

**To: The Deputy Leader and Members of the Planning and Development Board
Councillors Simpson, Bell, T Clews, Deakin, Dirveiks, Hancocks, Hayfield, D Humphreys, Jarvis, Lees, Macdonald, Morson, Moss, Parsons, H Phillips and Rose.**

For the information of other Members of the Council

For general enquiries please contact the Democratic Services Team on 01827 719237 via e-mail – democraticservices@northwarks.gov.uk

For enquiries about specific reports please contact the officer named in the reports.

The agenda and reports are available in large print and electronic accessible formats if requested.

PLANNING AND DEVELOPMENT BOARD AGENDA

7 MARCH 2022

The Planning and Development Board will meet on Monday, 7 March 2022 at 6.30pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

The meeting can also be viewed on the Council's YouTube channel at [NorthWarks - YouTube](#).

AGENDA

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

REGISTERING TO SPEAK AT THE MEETING

Anyone wishing to speak at the meeting, in respect of a Planning Application, must register their intention to do so by 1pm on the day of the meeting, either by email to democraticservices@northwarks.gov.uk or by telephoning 01827 719221 or 719237.

Once registered to speak, the person asking the question has the option to either:

- (a) attend the meeting in person at the Council Chamber; or
- (b) attend remotely via Teams.

If attending in person, precautions will be in place in the Council Chamber to protect those who are present however this will limit the number of people who can be accommodated so it may be more convenient to attend remotely.

If attending remotely an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should join the meeting via Teams or dial the telephone number (provided on their invitation) when joining the meeting and whilst waiting they will be able to hear what is being said at the meeting. They will also be able to view the meeting using the YouTube link provided (if so, they may need to mute the sound on YouTube when they speak on the phone to prevent feedback). The Chairman of the Board will invite a registered speaker to begin once the application they are registered for is being considered.

- 4 **Minutes of the meeting of the Board held on 7 February 2022** – copy herewith, to be approved and signed by the Chairman.
- 5 **Minutes of the meeting of the Planning Sub-Committee held on 11 February 2022** – copy herewith, to be approved and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

- 6 **Planning Applications** - Report of the Head of Development Control

Summary

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

6a Application No: PRE/2021/0214 - Fillongley Cricket Club, Black Hall Lane, Fillongley, Coventry, Warwickshire, CV7 8EG

Application under Section 257 of the Planning Act to implement a diversion to Public Footpath M360 as a consequence of the grant of planning permission PAP/2020/0598.

6b Application No: PRE/2021/0184 - Arc School, Ansley Lane, Ansley CV7 8NU

Application under Section 257 of the Planning Act to divert a public footpath 103/AE144/2 as a consequence of the grant of planning permission PAP/2020/0614.

6c Application No: PAP/2021/0562 -Environment Agency Lea Marston Depot, Coton Road, Lea Marston, B76 0DN

Construction of a photovoltaic installation with a maximum capacity of up to 3MW, together with associated infrastructure and biodiversity enhancements on land.

6d Application No: PAP/2021/0663 - Land On The North East of J10 M42, Dordon/A5, Polesworth

Outline planning permission for development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved.

6e Application No: CON/2022/0006 - Land at Langley bound by Lindridge Road, A38, Walmley Ash Lane, Webster Way, Thimble End Road and Springfield Road, Sutton Coldfield, Birmingham

Outline application for a Langley Sustainable Urban Extension (a residential led mixed use development).

6f Application No: CON/2022/0005 - Hinckley National Rail Freight Interchange, South of Emesthorpe, between Leicester & Hinckley, Railway and M69

Proposals for the construction, operation, use and maintenance of a Strategic Rail Freight Interchange together with alterations to Junction 2 of the M69 Motorway to provide south facing slip roads and a new highway linking Junction 2 with the B4468 Leicester Road.

6g Application No: PAP/2021/0350 - Land South Of Gardeners Cottage, Pooley Lane, Polesworth

Approval of reserved matters for the erection of 40 dwellings and associated works. Appeal ref APP/R3705/W/18/3203467.

6h (a) Application No: CON/2022/0010 - Land west of Ashby Road, Barwell

Outline application including access for up to 2500 new residential dwellings, an employment zone for general industrial uses and storage and distribution uses, a new community hub and local health facility and retail units.

(b) Application No: CON/2022/0011 - Earl Shilton Sustainable Urban Extension, Mill Lane, Earl Shilton

Outline application for up to 1000 dwellings and land for employment uses together with retail space as part of a community centre and ancillary works.

The Contact Officer for this report is Jeff Brown (719410).

7 Infrastructure Funding Statement 2021 - Report of the Head of Development Control

Summary

This report outlines the current position in respect of the contributions made to the Council within Section 106 Agreements.

The Contact Officer for this report is Jeff Brown (719310).

8 Water Orton Conservation Area Boundary Extension - Report of the Chief Executive

Summary

The report seeks the authority to consult on an extension to the Water Orton Conservation Area and, if there are no representation made during the consultation process, it be approved.

The Contact Officer for this report is Fiona Wallace (01827 719275).

9 Submission of Water Orton Neighbourhood Plan for Referendum - Report of the Chief Executive

Summary

This report informs Members of the progress of the Water Orton Neighbourhood Plan and seeks approval for a formal referendum, in

accordance with section 16 of the Neighbourhood Planning (General) Regulations 2012, to be carried out.

The Contact Officer for this report is Sue Wilson (719499).

10 **HS2 – Bromford Tunnel Portal** - Report of the Head of Development Control

Summary

On 4 October 2021 Members considered a report concerning the Bromford Tunnel and the Bromford Tunnel Portal. The report set out the changes to the scheme to extend a tunnel, the legal advice that the Council had received in respect of the lawfulness of those changes and suggested an approach to addressing the matter of planning enforcement for the works deemed to be unauthorised. Members deemed that it was not, at that time, expedient to commence enforcement action. It resolved to keep the matter under review and that it would receive future reports on the matter as developments occurred.

This report sets out the up to date position and details changes in circumstance. The report identifies matters for consideration in re-examining the expediency of taking enforcement action.

The Contact Officer for this report is Erica Levy (719294).

11 **Exclusion of the Public and Press**

To consider whether, in accordance with Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

12 **Land New Arley - Report of the Head of Development Control**

The Contact Officer for this report is Jeff Brown (719410).

13 **Enforcement Notice** – Report of the Head of Development Control

The Contact Officer for this report is Jeff Brown (719410).

14 **Confidential Extract of the Minutes of the meeting of the Planning and Development Board held on 7 February 2022** – copy herewith, to be approved and signed by the Chairman.

15 **Confidential Extract of the Minutes of the meeting of the Planning Sub-Committee held on 11 February 2022** – copy herewith, to be approved and signed by the Chairman.

16 **Confidential Appendices for Agenda Item No 10 (HS2 – Bromford Tunnel Portal) - Report of the Head of Development Control**

The Contact Officer for this report is Erica Levy (719294).

STEVE MAXEY
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

**MINUTES OF THE
PLANNING AND DEVELOPMENT BOARD**

7 February 2022

Present: Councillor Simpson in the Chair

Councillors Bell, D Clews, Dirveiks, Hancocks, Hayfield, M Humphreys, Jarvis, Jordan, Morson, Parsons, H Phillips and Rose

Apologies for absence were received from Councillors T Clews (Substitute Councillor D Clews), D Humphreys (Substitute M Humphreys), Lees and Macdonald (Substitute Jordan

42 Disclosable Pecuniary and Non-Pecuniary Interests

Councillors D Clews, Dirveiks and Jordon declared a non-pecuniary interest in minute no 46(f) (Application no PAP/1021/0678 - The Arcade, 71-73 Long Street, Atherstone, Warwickshire, CV9 1AZ). Councillor Jordan took no part in the discussion or voting thereon.

43 Minutes

The minutes of the meeting of the Planning and Development Board held on 10 January 2022, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

44 General Fund Fees and Charges 2022/2023

The Board was asked to consider the fees and charges for 2021/2022 and the proposed fees and charges for 2022/23.

Resolved:

That the schedule of fees and charges for 2020/23, as set out in the report of the Director of Corporate Services and the Chief Executive, be accepted.

45 **General Fund Revenue Estimates 2022/23**

The Corporate Director – Resources detailed the revised budget for 2021/2022 and an estimate of expenditure for 2022/23, together with forward commitments for 2023/24, 2024/2025 and 2025/2026.

Recommendation to Executive Board:

That the Estimates of Expenditure for 2022/23, as submitted in the report of the Corporate Director – Resources, be accepted and included in the budget to be brought before the meeting of the Executive Board on 14 February 2022 subject to the inclusion of addition employment resource for 2022/2023.

46 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board.

Resolved:

- a **That the Board raised no objections to Application No's CON/2022/0001, CON/2022/0002, CON/2022/0003 and CON/2022/0004 subject to the comments set out in the report;**
- b **That Application No PAP/2022/33, PAP/2022/34 and PAP/2022/35 (Land at South Street, the Sheepy Road Car Park and other locations in Atherstone) the works may proceed as proposed in all three applications and that the County Council be requested that the tree numbered 05DF be replaced with a similar tree within the next available planting season;**
- c **That Application No CON/2022/0006 (Land at Lindridge Road, Sutton Coldfield) be note and that a group of Members be convened in order to review the planning application with a view to reporting back to the March Board meeting;**
- d **That Application No PAP/2020/0473 (Land South of Elmesthorpe between the Leicester to Hinckley Railway and the M69 Motorway) be noted and that the group of Members agreed for item 46c also reviews this proposal with a view to reporting back to the March Board meeting;**

- e
 - (A) That Application No PAP/2020/0259 (South View, Weddington Lane, Caldecote, CV10 0TS) be refused for the reasons set out in the report of the Head of Development Control;
 - (B) That, subject to the receipt of advice from the County Council's Forestry Officer, that the Head of Legal Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 requiring the removal of the replacement garage, gym, snug and playroom to slab level with the removal of all subsequent material from the site, for the reasons as set out in the reason for refusal in (A) above and with a compliance period of six months;
 - (C) That should it be considered necessary, authorisation also be given to initiate prosecution proceedings under Section 179 of the Town and Country Planning Act 1990 should there be evidence to show non-compliance with the Notice authorised under recommendation B above; and
 - (D) That on a "without prejudice" basis, officers engage with the applicant in order to review alternative proposals.
- f That in respect of Application No PAP/2021/0678 (The Arcade, 71-73 Long Street, Atherstone, Warwickshire, CV9 1AZ) Advertisement Consent is granted subject to the standard Advertisement conditions and conditions limiting the time of the display of the mural to five years with a review to be undertaken two years from the date of the Consent;
- g
 - (A) That Application No PAP/2021/0627 (Hartshill School, Church Road, Hartshill, Nuneaton, Warwickshire, CV10 0NA) the Council is minded to support the proposal subject to:
 - i) There being no objection from the Warwickshire County Council as Highway Authority that cannot be overcome by condition;

- (D) That both the Environment Agency and Warwickshire County Council requested to visit the site and investigate whether there have been or are any breaches of Environmental Permits and/or waste uses on the site, as well as works to the Highway out of the control of the applicant without consent.**

47 Consultation - Transport and Works Act Order application for the High Speed Rail (London – West Midlands) Act 2017 (Amendment) (Bromford Tunnel) Order 202[X]

On 20 January 2022, HS2 Ltd submitted a Transport and Works Act Order application for the High Speed Rail (London – West Midlands) Act 2017 (Amendment) (Bromford Tunnel) Order 202[X]. The Council, amongst others, has been consulted for its views. The consultation period runs from 20 January to 3 March 2022. The report identifies matters for consideration when formulating a response.

Resolved:

- i) That the report be noted and that delegated authority to formulate and submit the final consultation response was given to the Chief Executive, in consultation with the Chairman, Opposition Spokesman and Local Ward Members; and**
- ii) That a group of Members, consisting of Head of Development Control, Chairman, Opposition Spokesman and Councillor Rose, be convened to review HS2 proposals.**

48 Exclusion of the Public and Press

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

49 **Land at Kingsbury**

The report brought Members up to date with recent developments.

Resolved:

- a That recommendations A and B, as set out in the report of the Head of Development be approved; and**
- b That a further report be brought to the next meeting of the Board.**

Councillor Simpson
Chairman

NORTH WARWICKSHIRE BOROUGH COUNCIL

**MINUTES OF THE
PLANNING SUB-COMMITTEE**

11 February 2022

Present: Councillor Simpson in the Chair

Councillors D Clews, Dirveiks, Jarvis, H Phillips and Rose

Councillor M Humphreys was also in attendance and with the permission of the Chairman spoke on Minute No 4 (Urgent Works Notice)

1 Disclosable Pecuniary and Non-Pecuniary Interests

None were declared at the meeting.

2 Urgent Works Notice -

[Speaker: Ian Ritchie]

3 Exclusion of the Public and Press

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

4 Urgent Works Notice

The Head of Development Control provided guidance on the service of an Urgent Works Notice under Section 54 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (the Listed Buildings Act) following the resolution of the Planning and Development Board to review the issue of such a Notice at this property and recommended a course of action.

Resolved:

- a That the Head of Legal Services be authorised to issue an Urgent Works Notice under Section 54 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 on the owners in the terms as set out in Appendix A (a) and (b) to the report;**

- b That notice be given to the owners of this action by the Head of Legal Services including the specification of those works;**
- c That under Section 55 of the same Act, the Head of Legal Services be authorised to recover the cost of the works specified in the Notice from the owner if necessary: and**
- d That additional protection be given to historic elements of the barn.**

Councillor Simpson
Chairman

Agenda Item No 6

Planning and Development Board

7 March 2022

Planning Applications

Report of the Head of Development Control

1 Subject

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

2 Purpose of Report

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

3 Implications

- 3.1 Should there be any implications in respect of:

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

4 Site Visits

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.

- 4.2 Members are reminded of the “Planning Protocol for Members and Officers dealing with Planning Matters”, in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council’s web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 11 April 2022 at 6.30pm via Teams.

6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at:
https://www.northwarks.gov.uk/info/20117/meetings_and_minutes/1275/speaking_and_questions_at_meetings/3.

