obtain necessary consents, provide method statements, specifications, costings, guarantees and an indemnity in respect to any losses to the owner of the adjoining land) and subject to the Transferor using reasonable endeavours to have the Seller's Access Connecting Road adopted following its construction to adoptable standards</li> </ol> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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APPENDIX 1

Plan 1 of Transfer



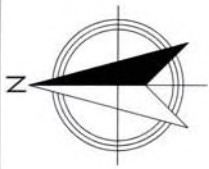
| Rev.        | Description                                                                                                                                                         | Drake | Drake |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------|
|             | <b>Bellway</b>                                                                                                                                                      |       |       |
|             | Bellway Homes (EM) Ltd, 3 Romulus Court,<br>Meridian East, Meridian Business Park,<br>Braunstone Town, Leicester, LE19 1YG<br>Tel: 0116 282 0400 Fax: 0116 282 0407 |       |       |
|             | Land Off Barn End Road<br>Warton                                                                                                                                    |       |       |
|             | Contract Plan 1                                                                                                                                                     |       |       |
| Drake       | Drake                                                                                                                                                               | Drake | Drake |
| 08.08.18    | 1:2500 @ A3                                                                                                                                                         | LJE   | LJE   |
| Rev. Ref    |                                                                                                                                                                     |       |       |
| S5022/CP/01 | -                                                                                                                                                                   |       |       |



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## APPENDIX 2

Plan 2 of Transfer



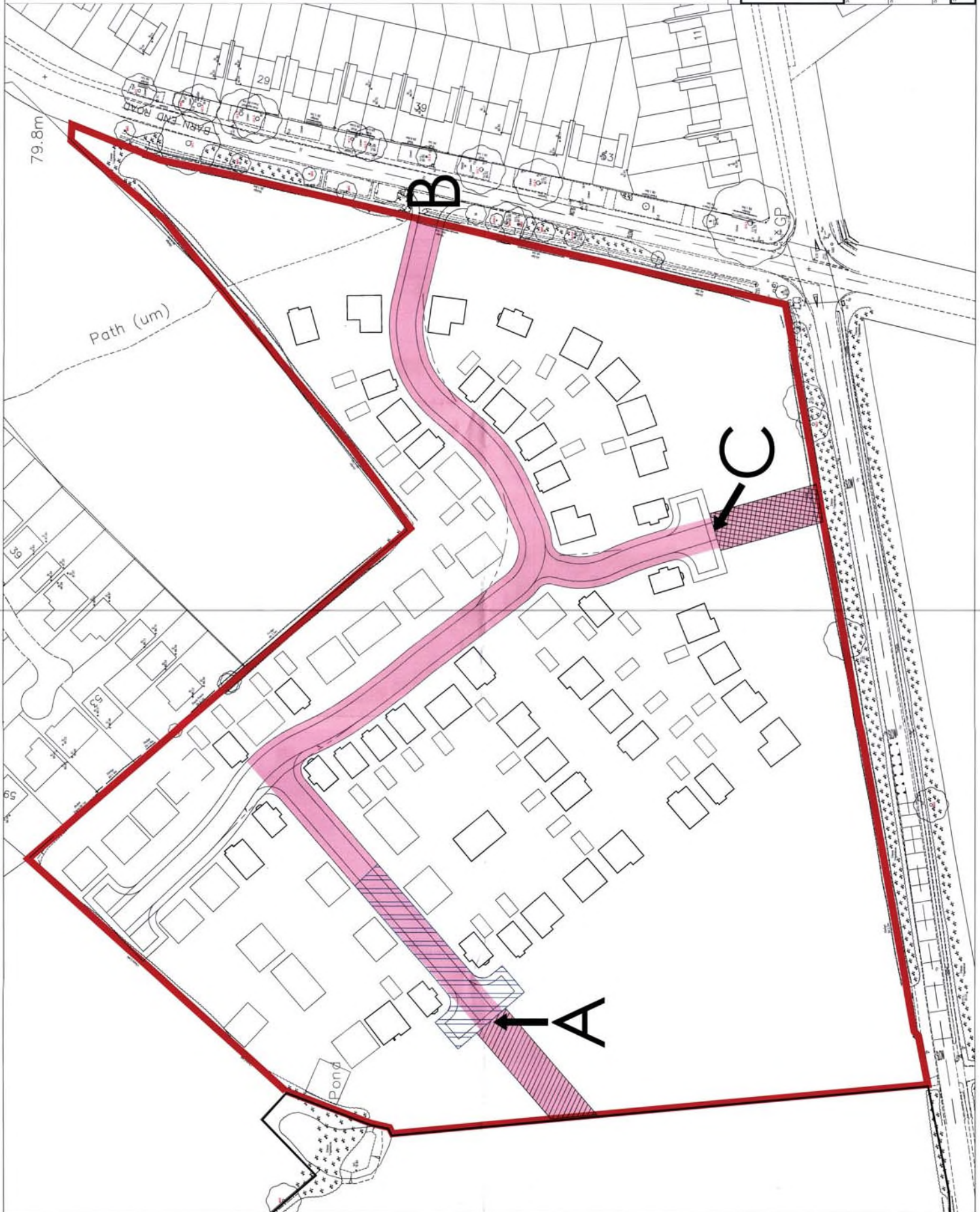
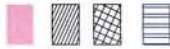
Key:

Pink Land

Road Corridor

Second Access Road  
Corridor

Service System



Working Platform of 1m added either side of potential future road access at point A to allow for construction of road.

**Bellway**

Bellway Homes (UK) Ltd, 3 Riverside Court, Meridian East,  
Meridian Business Park, Bournville Town, Leicester, LE19 1YD  
Tel: 0116 292 0400 Fax: 0116 292 0407

Land Off Barn End Road  
Warton

Contract Plan 2

|          |             |       |            |         |     |
|----------|-------------|-------|------------|---------|-----|
| Scale    | 06.08.18    | Scale | 1:500 @ A1 | Project | LJE |
| Contract | SS022/CP/02 | Rev   |            | Rev     | A   |