Planning Applications – Index

| Item No | Application No | Page No | Description | General / Significant |
|---------|----------------|---------|---|-----------------------|
| 6/a | PRE/2021/0214 | 1 | Fillongley Cricket Club, Blackhall Lane, Fillongley Application under Section 257 of the Planning Act to implement a diversion to Public Footpath M360 as a consequence of the grant of planning permission PAP/2020/0598 | General |
| 6/b | PRE/2021/0184 | 6 | Arc School, Ansley Lane, Ansley Application under Section 257 of the Planning Act to divert a public footpath 103/AE144/2 as a consequence of the grant of planning permission PAP/2020/0614 | General |
| 6/c | PAP/2021/0562 | 11 | Lea Marston Depot, Coton Road, Lea Marston Construction of a photovoltaic installation with a maximum capacity of up to 3MW, together with associated infrastructure and biodiversity enhancements on land, | |
| 6/d | PAP/2021/0663 | 29 | Land On The North East of J10 M42, Dordon/A5, Polesworth, Outline planning permission for development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved, | |
| 6/e | CON/2022/0006 | 53 | Land at Langley bound by Lindridge Road, A38, Walmley Ash Lane, Webster Way, Thimble End Road and Springfield Road, Sutton Coldfield, Birmingham, | |

| | | | | |
|-----|-------------------------------------|----|---|--|
| | | | Outline application for a Langley Sustainable Urban Extension (a residential led mixed use development) | |
| 6/f | CON/2022/0005 | 69 | <p>Hinckley National Rail Freight Interchange, South of Emesthorpe, between Leicester & Hinckley, Railway and M69,</p> <p>Proposals for the construction, operation, use and maintenance of a Strategic Rail Freight Interchange together with alterations to Junction 2 of the M69 Motorway to provide south facing slip roads and a new highway linking Junction 2 with the B4468 Leicester Road</p> | |
| 6/g | PAP/2021/0350 | 81 | <p>Land South Of Gardeners Cottage, Pooley Lane, Polesworth,</p> <p>Approval of reserved matters for the erection of 40 dwellings and associated works. Appeal ref: APP/R3705/W/18/3203467</p> | |
| 6/h | CON/2022/0010 & CON/2022/0011 | 92 | <p>CON/2022/0010</p> <p>Barwell Sustainable Urban Extension, Land west of Ashby Road Barwell</p> <p>Outline application including access for up to 2500 new residential dwellings, an employment zone for general industrial uses and storage and distribution uses, a new community hub and local health facility and retail units</p> <p>CON/2022/0011</p> <p>Earl Shilton Sustainable Urban Extension, Mill Lane, Earl Shilton</p> <p>Outline application for up to 1000 dwellings and land for employment uses together with retail space as part of a community centre and ancillary works</p> | |

General Development Applications

(6a) Application No: PRE/2021/0214

Fillongley Cricket Club, Black Hall Lane, Fillongley, Coventry, Warwickshire, CV7 8EG

Application under Section 257 of the Planning Act to implement a diversion to Public Footpath M360 as a consequence of the grant of planning permission PAP/2020/0598

for

Fillongley Cricket Club

Introduction

This is not a planning application. Members will be aware that most diversions of public footpaths are sanctioned by the County Council as Highway Authority. In some cases, however diversions can be agreed by the Local Planning Authority. This is the case if the grant of a planning permission would require such a diversion, as is the case here.

The Site

The site is an existing cricket club at Brick Hall Lane, which is on a D class Road, with access to a small number of dwellings and commercial premises. It joins Coventry Road to the south and also goes down towards Green End Road and Shawbury in the other direction.

Background

Planning permission has recently been granted for another cricket pitch to the north of the existing pitch and pavilion (PAP/2020/0598) shown in Appendix A. However, an existing public footpath crosses diagonally across the proposed pitch. When making the decision the Council was aware that there was a public footpath here. A reasonable alternative route around the pitch was proposed to accommodate the footpath within the layout and this is what is being proposed now.

The Proposals

The current line of the M360 is shown on the plan at Appendix B, with the proposed diversion shown in red on that plan. The proposal is that the footpath is diverted around adjacent to the hedge line on the northern boundary of the cricket club.

Consultations

British Horse Society – No response received

Byways and Bridleways Trust – No response received

Cycling UK – No response received

Ramblers Association - No objection

Open Space Society – No response received

Warwickshire County Council (Rights of Way) – No objection in principle

Fillongley Parish Council – No response received

In accordance with guidance a site notice and a Newspaper advert have been posted.

Observations

It is considered that it is necessary to divert this section of path in order to enable development to be carried out in accordance with planning permission PAP/2020/0598. The diversion is mainly required from a safety point of view at times when cricket is being played on the field.

The diversion is considered to be reasonable in respect of its route in that it is not too long or too complicated such that users would be significantly inconvenienced. It neither interferes with the proposed development.

It is noteworthy that there has been little in the way of reaction to the initial informal consultation.

In these circumstances it is considered that a Public Path Order can be made under Section 257 of the Town and Country Planning Act 1990. Consultations have been carried out and there have been no objections to the proposed diversion. If the Order is agreed by the Board, then the Order can be confirmed and it would be classed as an Unopposed Order. If any objections are received and not withdrawn, then the Secretary of State can call a Public Inquiry to assist him making a decision on that Opposed Order.

Recommendation

That the Public Path Order be CONFIRMED as described in this report.

BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PRE/2021/0214

| Background Paper No | Author | Nature of Background Paper | Date |
|----------------------------|------------------------|-----------------------------------|-------------|
| 1 | The Applicant or Agent | Application Form | 10/11/2021 |
| 2 | Consultation - OSS | Objection | 06/01/2022 |

Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

HM Land Registry
Official copy of
title plan

Title number WK462970
Ordnance Survey map reference SP2787NW
Scale 1:1250 enlarged from 1:2500
Administrative area Warwickshire : North
Warwickshire



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- DRG. NO. 304-003
- SITE LOCATION & BULK PLAN
- SCALE 1:1250 @ A3
- FILLINGHAM CRICKET CLUB
THE PARKS
BLACK HALL LAINE
FILLINGHAM
CV7 8EG
- OCTOBER 2020

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NORTH WARWICKSHIRE
BOROUGH COUNCIL

RECEIVED

11/11/2020

PLANNING & DEVELOPMENT
DIVISION



NORTH WARWICKSHIRE
BOROUGH COUNCIL
RECEIVED
1/11/2021
PLANNING & DEVELOPMENT
DIVISION

General Development Applications

(6/b) Application No: PRE/2021/0184

Arc School, Ansley Lane, Ansley,

Application under Section 257 of the Planning Act to divert a public footpath 103/AE144/2 as a consequence of the grant of planning permission PAP/2020/0614

for

Kedleston Group Ltd

Introduction

This is not a planning application. Members will be aware that most diversions of public footpaths are sanctioned by the County Council as Highway Authority. In some cases however, diversions can be agreed by the Local Planning Authority. This is the case here as the grant of a planning permission would require such a diversion.

The Site

This land is north of Ansley Lane. It currently comprises the existing school building and associated playing field and amenity space in the southern part of the site and an area of undeveloped grassland to the north. The site is relatively open to the road frontage with the boundary treatment comprising a low-level permeable fence and young planting.

Background

A planning application for additional buildings has been approved on the site (PAP/2020/0614). When making the decision the Council was aware that there was a public footpath crossing the site. Whilst a material planning consideration in the decision, it was not considered that its diversion would be of such weight to warrant refusal of the proposal. A reasonable alternative route was proposed to be accommodated within the layout.

The school is now planning to carry out the approval - hence the submission of this application to divert the public right of way.

The Proposals

The current line of the 103/AE144/2 is shown on the plan at Appendix A.

It runs south from the south of Ansley Lane northwards (A to B) on the attached plan. The proposal involves a minor diversion of this route and now it is proposed to divert the route west of the existing school building (C to D) and then east joining back up with the existing alignment (D to B). The line of this diversion is shown on Appendix A and B.

Consultations

British Horse Society – No response received

Byways and Bridleways Trust – No response received

Cycling UK – No response received

Ramblers Association - No objection

Open Space Society – Originally objected to the alignment and width of the diversion. However, a minor alteration was made to overcome the objection.

Warwickshire County Council (Rights of Way) – No objection in principle

Ansley Parish Council – No response received

Residents in the vicinity of the site have been consulted and no objections have been received. In accordance with guidance a site notice and a Newspaper advert have been posted.

Observations

It is considered that it is necessary to divert this section of path in order to enable development to be carried out in accordance with planning permission PAP/2020/0614. The diversion is mainly required from a children's safeguarding perspective as the current alignment runs straight through the site dissecting the school in two.

The diversion is considered to be reasonable in respect of its route in that it is not too long or too complicated such that users would be significantly inconvenienced. It neither interferes with the proposed development and overcomes a safeguarding issue.

In these circumstances it is considered that a Public Path Order can be made under Section 257 of the Town and Country Planning Act 1990. Consultations have been carried out and initially there were some representations made by the Open Space Society, however these have been withdrawn following an amendment to the scheme. If the Order is agreed by the Board, then the Order can be confirmed and it would be classed as an Unopposed Order. If the objections had been maintained and not withdrawn, then the Secretary of State can call a Public Inquiry to assist him making a decision on that Opposed Order.

Recommendation

That the Public Path Order be CONFIRMED as described in this report.

BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PRE/2021/0184

| Background Paper No | Author | Nature of Background Paper | Date |
|---------------------|------------------------|----------------------------|------------|
| 1 | The Applicant or Agent | Application Form | 15/09/2021 |
| 2 | Consultation - OSS | Objection | 07/10/2021 |
| 3 | Consultation - OSS | No objection | 21/01/2022 |

Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

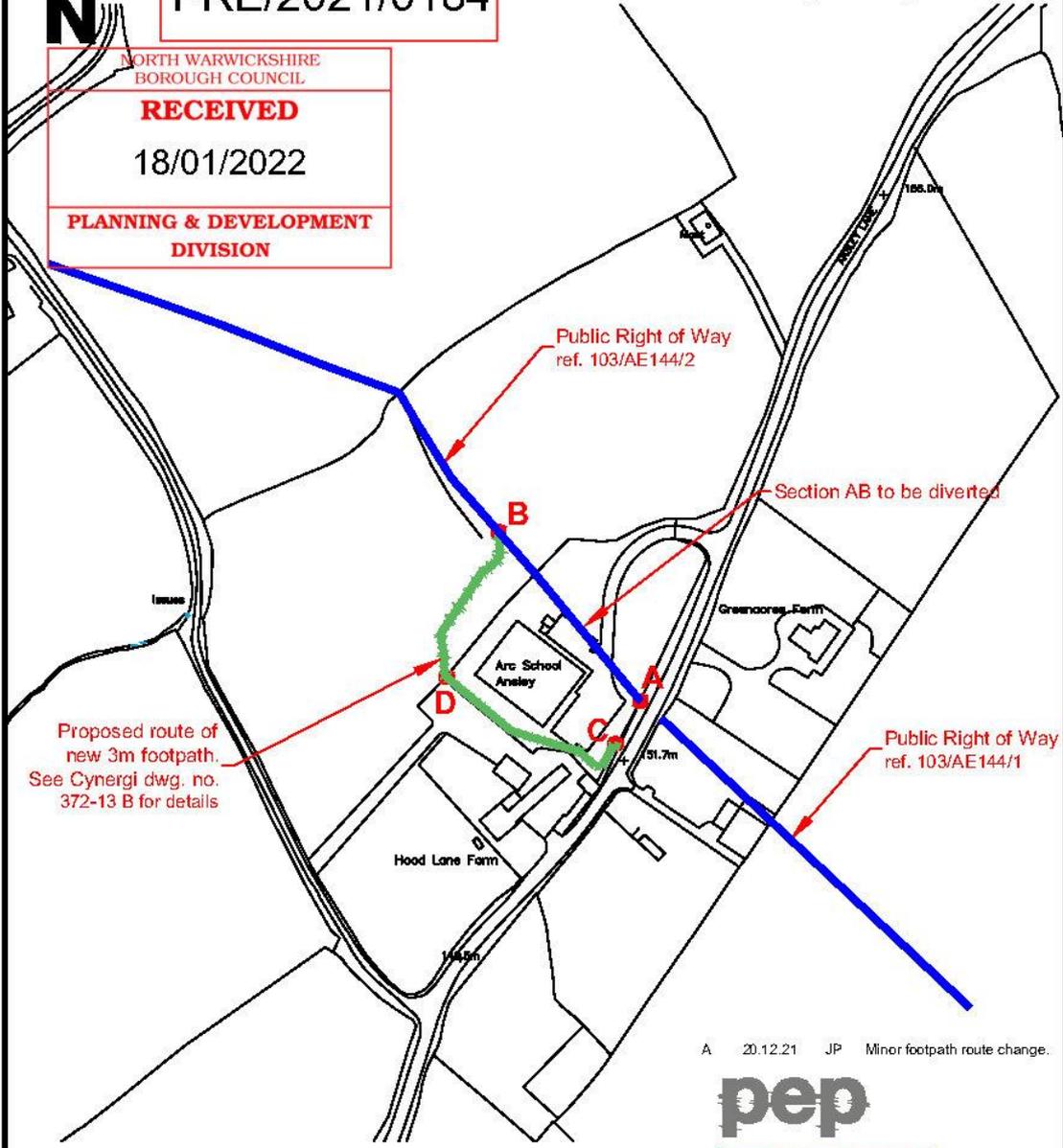
APPENDIX A

Based on Warwickshire County Council definitive Rights of Way plan

PRE/2021/0184



NORTH WARWICKSHIRE
BOROUGH COUNCIL
RECEIVED
18/01/2022
PLANNING & DEVELOPMENT
DIVISION



Proposed route of new 3m footpath. See Cynergi dwg. no. 372-13 B for details

Public Right of Way ref. 103/AE144/2

Section AB to be diverted

Public Right of Way ref. 103/AE144/1

A 20.12.21 JP Minor footpath route change.



Client
KEDLESTON GROUP
Job
ARC SCHOOL ANSLEY
Drawing Title
PROPOSED DIVERSION OF PUBLIC RIGHT OF WAY

| | | | |
|----------------|----------|----------|--------------|
| Scale @ A4 | Date | Drawn by | Checked by |
| 1:2500 | 14.09.21 | JP | |
| Drawing Number | | | Issue Status |
| 3306.02A | | | |

NOTE: REPRODUCED FROM THE ORDNANCE SURVEY MAP WITH THE PERMISSION OF THE CONTROLLER OF HMSO. © CROWN COPYRIGHT LICENCE NO. 100009337

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General Development Applications

(6/c) Application No: PAP/2021/0562

Environment Agency Lea Marston Depot, Coton Road, Lea Marston, B76 0DN

Construction of a photovoltaic installation with a maximum capacity of up to 3MW, together with associated infrastructure and biodiversity enhancements on land, for

Department For Environment, Food And Rural Affairs (DEFRA)

Introduction

Members have already visited the site at the beginning of November 2021.

The Site

The development site measures approximately 10.7 hectares and is centred around the Environment Agency's Lea Marston Depot, a major flood incident response hub. The solar panels and infrastructure will be contained on an area of around 4.4 hectares (Appendix A). The scale of the development has been determined to allow the depot to operate self-sufficiently as part of its carbon neutral operation. The land relating to the proposed development was formerly used for landfill in relation to the dredging of the nearby lake. DEFRA is seeking to obtain Planning Permission for the construction of a PV installation, comprising approximately 6,292 PV panels. The installation will have an export capacity of up to 3MW, delivering a completely carbon neutral site for DEFRA as well as providing green energy to the National Grid.

A masterplan for the whole holding has been included within the Planning and Design and Access Statement (Appendix B) which indicates four different zones - Zone 1 Proposed Angling Centre, Zone 2 Re-naturalisation Zone, Zone 3 National Operations Zone and Zone 4 PV Installations and Ecological Enhancement Zone.

In respect of the characteristics of the proposed development, then the project as a whole is not sizeable in terms of its area and would be located in an area previously used for landfill following the dredging of the nearby lakes. The development site is based at the Lea Marston Depot, a major flood incident response hub for the Environment Agency (of which there are only seven nationwide). It is bounded by Coton Road and Haunch Lane and is located approximately 200m north-west of Lea Farm. Lea Marston Depot already has approximately 7.5kWp of existing PV installed across two arrays at the Fisheries (pump house) and the southern weir building. The entirety of the site sits within the Lea Marston Old Quarry Local Wildlife Site (LWS) and potential Local Wildlife Site (pLWS). The site is also located within the Tame Valley Wetlands Nature Improvement Area.

There is one statutory designated site for nature conservation within 2km of the site - Whitacre Heath SSSI (12/29), located 1km to the south-east. In addition, there are 27 non statutory designated sites within 2km of the proposed location. The closest of these is Lea Marston Quarry LWS and Ecosite (142/29). The site is immediately bordered by Kingsbury Water Park & Coton Pools part LWS (05.29), Coton and Lea Marston Pools

Ecosite, (05,29) and Haunch Lane Verge Ecosite (29/29). The north of the site contains deciduous woodland listed on the Priority Habitat Inventory.

The Proposal

This is for the construction of a photovoltaic installation with a maximum capacity of up to 3MW, together with associated infrastructure and biodiversity enhancements on land.

The key elements of the scheme include a solar arrays of 6,292 solar PV panels. They are non-reflective and are arranged and positioned in a east-west array. They will be approximately 2m tall at the top of the frame (Appendix C). The nature of the panels are such they can be removed easily when the site is not longer needed.

The power from the panels feeds into a power station with a transformer, which will be located in the south western corner of the site, next to the proposed substation.

The development will be accessed via the same access as the existing Lea Marston Depot via Coton Road with a maintenance track leading into it, constructed so that vehicles can access the substation. This will be a 4 metre wide gravel track. The perimeter fencing will be up to 2 metres in height.

The proposed has a period of operation of 25 years in total and will lead to limited ongoing servicing and maintenance

Along with the application the following documents have been submitted

- Planning, Design and Access Statement
- Transport Statement
- Air Quality Assessment
- Ecology Impact Assessment
- Biodiversity Impact Assessment
- Ground Conditions Phase 1 Desk Study
- Flood Risk Assessment and Drainage Strategy
- Landscape and Visual Appraisal
- Arboricultural Impact Assessment

Development Plan

North Warwickshire Local Plan 2021 - LP1 (Sustainable Development); LP3(Green Belt), LP14 (Landscape), LP15(Historic Environment), LP16(Natural Environment), LP18 (Tame Valley Wetlands including Kingsbury Waterpark), LP29 (Development Considerations), LP30 (Built Form), LP33 (Water Management) and LP35 (Renewable Energy and Energy Efficiency)

Other Relevant Material Considerations

National Planning Policy Framework 2021 - (the "NPPF")

Energy White Paper: Powering Our Net Zero Future (December 2020)

National Infrastructure Strategy (November 2020)

The Electricity Storage Facilities (Exemption) (England and Wales) Order 2020

North Warwickshire Borough Council - Full Council 22nd October 2019

Clean Air Strategy (2019)

The Committee on Climate Change's report 'Net Zero – the UK's contribution to stopping global warming' (May 2019).

United Nations Intergovernmental Panel on Climate Change 'Special Report on Global Warming' (2018)

Written Ministerial Statement on Solar Energy: Protecting the Local and Global Environment 25th March 2015

Supplementary Planning Guidance: Air Quality SPD

Consultations

East Midlands Airport - No objections

Warwickshire County Council as Lead Local Flood Authority - It initially objected to the proposal, but a number of amendments were made there is no longer an objection subject to conditions.

Warwickshire County Council (Footpaths) - No objection subject to a series of notes safeguarding footpath routes.

Warwickshire County Council (Highways) – No objections subject to a condition improving visibility on eastern side of Coton Road.

Warwickshire County Council (Archaeology) – No objections due to previous significant sand and gravel extraction

Warwickshire County Council (Trees) – No objection subject to a condition relating to cable connections and trenches next to trees

Environment Agency - No objections subject to conditions

Environmental Health Officer – No objections subject to the requirement for a Construction Management Plan a Noise Impact Assessment and a Contaminated Land Assessment

Representations

Lea Marston Parish Council- It is concerned about the cumulative impact of new development in the Green Belt which it sees as "urban sprawl". However, it notes that the parish council have consider that, in light of the fact that this development is to enable renewable energy generation and that the PV site installation area has been reduced, 'special circumstance' do exist here in light of national infrastructure need.

Curdworth Parish Council – It objects on the grounds that the development is in Green Belt.

Observations

a) Introduction

This application will be determined in accordance with North Warwickshire's development plan, unless material considerations indicate otherwise, pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990. Following the recent adoption of the North Warwickshire Local Plan 2021 this takes primacy in respect of the consideration, alongside the National Planning Policy Framework 2021 as well as the fact that the Council declared a Climate Emergency in October 2019. These support renewable energy developments in principle subject to the mitigation of their impacts.

b) Green Belt

Any proposal to site solar PV arrays in the Green Belt should take account of the advice set out in paragraph 151 of the NPPF, which explains that elements of many renewable energy projects will comprise inappropriate development in the Green Belt. Developers of ground-mounted solar developments in the Green Belt would need to demonstrate very special circumstances if projects are to proceed. It goes on to indicate that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

The proposed development constitutes inappropriate development in the Green Belt and the proposal is neither compliant with the exceptions in paras 149 and 150 of the NPPF. Paragraph 147 of the framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The proposed solar panels would not occupy the whole of the site, they would be set back from boundaries and significantly buffers have been provided along the western and northern boundaries. They would nevertheless occupy over 3.7 hectares of countryside. The top edges of the solar panels would, on flat ground, be about 2 metres above ground level. Furthermore, the site would be surrounded by security mesh fencing which could be up to 2-metres high. Despite this, the land is relatively secluded and very self-contained by the intervening landscape bunds and tree buffers along Haunch Lane. The position of the site within the wider Environment Agency site also reduces its impact so leading to limited visibility. For these reasons the development would result in a limited loss of openness of the Green Belt.

Paragraph 138 of the NPPF states that the Green Belt serves five purposes; one of which is to assist in safeguarding the countryside from encroachment. Solar panels are engineered products that have an industrial appearance. They are not, inherently, products that fit into a countryside environment. On the scale proposed the solar panels, if installed on the site and together with the fence that would surround them, would result in encroachment into the countryside, however the visual harm would be limited. Paragraph 137 of the NPPF states that "The fundamental aim of Green Belt policy is to

prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence”

The proposed solar farm development would result in a loss of openness in the Green Belt and would also be encroachment into the countryside. However, this is limited to due to the nature of the low level of the development, the site’s self-containment, its size and its setting. Additionally, the infrastructure is ‘temporary’ in scope.

c) Other Harms – Landscape and visual impact

The site does not contain any statutory landscape or conservation designations and falls within an area where there are extensive restored former gravel workings with significant areas of wetland scrub and woodland.

The Borough’s Landscape and Character Assessment that was published in 2010 with site falling within the “Tame Valley Wetlands” Area. This states that the northern part of this area is dominated by a series of linked areas of open water, which vary in size from small ponds to large lakes. The straight edges around some of the lakes are visually discordant but overall, the appearance of this landscape is softened by wet woodland and scrub. The River Tame winds through this area into the lakes.

There is a public footpath M23 that connects to Haunch Lane after running across Lea the Marston Shooting Club’s land to the west and M24 is contiguous with the sites’ eastern boundary running along River Tame boundary. There is a footpath M14 which is south of the site closer to Lea Marston village, but there are limited views of the site from here. The applicant’s Landscape Visual Impact Assessment indicates that there will be a limited change to the landscape, due to the height and scale of the proposal and that the existing planting is dense enough to shield the impact of the development even in winter.

It cannot be argued that the development would not be visible within the general vicinity of the area, however there will only be glimpses of the development due to the existing structural and dense landscaping around and within the site. Although, the harm to the landscape is acknowledged, it is considered that the proposal will only have limited local harm with no overall impact on the wider landscape.

d) Other Harms - Heritage Impact

The site lies in close proximity to Lea Marston as well as Listed Buildings within the village itself. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) (LBCA) Act 1990 requires local authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory obligation on local authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

With regards the NPPF, chapter 16 sets out the government's advice on conserving and enhancing the historic environment. Paragraph 199 advises great weight should be given to the assets’ conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph

200 states that any harm to or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) requires clear and convincing justification. Paragraph 201 states that where there is substantial harm to a designated heritage asset, such cases the harm should be weighed against the public benefit of the proposal. However, in this instance the intervening planting and topography together with separation distances, negate any intervisibility between the site and any heritage assets. Therefore, it is considered that there would be no impact on the setting of these heritage assets and there will be no harm to their significance.

e) Other Harms - Use of land

The NPPF indicates a preference for large scale solar farms to be directed to previously developed land and/or non-agricultural land. The proposal could well be considered to be brownfield and non-agricultural land.

f) Other Harms - Ecology

The proposal is situated within the Tame Valley Wetlands, which is designated as a Nature Improvement Area (“NIA”) by the Warwickshire, Coventry and Solihull Local Nature Partnership in October 2016. NIA’s are recognised in the NPPF as important areas. The area includes many sites important for nature conservation: there are 5 SSSI’s and 12 LNRs which are statutory sites plus a further 48 Local Wildlife Sites of county importance. Policy LP18 of the adopted Local Plan is important to this effect.

The site is likely to have ecological interest, therefore an Ecological Impact Assessment as well as a Biodiversity Impact Assessment have been prepared and submitted with the application. A number of surveys have been carried out in respect of bats, badgers, great crested newts, otters and water voles, reptiles, breeding birds, invertebrates and flora and habitat condition assessments. The site itself is a Local Wildlife Site (Lea Marston Old Quarry LWS) and at present the site provides changes in vegetation.

Members will know that the NPPF requires there to be bio-diversity gains as a consequence of new development proposals. The application includes a Biodiversity Impact Assessment. The Assessment explains the significance of the site and evaluates the various impacts of the proposed development upon the site. These include analysis during the construction phase as well as longer term impacts. Measures are recommended to compensate or mitigate adverse impacts, including loss of habitat and reductions in bio-diversity. The NPPF goes further and seeks for net biodiversity gains to be achieved, rather than maintenance of the current status-quo. It is proposed to provide habitat enhancements within the site and wider landownership particularly through the use of the three pools. The Biodiversity Impact Assessment calculator carried out by the applicant's ecologist, shows a biodiversity gain of around 10.5%, this indicates that the following recommendations will be implemented within the Development Area:

- i) Enhancement to increase the area and condition of the area of marshy grassland in the east of Zone 4;
- ii) Enhancement to increase the condition of the northern woodland in Zone 4 (increasing water levels, clearing gaps and creating standing deadwood)
- iii) Enhancement to the south-eastern plantation woodland in Zone 4 (gap creation).

- iv) Creation, suitable management and monitoring of semi-improved neutral grassland under the solar panels.
- v) Sensitive management of the scrub on site to prevent the succession of the grassland areas, as well as removal of scattered trees and tall ruderal vegetation.

It is considered that the Ecological Impact Assessment indicates there are no significant impacts on any receptors and the Biodiversity Impact Assessment will provide positive improvements and a significant net gain which accords with guidance. A condition will be required to ensure that this provided and managed on site.

g) Other Harms - Flood risk and Ground conditions

The main concern of flood risk resulting from the scheme is the areas of impermeable hardstanding associated with the supporting infrastructure of the road. The proposal indicates that surface water run-off can be managed and mitigated on site and not be increased. The Local Lead Flood Authority initially objected, however during the course of the application this was withdrawn subject to conditions relating to the submission of a detailed surface water drainage scheme to be submitted along with a maintenance plan.

Due to past uses, a ground conditions condition is required and this can be conditioned.

h) Other Issues

The Highway Authority has no objection to the proposal and has suggested conditions to improve the access on Coton Road. Therefore, the proposal is in accordance with Development Plan Policy and the NPPF.

While also relevant in terms of landscape impact, the effects of glint and glare on road users as well as aircraft safety have been assessed and there have been no objections from East Midlands Airport. No comments have been received from Birmingham International Airport or the Civil Aviation Authority.

The impact of the proposal on noise is limited. However, to ensure that the proposal can be controlled, a noise impact assessment will be required in relation to the transformers, substation and plant on site. The details and specification for this can be reserved through an appropriate planning condition. Any measures here too can take account of the proposed landscaping along this boundary. The Environmental Health Officer is satisfied with this approach.

i)The Applicants Considerations - Very Special Circumstances

Paragraph 147 of the NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 151 states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development and in such cases it will need to be demonstrated that very special circumstances exist. It continues by saying that such very special circumstances may include the wider environmental benefits associated with the increased production of energy from renewable sources.

This is one of the main considerations put forward by the applicant in support of the proposals.

The applicant contends that very special circumstances justifying development in the Green Belt location can be demonstrated. These are

- (i) The need for the development in terms of climate change.
- (ii) The contribution of the proposed development to meeting national and local imperatives for low carbon and decentralised energy network; and
- (iii) The limited harm of the proposal in terms of openness and positive Bio-diversity offsetting arising from the proposal in this location.

(i) Need for Development in terms of Climate Change

The applicant draws attention to a November 2015 Ministerial Statement which set out priorities for UK energy and climate change policy. It explained the need for secure, affordable and clean energy being critical to the economy as well as to national security. Additionally, he refers to the Renewable Energy Directive (2018/2001/EU) which sets out Europe's target for 32% of all energy produced to be from renewable sources by 2030. This remains in place until such time the UK has withdrawn fully from the EU.

However, the Government have made clear its ambition to lead the world in renewable energy, carbon reduction and enhancement of biodiversity. The Government's new Environment Plan sets out its 25-year plan which seeks to kickstart a green economic recovery and provide a blueprint for meeting net zero emissions targets by 2050. The plan has a very strong emphasis on the part renewable energy will have to play.

On the 22 October 2019, the Council declared a climate emergency and set out an action plan to address the council's impact on climate change which ties in with Paragraph 8 in the NPPF to take a more proactive approach to adapting to climate change, including moving to a low carbon economy. The proposal will support this as well as the Climate Change Emergency declared by Warwickshire County Council in July 2019.

It is acknowledged that solar PV technology is accepted as one the key technologies currently available to contribute to the decarbonisation of electricity supply as the UK aims to achieve Net Zero and thus this circumstance will carry substantial weight.

(ii) Contribution to meeting national and local targets

The applicant says that the proposal would result in a reduction of emissions associated with energy generation equating to 955 tonnes of CO₂ per annum. This equates to around 3% of the Environment Agency's total CO₂ emissions. More specifically, it will result in the delivery of a completely carbon neutral depot site here and the resultant cost savings can be re-invested elsewhere. It is considered that this circumstance carries significant weight.

(iii) Limited harm

The applicant has concluded that there is a lack of suitable and available alternative sites within DEFRA's landholding here that could provide adequate grid capacity and connections to the depot. In this regard he argues that this is the preferred site because of its self-containment and limited visual impact. In itself this not a very special circumstance but as agreed above the harm to the Green Belt is considered to be limited.

Planning Balance

From the evidence submitted, there is considerable merit in the need for the development from a climate change perspective. Given the national and local policy in providing renewable energy on previously developed land, it is considered that these factors are sufficient to weigh the balance and clearly outweigh the limited harms caused in this instance. Based on this it is considered that the proposal is in accordance with the NPPF, and that planning permission should be granted for the proposal. There is limited harm caused; the development is relatively inconspicuous, there is negligible impact on the landscape, it uses previously developed land and there are positive biodiversity enhancements to the site.

Recommendation

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

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

REASON: To comply with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered
Location Plan and existing site plan 100
Proposed site plan 300
Site Section 600
Biodiversity Accounting and Enhancement Plan
Planning Design and Access Statement
Air Quality Assessment
Arboricultural Report
Biodiversity Constraints plan
Ecological Impact Assessment
Flood Risk Assessment
GeoEnvironmental Desk Study Report
Landscape and Visual Assessment
Transport Statement
Tree Constraints Plans and Tree Protection Plan

REASON : To ensure that the development is carried out strictly in accordance

with the approved plans.

Pre-commencement conditions

3. No development shall commence until details of the customer cabin, DNO, substation, internal road, point of connection, lighting and perimeter fencing details have been submitted including details of colour and materials, have all been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented and retained for the life of development, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests the visual amenity of the area and in accordance with policy.

4. No development shall commence until the hedgerow on the eastern side of Coton Road, South of the access and within the forward visibility splay of the access to the development, is cut back so as not to overhang the public highway carriageway.

REASON: In the interests of highway safety

5. Prior to the commencement of any works, a Construction Management Plan shall be submitted in writing to and approved by the Local Planning Authority. This shall include details relating to:
 - Noise control during construction in accordance with BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites;
 - Best practice mitigation measures for control of construction dust as described in 'Lea Marston PV Scheme Air Quality Assessment September 2021 Mot MacDonald;
 - Hours of construction;
 - Details of the contact for any local concerns with the construction activities on the site; and
 - Measures to reduce mud deposition offsite from vehicles leaving the site.

Development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise approved in writing by the Local Planning Authority.

REASON: In the interests of residential amenity, to ensure the details are acceptable to the Local Planning Authority and to avoid significant adverse impacts.

6. No development shall commence until an Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include details of all underground cabling links and how they are to be carried out, such that they satisfy the content of the Statement. The construction shall be carried out in accordance with the approved details.

REASON: To ensure the protection of the existing trees in the vicinity of the development.

7. The development hereby permitted, including site clearance work, shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. In discharging this condition, the Authority expect to see details concerning pre-commencement checks and working practices for badgers, amphibians, reptiles, bats, breeding birds, otters and water voles and appropriate working practices and safeguards for wildlife and habitats that are to be employed whilst works are taking place on site. The agreed Construction Environmental Management Plan shall thereafter be implemented in full.

REASON: To ensure that protected species are not harmed by the development and to ensure the protection of important habitats during development.

8. A bio-diversity and ecological management plan (BEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The content of the BEMP shall generally be in accordance with the ecological impact assessment and bio-diversity enhancement plan and shall include the following.
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implantation of the plan.
 - h) Ongoing monitoring and remedial measures. The BEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where results from monitoring show that conservation aims and objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON: To ensure a net biodiversity gain in accordance with NPPF

9. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, the approved FRA (Lea Marston PV Scheme – Flood Risk Assessment and Drainage Strategy) and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

- Include plans of a proposed surface water drainage strategy, including the proposed sustainable drainage (SuDS) features. The FRA & strategy to date proposes filter drains for erosion control under the panel edge and the detailed design should consider the potential for such features to accelerate the runoff of water downslope. Measures to hold water across the site, in line with the current vegetated field, should be considered.

- Demonstrate the performance of the surface water drainage system for the 1 in 30 and 1 in 100 year plus climate change return periods, in accordance with Environment Agency Climate Change Guidance (February 2016), including Surface water drainage calculations of existing and proposed discharge rates and attenuation storage requirements.

- Further consideration should be given to the underlying infiltration rate across the site supported by soakaway testing compliant with BRE Digest 365 Soakaway Design Guide. Alongside this, it is noted the site drains towards the existing ponds, hydrogeological details regarding these ponds will be required at the next stage to understand the capacity of the features, variability in water level, potential infiltration out of these and any overflow/connectivity to the watercourse adjacent.

- Exceedance flows are shown within the Flood Risk Assessment. At the detailed design stage, this should be supported by topographic survey and proposed levels drawings. It is noted Pond 3 is to be infilled and maintaining the exceedance flow and associated overland flow routing, pre and post development should be demonstrated.

REASON: To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity.

10. No occupation and subsequent use of the development hereby approved shall take place until a detailed maintenance plan has been submitted to and approved in writing by the Local Planning Authority, giving details on how surface water systems are to be maintained and managed for the life time of the development and it shall include the name of the party responsible, including contact name and details within the maintenance plan. The approved maintenance plan shall be implemented in accordance with the details submitted and approved.

REASON: To ensure the future maintenance of the sustainable drainage structures.

11. The development hereby approved shall not be brought into use until a site investigation scheme based on the geo-environmental report has been submitted to and approved in writing by the Local Planning Authority.

Details in respect of each of the following subsections shall be provided and shall be subject to approval in writing by the local planning authority.

a) An investigation and risk assessment shall be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

b) Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared.

c) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12. Prior to commencement of above ground works a noise assessment shall be undertaken by a suitably qualified person and be submitted in writing to and approved by the Local Planning Authority. The assessment should determine the existing background noise levels and the noise from proposed equipment to be installed. The assessment shall include measures for acoustic treatment to ensure adequate protection to existing noise sensitive properties from noise transmission if required. Equipment shall then be installed in accordance with the approved details. Regard may be had to BS8233:2014 and BS4142:2014+A1: 2019 and the WHO Environmental Noise Guidelines for the European region.

REASON: In the interests of residential amenity and to ensure the details are acceptable to the Local Planning Authority.

13. The development hereby approved is granted for a limited period only expiring 30 years after the date on which electricity is first generated by the installation, on or before which date the solar panels and associated buildings, structures, tracks and fencing shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, permission has been granted for an extended period pursuant to an application made to the Local Planning Authority in that regard. The array operator shall inform the Local Planning Authority within 10 working days of the first date on which electricity is first generated.

REASON: In the interests of the visual amenities of the area, so not to risk redundant equipment, structures, buildings and boundary treatments being left in

place in perpetuity, compromising the productive use of the land and the character and appearance of the area thereafter.

BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

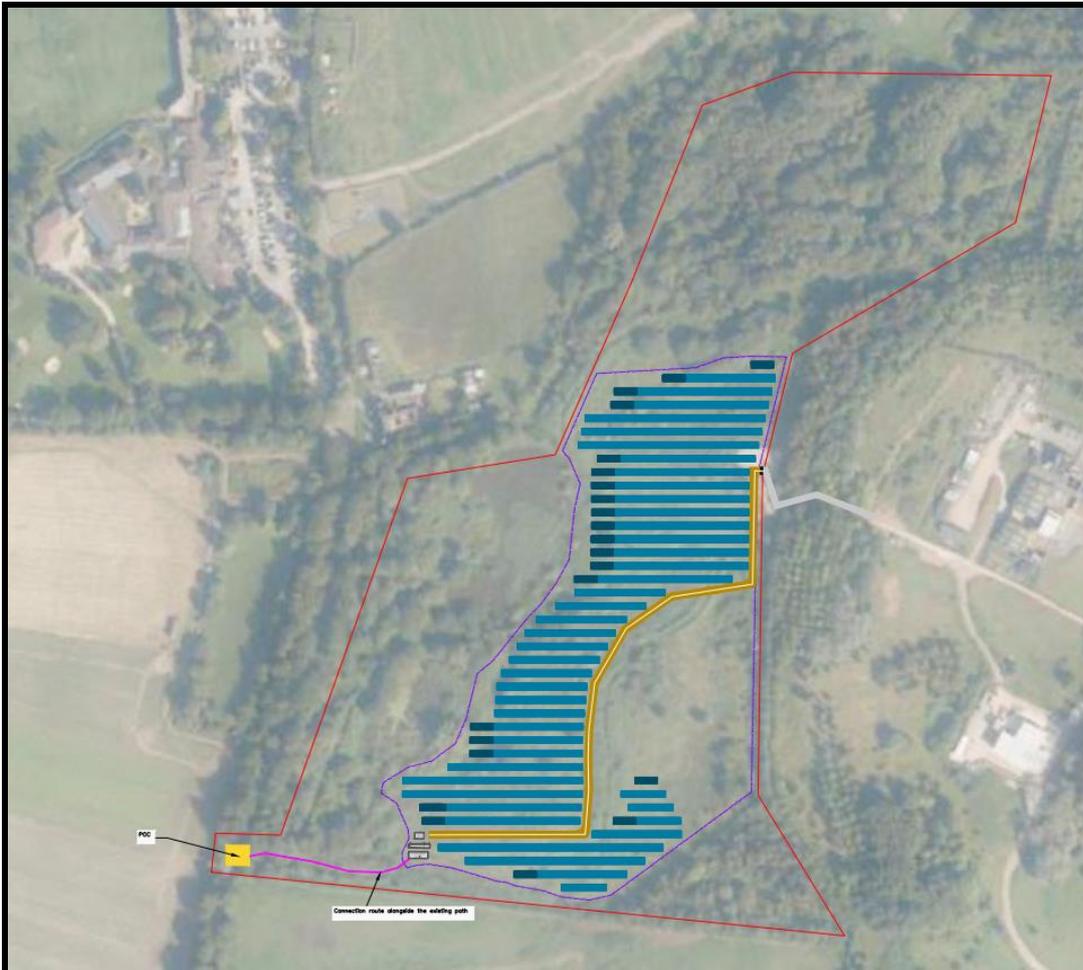
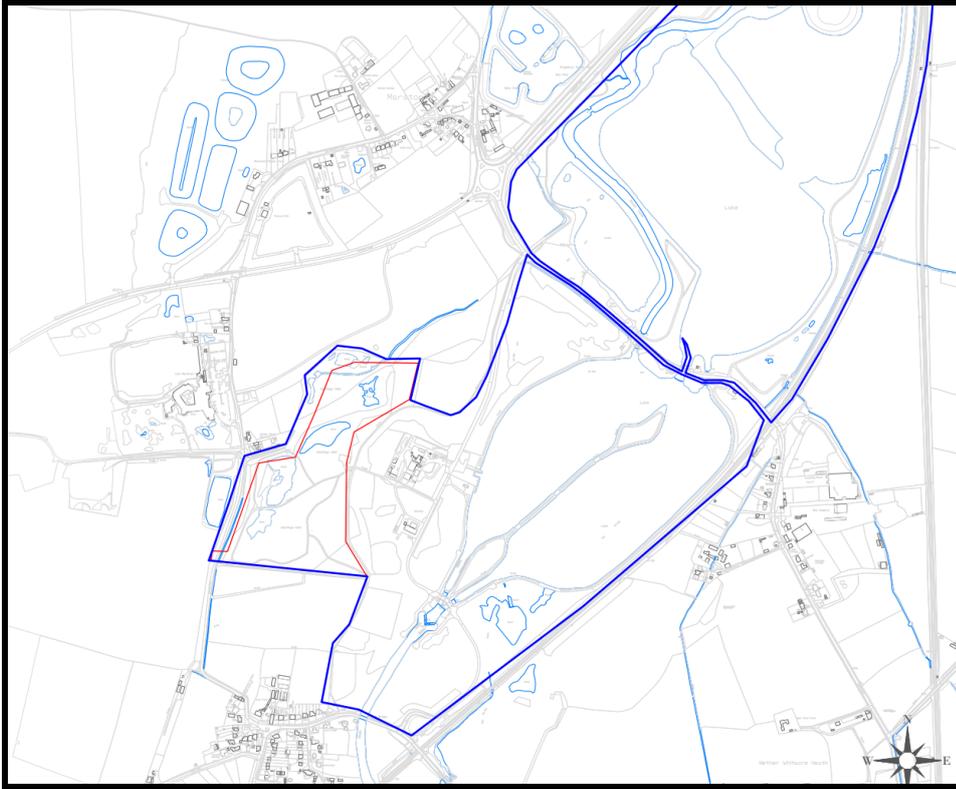
Planning Application No: PAP/2021/0562

| Background Paper No | Author | Nature of Background Paper | Date |
|---------------------|--------------------------------------|---|------------|
| 1 | The Applicant or Agent | Application Forms, Plans and Statement(s) | |
| 2 | Consultation – WCC LLFA | Objection | 18/10/2021 |
| 3 | Consultation – WCC - RoW | Comments | 19/10/2021 |
| 4 | Consultation – WCC highways | No objection | 22/10/2021 |
| 5 | Consultation – Curdworth PC | Objection | 21/10/2021 |
| 6 | Consultation – East Midlands Airport | No objection | 29/10/2021 |
| 7 | Consultation – WCC Archaeology | No objection | 29/10/2021 |
| 8 | Consultation – Environment Agency | No objections | 22/11/2021 |
| 9 | Consultation – WCC Trees | Comments | 30/11/2021 |
| 10 | Consultation – Lea Marston PC | | 6/1/2022 |
| 11 | Consultation – WCC LLFA | Objection | 13/1/2022 |
| 12 | Consultation – Lea Marston PC | Comments | 26/1/2022 |
| 13 | Consultation – WCC LLFA | No objection | 9/2/2022 |

Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

Appendix A



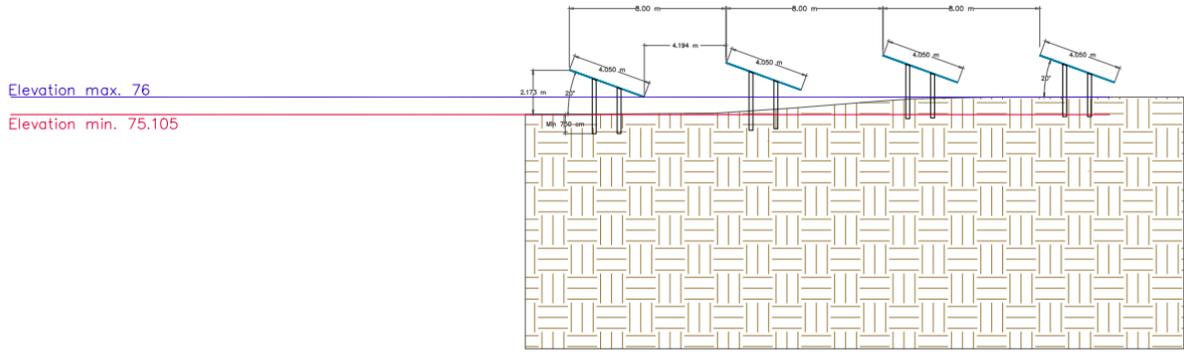
Appendix B

Figure 1: Lea Marston Site Masterplan



Appendix C

Section A-A'



General Development Applications

(6/d) Application No: PAP/2021/0663

Land On The North East of J10 M42, Dordon/A5, Polesworth,

Outline planning permission for development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial), and ancillary infrastructure and associated works, development of overnight lorry parking facility and ancillary infrastructure and associated works. Details of access submitted for approval in full, all other matters reserved, for

Mr D Hodgetts - Hodgetts Estate

Introduction

The application has an accompanying Environmental Statement and will thus be reported to the Planning and Development Board for determination in due course. This report introduces the proposal to Members.

The Site

This is just under 33 hectares of agricultural land in the north-east quadrant of Junction 10 of the M42, bounded by the Motorway to the west and the A5 to the south. There is agricultural land to the east and the village of Birchmoor is to the north.

There is a mature tree belt to the west and south-west along the route of the M42, and a mature hedgerow along the A5 boundary together with some thickets of self-set younger trees and shrubs.

It is transected by an oil pipeline and a high pressure gas main line lies to the east. Additionally, there are two low voltage electricity lines that cross the site in an east west/ and a north/south axis respectively.

A public bridleway – the AE45 – crosses the site and a further public footpath – the AE46 – borders the north-eastern boundary of the site. They are also used for agricultural access to the land

The site currently has an access onto the A5 frontage – being a 16 metre wide dropped kerb with an 8 metre access width entrance. A secondary point of access lies further to the east, again from the A5, opposite the Core 42 site and via an existing farm track – which is also the AE46.

There is a hardstanding area in the south of the site which was installed by contractors appointed by National Highways at the time as a compound associated with the maintenance of the A5 and M42 during the past years.

The site is illustrated generally at Appendix A.

In its wider context the site is situated between Tamworth, Dordon and Birchmoor. On the western side of the Motorway within the north-western quadrant of Junction 10 are the Dordon Motorway Services and the industrial and warehousing complex at Relay Park. Similar developments are in the south-western and south-eastern quadrants – Centurian Park and St Modwen Park. The southern side of the A5 has the Birch Coppice and Core 42 distribution parks and further to the east is the built-up area of Dordon.

This wider setting is illustrated at Appendices B and C.

The Proposal

a) Introduction

In general terms this is an outline planning application for the development of land within Use Class B2 (general industry), Use Class B8 (storage and distribution) and Use Class E(g)(iii) (light industrial) together with ancillary infrastructure and associated works including an overnight lorry parking facility with its ancillary infrastructure and associated works. Details of the proposed access arrangements are submitted for approval in full, and all other matters are reserved for later applications.

b) Additional Detail

The applicant has provided more background on the scope of the proposals and this identifies the following:

- A total of 100,000 square metres of floor space with a maximum of 10% being within the B2 and E(g)(iii) Use Classes;
- A 150 space overnight HGV parking facility together with a 400 square metre amenity building,
- A new signal controlled all-movements access junction onto the A5, and
- landscaped buffer zones around the site perimeter.

In order to “structure” this proposal on the site, a Parameters Plan has been submitted – see Appendix D. This sets out how the applicant would see the proposal being laid out.

Further detail has also been submitted and is set out below.

- The tallest of the units would be at the western end of the site (Plot A1 on the parameters plan) with a maximum height of 21 metres (117.8m AOD).
- The height limits for plot A2 (closest to Birchmoor) would be 12 metres (113 AOD) and for plot B2 (at the A5 frontage) it would be up to 8 metres.
- The current land levels are between 110m rising up to 115m to the north adjacent to Birchmoor.
- Surplus “cut” material from the developable area would be utilised in the creation of the perimeter landscaped buffer zones which would also act as green infrastructure corridors linking together. These are said to amount to 9 hectares in area - around 10 % of the site area.
- These would provide a buffer zone to the north (extending from the site boundary to Birchmoor) being 134 metres wide across the northern site boundary reducing

to 75 metres at the closest point to Birchmoor. The distance from the site boundary to Birchmoor would be around 20 metres.

- A 10 metre deep landscaped buffer to the west of Plots A1 and A2 so as to enhance the existing vegetation here
- A 35 metre buffer to the south of Plot A1 widening to 58 metres closer to Junction 10 and a 35 metre buffer south of Plot B2
- A 65 metre wide buffer to the east of plot B1

Attached at Appendix E is an illustrative outline of the landscaping areas described above.

Attached at Appendices F are a series of images of the completed development with the landscaping after a period of time.

Appendix G provide a cross sections – one to the east (towards Dordon).

The applicant owns land to the east of the application site extending to Dordon. His proposal includes additional landscaping and bio-diversity enhancements on this land together with public access. This would amount to an extra 6.5 hectares of mitigation and would be held “in perpetuity” through a legal Agreement to prevent further expansion of built development. The areas are illustrated at Appendix C .

Additionally, the application includes:

- Over 3.5 km of new and enhanced public footpaths, bridleways and footway/cycleway routes linking the site to both Birchmoor and Dordon.
- An enhanced bus-stop to the south of the site on the east bound A5
- A new fully signal controlled pedestrian crossing for the A5 to replace an existing junction staggered crossing that passes through the central reserve.
- Electric Charging points in the car parks for 10% coverage, but with ducting to enable a further 15%.
- Ducting in the HGV park for 25% coverage

Appendix H illustrates the location of the enhanced footpath proposals.

Access into the site will be from the A5 via a fully signal controlled junction. This will also include a pedestrian crossing for the A5 and in the vicinity of this a new bus stop. This is shown in Appendix I

In terms of drainage, the proposals include a basin to the south of the site. From there, the outfall would be restricted to greenfield runoff rates to the manhole which forms part of the culverted watercourse in the south-west corner of the site. Foul flows will be collected by an independent network and discharge to the nearest foul sewer located to the east of the development adjacent to the A5

c) Environmental Impacts

As indicated earlier the application is accompanied by an Environmental Statement and the applicant addresses a series of potential environmental impacts through this document. If Members wish to research any particular impact then the full Environmental Statement is available on the web site.

d) The Applicant's Case

Members will be aware that there are substantial issues involved with this proposal and that their assessment of these will have to be considered in the final planning balance which will take account of all of the material planning considerations affecting determination.

It is thus important that the Board understands the applicant's position on these issues. And to this end he has produced a Planning Statement. In order to assist Members an Executive Summary of this Statement is attached at Appendix J. In particular it addresses the main crux of the final planning balance – the tension between Policy LP4 of the North Warwickshire Local Plan 2021 (the identification of the Strategic Gap between Tamworth, Polesworth and Dordon) and Policy LP6 (which identifies the potential for additional employment land to be recognised in decision making). Additionally the summary addresses the background to the inclusion of an HGV parking area. The full Statement is available for Members to research if they wish to follow these matters in more detail.

Development Plan

North Warwickshire Local Plan 2021 - Policy LP1(Sustainable Development); LP2 (Settlement Hierarchy), Policy LP4(Strategic Gap), LP5 (Amount of Development), LP6 (Additional Employment Land), Policy LP11 (Economic Regeneration), Policy LP12 (Employment Areas), LP14 (Landscaping), Policy LP15 (Historic Environment), LP16 (Natural Environment), LP17(Green Infrastructure), LP22(Open Spaces and Recreational Provision), LP23 (Transport Assessments), LP25 (Railway Lines), LP26 (Strategic Road Improvements A5), LP27 (Walking and Cycling), Policy LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood Risk Management), LP34 (Parking), LP35 (Renewable Energy and Energy Efficiency), LP36 (Information and Communication Technologies) and Policy LP39 (Employment Allocations)

Other Relevant Material Considerations

National Planning Policy Framework 2021 – (the “NPPF”)
Air Quality and Planning - SPD 2019
The National Design Guide 2021
The National Model Design Code 2021
The draft Dordon Neighbourhood Plan 2021
Draft Dordon Design Guidance and Code 2021

Observations

This application for outline planning permission is seeking approval in principle for a development which will involve the change in the use of land from agriculture to commercial employment use. Members will have to address the following considerations in the determination of the application.

- Whether the proposal accords with the objectives of maintaining the Strategic Gap, referred to in Local Plan policy LP4.

- Whether the proposal accords with the terms of Local Plan policy LP6 such that it does represent additional employment land.
- Whether the proposal accords with Local Plan policy LP34 in respect of the proposed inclusion of an HGV parking area
- Whether the identification of any harms arising from the environmental impacts identified by the applicant are acceptable under the terms of the relevant Local Plan policies and whether any residual harms can be mitigated.
- Whether the proposal leads to any cumulative harmful impacts

As a consequence of these considerations, weights can be afforded to them such that they can then be assessed in the final planning balance, which will include all relevant material planning considerations.

Members may wish to visit the site together before a determination is made or they may prefer to do so individually because of the footpaths that are present as they will assist in that visit.

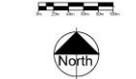
Recommendation

That the receipt of this application be noted and that Members consider how a visit to the site might be arranged.

SOUTH SURREY PLANNING
RECEIVED
02/12/2021
PLANNING & DEVELOPMENT
SERVICES



Notes:
 1. This plan is based on the Ordnance Survey data and is not a site plan.
 2. The red line boundary is shown for information only and does not represent a legal boundary.
 3. The blue line represents the boundary of the land under the control of the applicant.
 4. The light red shaded areas represent areas for potential of direct landings and visual mitigation.
 5. The map is based on the Ordnance Survey data and is not a site plan.
 6. The map is based on the Ordnance Survey data and is not a site plan.
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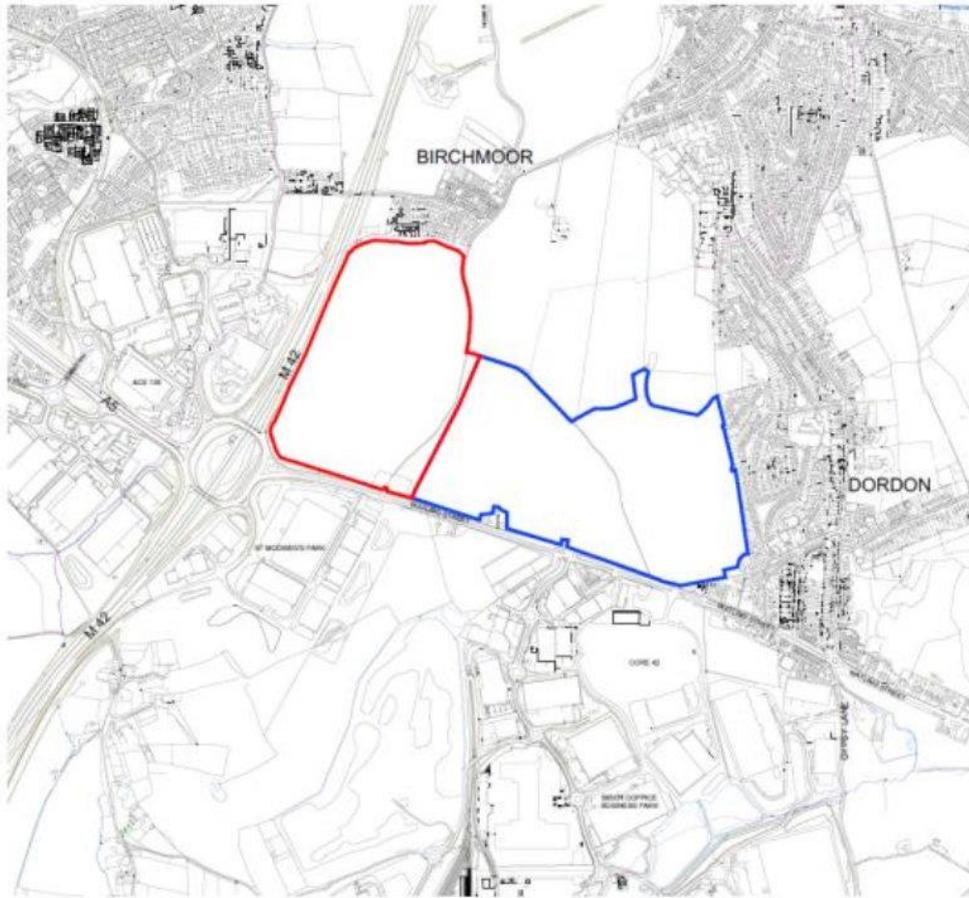
- RED LINE BOUNDARY
78.95 meters x 32.28 m
- OTHER LAND UNDER THE CONTROL OF THE APPLICANT
102.84 meters x 43.86 m
- AREAS FOR POTENTIAL OF DIRECT LANDINGS AND VISUAL MITIGATION
8.51 m x 176.59 meters

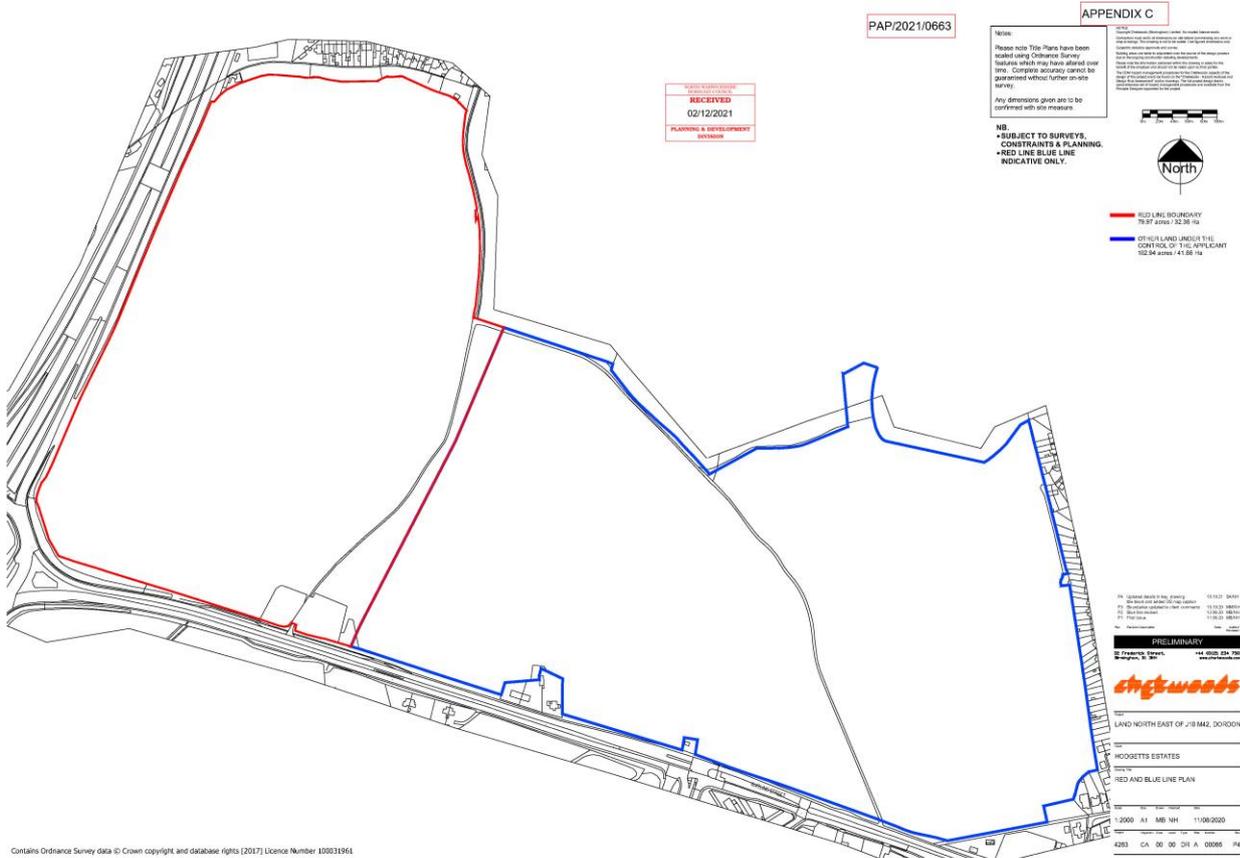
PLANNING EA
 1:2000 A1 MB NH 15/10/2020
 K261 CA 00 00 01 A 00014 PS

LAND NORTH EAST OF J18 M42, DORSETON
 MCGGETTS ESTATES
 EA SITE LOCATION PLAN

Contains Ordnance Survey data © Crown copyright and database rights (2017) Licence Number 100031961

APPENDIX B





Contains Ordnance Survey data © Crown copyright and database rights (2017) Licence Number 100031961



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APPENDIX E

-  North
-  Development Site Boundary (85.3 acres / 32.38 Ha)
-  Paverwater Boundary
-  Unit Demarcation Boundary
-  Public Right-of-Way (to be defined where necessary)



Contains Ordnance Survey data © Crown copyright and database right (2017) Licence Number 100031961



VIEWPOINT 1 LOOKING SOUTH-SOUTHWEST TOWARDS THE SITE FROM FRONTAGE.

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 FOR THE PURPOSES OF THE
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 DATE AND TIME OF PHOTOGRAPHY: 14/06/2024 10:30
 LOCATION: SITE FROM FRONTAGE
 PHOTOGRAPHER: SLR
 PROJECT: [REDACTED]



VIEWPOINT 2 LOOKING SOUTH-SOUTHWEST TOWARDS THE SITE FROM THE FOOTPATH ALONG BICKNOR ROAD.

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VIEWPOINT 3 LOOKING NORTH-WEST TOWARDS THE SITE FROM WHERE PHOTO WAS TAKEN

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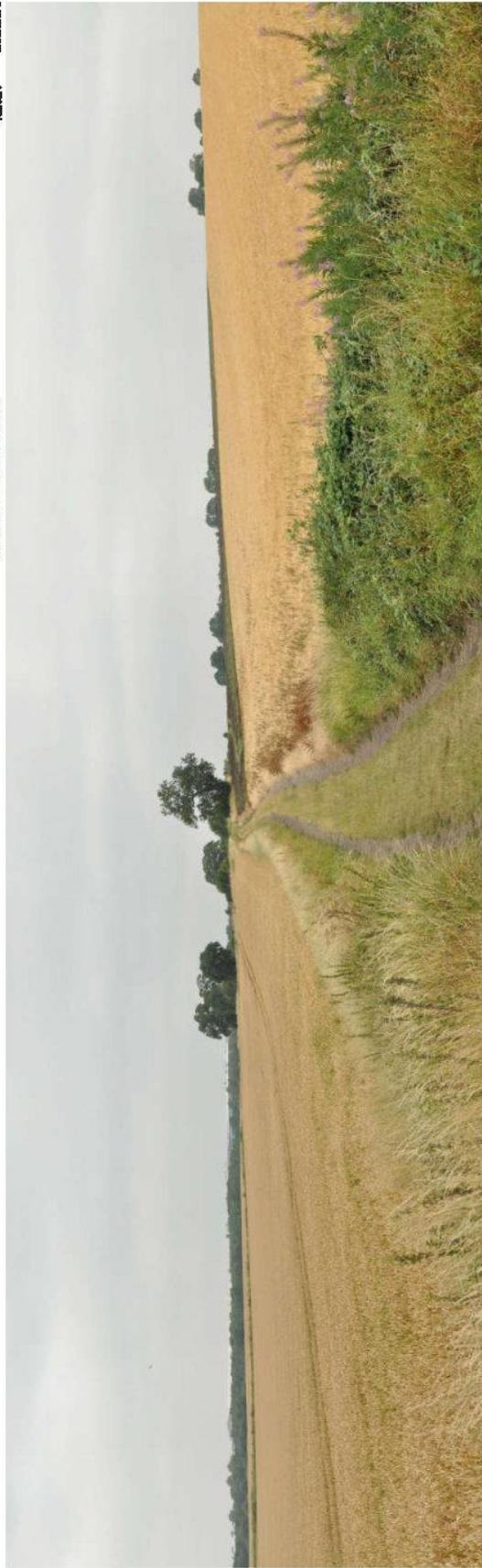


VIEWPOINT 8 LOOKING SOUTH-WEST TOWARDS THE SITE FROM POINT A.

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VIEWPOINT 8 LOOKING NORTH-WEST TOWARDS THE SITE FROM POINT A.

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VIEWPOINT 8 LOCATED SOUTH-EAST TOWNSHIP 51 NELLING STONING FROM AERIAL

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VIEWPOINT 8 LOCATED SOUTH-EAST TOWNSHIP 51 NELLING STONING FROM AERIAL

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VIEWPOINT 1 LOOKING SOUTH-WEST TOWARDS THE SITE FROM THE PUBLIC OPEN SPACE AT LONDON.

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VIEWPOINT 1 LOOKING NORTH-WEST TOWARDS THE SITE FROM THE PUBLIC OPEN SPACE AT LONDON.

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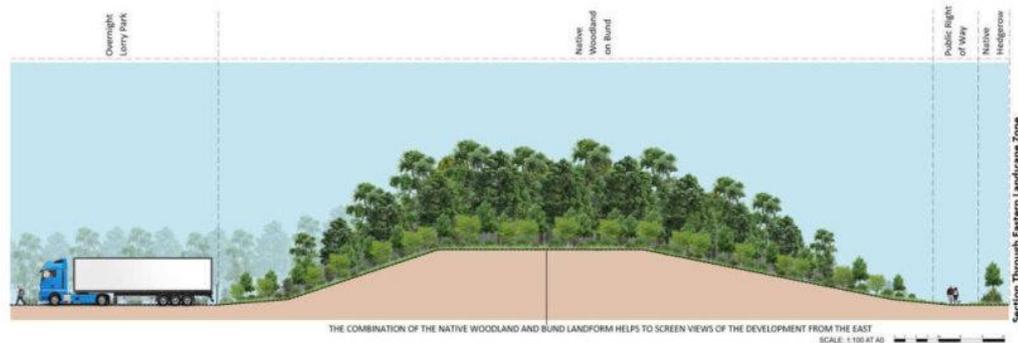
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transfer identified within the Local Plan (site OS1) and allow the provision of circular walking routes;

- Copses of mixed native trees would be provided where appropriate at the corners of existing fields to reinforce the local character and help to filter views from the settlement and PRoW towards the proposed development;
- Earth mounds would be created along the eastern edge of the site which would be densely planted with mixed, native trees to help screen and filter views of the proposal and to reinforce the sense of openness within the remaining arable landscape to the east. Earth mounds would be carefully modelled to fit with the existing landform and would take account of restrictions and easements such as the high pressure gas pipeline;
- Existing native tree and shrub planting along the western boundary of the site with the M42 would be reinforced with new mixed native planting where required to filter views from the M42;
- SuDS would be provided at southern end of the site which would be planted and this zone would mirror the approved frontage of St Modwen Park Tamworth, on the opposite side of the A5.

11.5.20. For reference, **Figure 11-1** below provides an illustrative landscape section in the eastern part of the site to demonstrate, indicatively, the beneficial impacts that the extensive landscaping proposals would have in terms of mitigating visual impact and intervisibility of the development when viewed from the nearby PRoW and indeed when viewed from the west of Dordon. It is anticipated that the northern landscaped area would provide a similarly dense area of planting and landscaped mounding to mitigate visual impact and intervisibility of the development when viewed from Birchmoor.

Figure 11-1 - Illustrative Landscape Section of Eastern Landscape Section



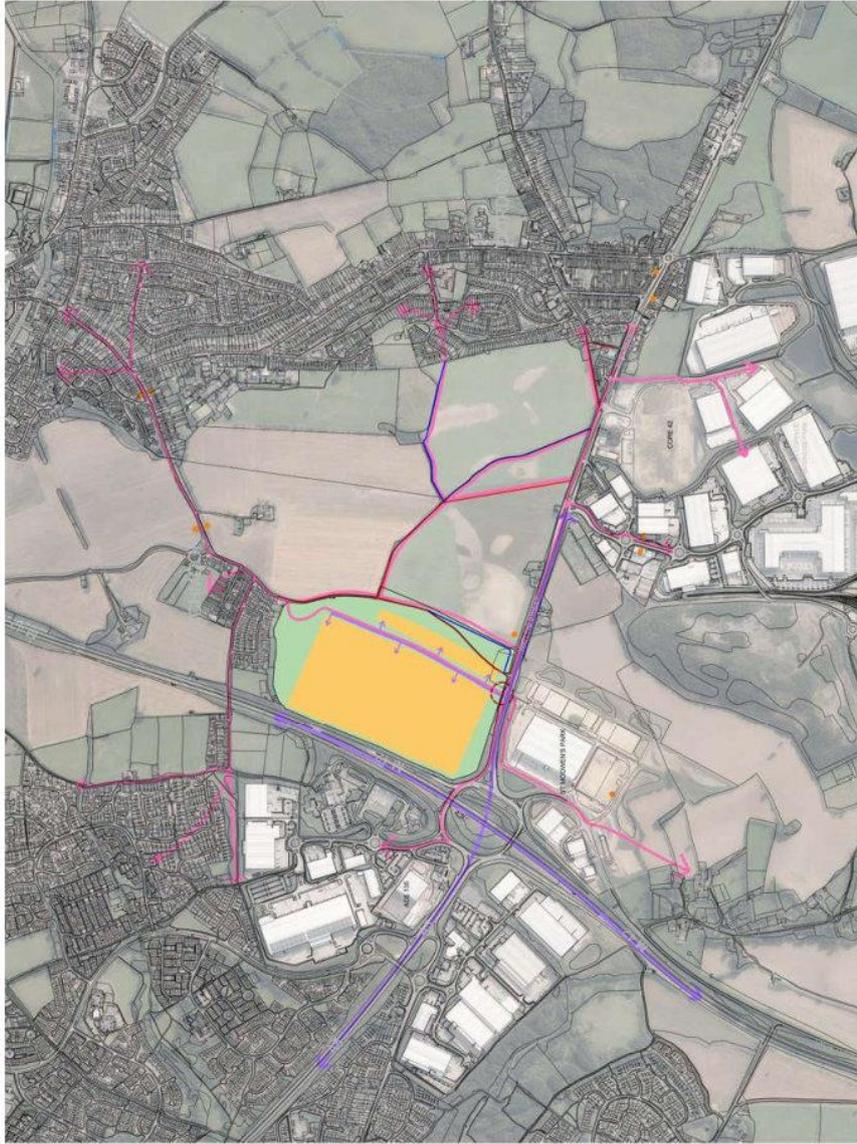
CONCLUSION

11.5.21. The development proposed would be viewed within a context of existing large-scale commercial development to the immediate south and west. This characteristic would intensify as proposed employment allocations are built out in the future. Visual effects would reduce over time as proposed native woodland planting on earth mounds matured, with the massing of built form becoming progressively filtered by proposed planting.

11.5.22. The assessment of the potential effect of the proposed development on the Strategic Gap (set out in detail in Chapter 9) concluded that the gap between settlements would remain effective and would



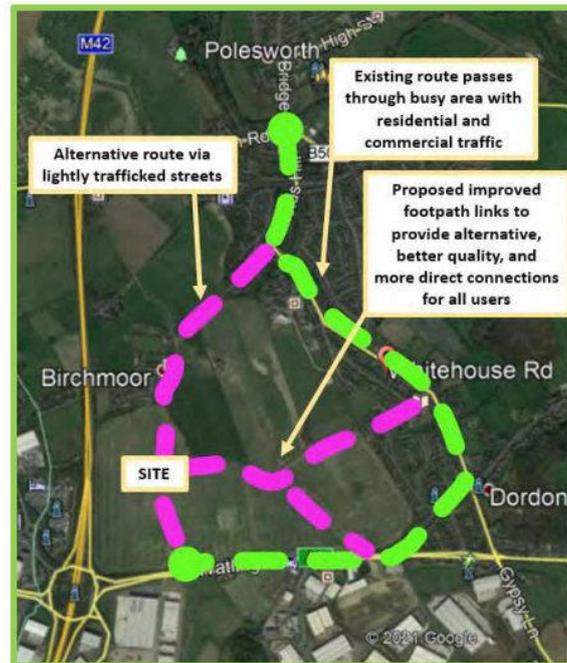
APPENDIX H



- SITE BOUNDARY
(80.3 acres / 32.36 Ha)
- PEDESTRIAN/BICYCLE ACCESS ROUTES
- VEHICULAR ACCESS ROUTES
- ROUTE OF PROPOSED NEW PUBLIC RIGHTS OF WAY
- ROUTE OF EXISTING/DIVERTED PUBLIC RIGHTS OF WAY
- NEW ACCESS JUNCTION
- BUS STOPS
- DEVELOPMENT PLOTS
- GREEN INFRASTRUCTURE

PUBLIC | WSP
December 2021
Page 88 of 120

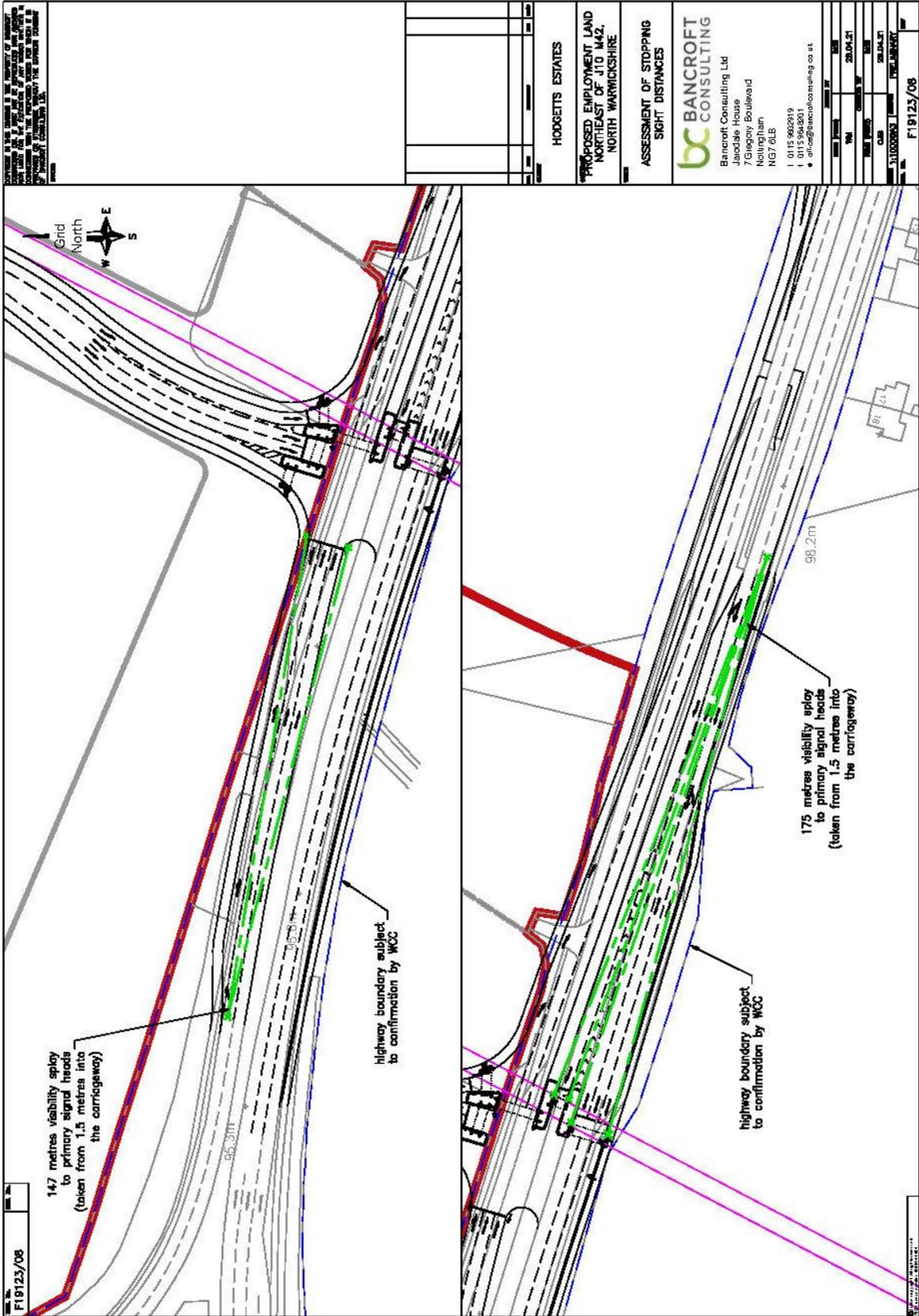
LAND NORTH-EAST OF JUNCTION 10 M42, NORTH WARWICKSHIRE
Project No.: 70075293 | Our Ref No.: RPT.007.J.W.1
Hodgetts Estates



10.14 Although there is limited residential development within 2 kilometres of the site, it is evident that the proposed improvements to the existing public footpath routes would ensure pedestrians travelling to both the proposed development, along with other major employment sites nearby, were offered a significantly improved choice of route for their journey that should help to maximise this mode of travel.

Cycle Travel

10.15 The person trip calculations show that the proposed development would generate 9 hourly cyclist movements or up to 108 daily two-way movements. Demand for cycling would be met by the provision of on-plot cycle parking in accordance with the adopted standards, set out above. **Figure 25** shows the availability of specific cycle infrastructure within the immediate surrounding highway network, as described in Section 5 of this Transport Assessment.



General Development Applications

(6/e) Application No: CON/2022/0006

Land at Langley bound by Lindridge Road, A38, Walmley Ash Lane, Webster Way, Thimble End Road and Springfield Road, Sutton Coldfield, Birmingham,

Outline application for a Langley Sustainable Urban Extension (a residential led mixed use development), for

Members of the Langley Sutton Coldfield Consortium and Ciel Property Holdings Ltd.

Introduction

This proposal was referred to the last meeting of the Board but a response to the Birmingham City Council was deferred so as to enable Members to review the proposal in more detail.

As a consequence, a small group of Members was convened and it has subsequently met to consider the proposal in more detail. The group was made up of Councillors Bell, Dirveiks, Hancocks, D Humphries, Phillips and Simpson.

A copy of the previous report is attached at Appendix A.

Additional Information

At the last Board, a query was raised in respect of the scope of the proposal. The application form and the Environmental Statement deal with an outline application for up to 5500 dwellings. The Birmingham Development Plan allocation, in its Policy GA5 is for up to 6000, so the planning application falls within the scope of the allocation.

Observations

The group acknowledged that this was an allocated site and thus that residential development would be implemented here over the forthcoming years. It therefore took the view that the Borough Council needed to be involved with Birmingham City Council in order to mitigate the adverse impacts and dis-benefits that would inevitably arise. It was considered that the Council should submit a holding objection and seek a meeting with Birmingham's officers and Members in order to express the reasons for its position. Members endorsed the five matters raised in Appendix A but wished to add emphasis on certain matters.

- The rural character of the Borough and the openness of the Green Belt have to be protected. As a consequence, in addition to the structural landscaping matter already raised, care needs to be taken in reducing the light and noise impacts from this substantial development.
- That character is evidenced by a very rural highway network to the east of the A38. It is essential that traffic and highway measures are introduced to reduce any opportunity for traffic generated by the development to travel east.

- Traffic that does travel east will arrive at the A446 and the A4097. The group needed satisfaction that the opportunity for off-site highway improvements to these routes would be considered in the traffic assessment of the development.
- In that respect the City Council is asked to evidence how the development is determined to be a “sustainable urban extension”. In particular how it will be served by a full range of public transport services and facilities and how these are guaranteed to be delivered. These services should also be extended into North Warwickshire.
- The City Council should also consult a number of service delivery agencies that provide services in North Warwickshire such that the contributions within any Section 106 Agreement also relate to additional service provision that might arise in the Borough.

Recommendations

- a) That the City Council be informed that whilst the Borough Council acknowledges the principle of development here, it has serious concerns about the adverse impacts and dis-benefits that will arise in North Warwickshire. As a consequence, the Council lodges a holding objection with the City Council. It seeks satisfaction from the City Council in respect of a number of concerns which are outlined in Appendix A and expanded on in this written report.
- b) That the Board requests a meeting with City Council officers and members in order to enter a dialogue with Birmingham such that the Council’s concerns are recognised by the City Council and that the final determination of the application is shown to have taken account of these concerns.
- c) That officers liaise with County Council officers in order to arrange an early meeting to discuss the cumulative highway impacts of new development on the western side of the Borough.

General Development Applications

(7/c) Application No: CON/2022/0006

Land at Lindridge Road, Sutton Coldfield

Outline application for a Langley Sustainable Urban Extension (a residential led mixed-use development) including the provision of mixed uses floorspaces (Classes E, C1, C2, CF1, F2 and sui generis), the provision of one district and 2 local centres, education facilities comprising a secondary school (with sixth form) and up to three primary schools, or an all-through school (with sixth form) and 2 primary schools, together with six nursery units. An internal transport network with connections to the surrounding highway, cycle and pedestrian networks, green infrastructure, a sports hub and pavilion for

Members of the Langley Sutton Coldfield Consortium and Ciel Property Holdings Ltd

Introduction

This outline planning application has been submitted to the Birmingham City Council and it in turn has invited the Borough Council to make any representations that it wishes so that they can be taken into account in the City Council's determination of the case.

A substantial amount of supporting documentation has been submitted to accompany the application. However, the sections below will describe the site and proposal in very general terms together with identifying relevant background planning policy.

The Site

In short, the site is the whole of the currently open and mainly agricultural land between the present eastern edge of Birmingham and the A38 dual carriageway to the east and extending from Lindridge Road in the north to the A38/A4097 roundabout in the south at Minworth. In total this amounts to around 250 hectares of land.

The Proposals

This is outlined in the header above and an illustrative layout or Master Plan is included at Appendix A which also helps in looking at the location and setting on the site.

The Application is accompanied by a full Environmental Statement. A useful Non-Technical Summary is attached at Appendix B which sets out the main components of the proposal as well as the applicant's assessments of the main impacts summarising the documentation accompanying the application.

Background

The following matters provide the material planning policy background to the proposal.

- The site is allocated in the adopted Birmingham Development Plan as the Langley Sustainable Urban Extension. This is the principal residential allocation in that Plan. The relevant policy is GA5. It removes the site from the Green Belt and allocates up to 6000 homes.
- There is an adopted Supplementary Planning Document linked to this allocation
- That Plan also includes an employment allocation under Policy GA6 comprising 71 hectares and this is land on the east side of the A38 just north of Minworth, known as the Peddimore Site. Phase One of the scheme benefits from a planning permission and is underway.
- The common administrative boundary with the Borough runs along Lindridge Road at the northern end of the site and then over the A38 towards Wishaw and Curdworth. The North Warwickshire Local Plan 2021 removes land from the Green Belt in the triangle of land beyond the application site and the A38 and allocates development here for up to 140 houses under Policy H6.

Observations

Members will note the allocation of this large strategic housing site along with its extension into the Borough. As a consequence, there is no objection in principle to the planning application as submitted. The Board should thus focus on the potential impacts and how the Borough can best accommodate this development.

The following matters are of concern:

- i) Firstly, there will be significant impacts on local services and facilities and the proposal attempts to deal with many of these on site. It is agreed that the main impact will be on existing services within Birmingham. However, it is important to point out to the City Council, that there may well be impacts on such services within North Warwickshire. As a consequence, those Agencies responsible for delivery of the these within the County and Borough should be formally consulted and if appropriate the necessary contributions accommodated within a Section 106 Agreement.
- ii) Secondly, although the shared boundary with the Borough is limited, the proposed allocation of land north of Lindridge Road should not be treated in isolation from the main site. It is thus important in terms of “place-making” and “connectivity”, that appropriate pedestrian and cycle links are made between the two sites, such that future occupiers of the H6 allocation can readily access the facilities within any community hub at the northern end of the site and indeed the amenity/ recreational open space within the planning application site without the need to drive. The open corridor being proposed along the Langley Brook is thus a welcome feature as that could be extended into the H6 site.

- iii) Thirdly, following on from this, there is an opportunity here to extend new bus services and other transit networks into the allocated site in North Warwickshire, as well as to the rural settlements within North Warwickshire itself.
- iv) Fourthly, the whole of the eastern boundary of the site is the A38. As a consequence, the noise and visual impacts arising from that should be mitigated by landscaping and bunding within a significant corridor or buffer of land within the application site. From the Borough Council's perspective that should be a substantial buffer so as to mitigate these impacts, but also so that it provides a defensible barrier in terms of protecting the Green Belt boundary.
- v) Finally, the traffic impact will be significant. Because of the nature of the very rural and limited nature of the highway network to the east of the A38 in the Borough, there should be no vehicular access from the site onto Lindridge Road.

Recommendation

That the Council makes the representations as outlined in this report, together with any others that the Board may agree and that it requests that the City Council engages with both officers and Members of the Borough Council in respect of the relationship between this SUE site and the land allocated by the Borough to the north, as well as with the opportunities for wider transport connectivity.



LANGLEY

SUTTON COLDFIELD

ENVIRONMENTAL STATEMENT
NON-TECHNICAL SUMMARY

MAY / 2021

NON-TECHNICAL SUMMARY

1.1 INTRODUCTION

1.1.1 Langley Sutton Coldfield Consortium ('the Applicant') is proposing the comprehensive development of land to the west of the A38 and east of Sutton Coldfield, known as Langley Sustainable Urban Extension ('the Site'). The land is allocated for development in the Birmingham Development Plan (BDP).

1.1.2 The Project will deliver:

- Site clearance, including demolition;
- Up to 5,500 dwellings, comprising a mix of market and affordable housing (Use Class C3);
- Retail, employment, community, hotel, health and leisure facilities (Potential Use Classes E, C1, F.1 and F.2) comprising a district centre and up to 2 local centres;
- Care provision (Use Class C2);
- A Single Secondary School and up to 3 No Primary Schools or a Single All-through School and up to 2 No Primary Schools, Special Education Needs (SEN) provision in addition to sixth form and nursery provision (Use Class D1);
- The provision of new and amended vehicular and pedestrian access points from the A38, Webster Way, Walmley Ash Road, Thimble End Road, Springfield Road, Fox Hollies Road, Ox Leys Road and Lindridge Road; and
- Open Space, Sports Pitches, Formal areas of Play, Youth Provision and associated facilities and amenity space, including, landscaping, green infrastructure and sustainable drainage systems.

1.1.3 The overall aim is to deliver a single cohesive, co-ordinated and comprehensive sustainable urban extension, which incorporates a mix of housing tenures, employment, healthcare and education provision, open space and recreational facilities. It is envisaged that the new development will become a popular residential community and place of work, creating a network of pedestrian and cycle routes and open spaces which connect the Site with the surrounding area and respond to the local context.

- 1.1.4 Savills has co-ordinated the preparation of an Environmental Impact Assessment (EIA) including the preparation of the Environmental Statement (ES) and Non-Technical Summary (NTS) (this document) to support an outline planning application. The NTS sets out the key issues and findings of the ES in an accessible format for the wider audience.
- 1.1.5 The ES and this NTS accompany a suite of documents that together support the outline planning application submitted to the Local Planning Authority (LPA), Birmingham City Council (BCC).

1.2 WHAT IS EIA?

- 1.2.1 EIA is a systematic, objective and iterative process through which the likely significant environmental effects of a project can be identified, assessed and, wherever possible, avoided or mitigated. EIA aims to improve the environmental design of a development scheme and to provide decision-makers with sufficient information about the environmental impacts of a proposal.
- 1.2.2 This process and its outcomes are then reported in the ES to the decision maker (here the LPA), its advisors, and the public.
- 1.2.3 This NTS and the ES have been prepared under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the '2017 Regulations').

1.3 SCREENING AND SCOPING FOR EIA

Screening

- 1.3.1 The 2017 Regulations set out the types of development that must always be subject to an EIA (defined as Schedule 1 development) and other development that will only require assessment if it is likely to give rise to significant environmental effects (defined as Schedule 2 development).
- 1.3.2 An EIA Screening Opinion request in relation to the Project was submitted to BCC on the 20th February 2018. On the 12th March 2018 BCC issued its Screening Opinion and concluded that the Project is considered to be "EIA Development"

Scoping and EIA Consultation

- 1.3.3 In July 2018 an EIA Scoping Opinion was requested from BCC. As part of the Scoping process, statutory consultees were advised of the proposal and given the opportunity to provide comments in order to assist the Council in the formulation of its Scoping Opinion.

1.3.4 The Scoping Opinion was received from BCC in August 2018, which set out the City Council's view as to the scope of environmental topics requiring assessment, and confirmed the proposed EIA approach was acceptable.

1.3.5 The EIA has included the following topics:

- Socio-Economics
- Ground Conditions
- Archaeology
- Water Environment
- Traffic and Transport
- Noise and Vibration
- Air Quality
- Ecology
- Landscape and Visual
- Built Heritage
- Greenhouse Gases
- Agricultural Land

1.3.6 These topics have been assessed through the EIA process and the outcome of the assessments have been presented in the ES. They are also summarised in Section 1.9 of this NTS.

1.3.7 As part of the Scoping process additional topics, set out in Table 1, were also considered by the EIA project team prior to the receipt of the LPA's Scoping Opinion. It was not considered likely that the Project would lead to significant effects in this regard.. This was confirmed within the Scoping Opinion. The topics were subsequently scoped out from further assessment.

Table 1: Environmental topics scoped out from the EIA

| Topic | Justification for Scoping out topic |
|---------------------------------------|---|
| Accidents, Fire and Natural Disasters | The Site's location within the UK is such that natural disasters are not considered to represent a likely risk to the Project. Furthermore, the topography of the Site is not considered to be sufficiently steep such that a major mass movement disaster could arise. |
| Health and Safety | The Site is not located within or near any sites identified in zones for the Health and Safety Executive (HSE). Such zones are established around major hazard |

| | |
|-------|--|
| | sites and pipelines for the purposes of consultation with the HSE upon any potential risks presented to either a Project or existing sites. |
| Waste | The requirement for a specific waste chapter was scoped out of the ES because it is a policy issue rather than a development-specific environmental issue. Given the above, and the size and nature of the Project, significant effects related to waste arisings are not likely to occur. |

1.4 THE SITE AND SURROUNDINGS

- 1.4.1 The Site, identified on Figure 1, is an area of land to the east of Sutton Coldfield and is allocated for development in the Birmingham Development Plan (BDP). The A38 runs along the eastern boundary of the Site. The EIA Site boundary comprises the extent of the BDP allocation and other land required to deliver the Project. The EIA boundary is approximately 303 hectares.
- 1.4.2 The majority of the Site is undeveloped, although some buildings are present, including Old Langley Hall, Langley Gorse and several farm buildings.

Figure 1: The Site



1.4.3 The Site contains, and surrounds, built form and other land uses broadly comprising:

- Properties and structures within the Site:
 - Two semi-detached properties east of Springfield Road near its junction with Churchill Road;
 - Langley Park House to the east of Langley Hall;
 - Springfield Farm – foundations/remains of previously demolished buildings only;
 - Langley Gorse Farm – currently houses Langley Gorse Day Nursery east of Fox Hollies Road;
 - Barn to the south of Fox Hollies House;
 - Pylons associated with the 132kV overhead line;
 - Ash Farm north of Signal Hayes Road;
 - Gardeners' World plant nursery, north of Signal Hayes Road; and
 - The Oaks north of Signal Hayes Road at its junction with Fox Hollies Road.
- Properties within the Site, but excluded from the red line of the application:
 - Brockhurst Farm, to the south of Lindridge Road;
 - Flats: Regan Court, Soma House, Springfield Court, Flagstaff Court, and properties on Fordrift cul-de-sac east of Springfield Road near its junction with Langley Hall Road;
 - Old Langley Hall which comprises several properties within the old stable block, north of Ox Leys Road;
 - Langley Heath Farmhouse, east of Fox Hollies Road;
 - Fox Hollies, east of Fox Hollies Road;
 - Property east of Fox Hollies;
 - Footsteps Day Nursery, north of Walmley Ash Lane; and

- o Yew Tree Cottages, two semi-detached properties north of Walmley Ash Lane.

Local Road Network

1.4.4 The Site incorporates existing adopted roads including Ox Leys Road and Fox Hollies Road within the centre of the Site and Lindridge Road, Springfield Road, Thimble End Road, Webster Way, Bull's Lane, Signal Hayes Road, and Walmley Ash Road (south) along the edge of the Site.

1.4.5 The A38 runs along the eastern edge of the Site. Locally the road provides connections north towards Lichfield and south towards Birmingham City Centre.

Public Rights of Way

1.4.6 Within the Site, two Public Rights of Way (PRoW) routes run west to east across the centre of the Site. A third route runs from the southern boundary to the A38. A fourth PRoW provides a convoluted route across the northern part of the Site between Ox Leys Road and Lindridge Road.

Archaeology

1.4.7 There are no "Designated" Archaeological Assets within the Site. The nearest, and the only one within 1km of the Site, is the scheduled monument Moated site at Peddimore Hall, which is located 150m to the east of the Site. Peddimore Hall is also a Grade II listed building.

Nature Conservation

1.4.8 There are no "Statutory Designated Sites" of Nature Conservation interest within the Site.

1.4.9 The closest "Statutory Designated Sites" of Nature Conservation value are Plantsbrook Reservoir Local Nature Reserve (LNR) at 800m southwest and Sutton Park Site of Special Scientific Interest (SSSI)/National Nature Reserve (NNR) at 2.5km west of the Site.

Trees

1.4.10 There is no ancient woodland within or immediately adjacent to the Site.

1.4.11 There are a number of Tree Preservation Orders (TPOs), numbered 415, 446 and 742.

1.4.12 The TPOs broadly comprise:

- TPO 415: The Birmingham (Belt of Trees – West of Fox Hollies Road, Sutton Coldfield) which protects trees lining the west side of the southern section of Fox Hollies Road to the south of Fox Hollies.
- TPO446: The Birmingham (Belt of Trees – East of Fox Hollies Road, between Ox Leys Road and Brookhust Farm, Walmley, Sutton Coldfield) which protects trees lining the full length of the east side of Fox Hollies Road including the small copse to the south of Langley Heath Farm.
- Area TPO 742: The Birmingham (Webster Way, Walmley Ash Lane, A38T and Summerhouse Plantation, Walmley), which covers the southern area of the Site, in the west, and the A38, in the east, and from the southern boundary north to encompass the plantations south-east of Fox Hollies House.

Built Heritage

1.4.13 There are three "Nationally Listed Buildings" located within the Site, which will remain in situ as part of the Project.

1.4.14 The "Nationally Listed Buildings" located within the Site are:

- Langley Hall – Grade II Listed;
- Fox Hollies – Grade II Listed; and
- Langley Heath Farmhouse – Grade II Listed.

1.4.15 The Site also contains other unlisted historic buildings:

- a barn at Langley Heath Farm (locally listed at Grade B and now in residential use);
- other farm buildings now in residential use at Langley Heath Farm and Fox Hollies;
- a cartshed at Langley Hall Stables;
- Langley Gorse; and
- The Oaks;

1.4.16 Two walls of furnace crucibles at Fox Hollies, probably brought from Penns Mill, are also considered as structures.

1.5 THE PROJECT

1.5.1 The planning application is for:

“Outline planning application for the phased development of the allocated Langley Sustainable Urban Extension in Sutton Coldfield. Works to include the demolition of two semi-detached dwellings to the east of Springfield Road, Langley Park House buildings to the east of Langley Hall, Springfield Farm buildings, Langley Gorse Farm buildings, and barn to the south of Fox Hollies House; diversion underground of 132Kv overhead power line, removal of existing pylons and construction of new termination pylons; site clearance / remediation works and engineering works to create a development platform; the construction of dwellings (Use Class C3); the provision of mixed-use floorspace (comprising a mixture of Use Classes E, C1, C2, F.1 and F.2) to be delivered in 1 no. district centre and 2 no. local centres; education facilities comprising a secondary school (with sixth form), up to 3 no. primary schools, or an all-through school (with sixth form) and 2 no. primary schools, together with up to 6 nursery / early years units; the creation of an internal transport network with connections to the surrounding highway, cycle and pedestrian network (including A38 northern and southern junctions); green infrastructure comprising formal, informal open space and amenity space, play areas and the creation of a sports hub with a pavilion building; the stopping up / diversion of the existing public highway and public rights of way, and the creation of new routes; supporting utilities infrastructure including sustainable drainage system; the realignment of the Langley Brook and the creation of a new linear park; and the creation of an acoustic fence and bund along part of the eastern boundary with the A38. Details of strategic access points are submitted for approval. All other matters are reserved for future determination.”

1.5.2 Alongside the above description, as the planning application has been made in outline, the ES assesses the effects of the Project using a series of plans, known as 'parameter plans', which show the proposed distribution and scale of the development. They have also been submitted as application plans that would be approved if planning permission is granted.

1.5.3 The EIA has also considered any wider land outside the Site boundary needed for development specific infrastructure.

1.5.4 The Parameters Plans are set out in Table 2 below and provided at the end of this NTS. These parameters identify the maximum extent of development in order to assess the “worst case” development scenario.

General Development Applications

(6/f) Application No: CON/2022/0005

Hinckley National Rail Freight Interchange, South of Emesthorpe, between Leicester & Hinckley, Railway and M69,

Proposals for the construction, operation, use and maintenance of a Strategic Rail Freight Interchange together with alterations to Junction 2 of the M69 Motorway to provide south facing slip roads and a new highway linking Junction 2 with the B4468 Leicester Road for

Tritax Symmetry (Hinckley) Ltd

Introduction

This proposal was referred to the last meeting of the Board but a response to the Secretary of State was deferred so as to enable Members to review the proposal in more detail.

As a consequence, a small group of Members was convened, and it has subsequently met to consider the proposal in more detail. The group was made up of Councillors Bell, Dirveiks, Hancocks, D Humphries, Phillips and Simpson.

A copy of the previous report is attached at Appendix A.

Observations

The group advised that it considered that the Board should object to the proposal unless the three matters set out in the Appendix A are satisfied. Additionally, it drew attention to the following other concern.

- Assurances that there is capacity in the rail network to accommodate the proposal.

Recommendation

That the Council submits an objection to the Secretary of State requesting that he does not grant a Development Consent Order unless he is satisfied with the evidence in respect of the three matters raised in Appendix A together with the one raised in this report.

General Development Applications

(7/d) Application No: CON/2022/0005

Land South of Elmesthorpe between the Leicester to Hinckley Railway and the M69 Motorway

Proposals for the construction, operation, use and maintenance of a Strategic Rail Freight Interchange together with alterations to Junction 2 of the M69 Motorway to provide south facing slip roads and a new highway linking Junction 2 with the B4468 Leicester Road for

Tritax Symmetry (Hinckley) Ltd

Introduction

This proposal has been submitted to the Secretary of State as a National Infrastructure Project seeking a Development Consent Order from him following a Public Inquiry carried out on his behalf by the Planning Inspectorate.

The Borough Council is being formally consulted as a statutory consultee under Section 42 of the 2008 Planning Act and responses have to be returned before 9 March. A firm timetable is set for such proposals under the appropriate legislation for proposals of this nature.

This is an initial report in order that Members can review the significant amount of information submitted and consider its implications on the Borough. To this end the report outlines three main matters which Members may wish to consider. It is suggested that the case is then brought back to the March meeting so that Members can review these three matters and outline any further issues that they might wish to raise.

The Site

This is a substantial area of agricultural land to the north-east of Hinckley, south of Elmesthorpe and Barwell with its western boundary marked by the Hinckley to Leicester rail line and its eastern boundary being the M69 Motorway. The main site has an area of 268 hectares and in geographic terms, it is generally illustrated at Appendix A.

The Proposals

The main features of the proposal comprise:

- a) New Rail Infrastructure providing access to the existing railway line with a series of parallel sidings.
- b) A "Railport" capable of accommodating up to 16 trains a day of up to 775 metres in length.
- c) Up to 850,000 square metres (gross) of warehousing and ancillary buildings
- d) A lorry park with an HGV fuel filling station.

- e) An electricity sub-station connected to the local distribution network and a gas-fired heat and power plant (10MW generation capacity) fed from solar PV including standby capacity (20MW) and battery storage (20MW)
- f) Works to Junction 2 of the M69 Motorway comprising reconfiguration of the existing roundabout and approach lanes with additional southern slip roads
- g) A new link road from Junction 2 to the B4668/A47 Leicester Road to include a new access road into the site; a new rail bridge within the site spanning the proposed sidings and existing railway and a new junction where it joins the Leicester Road.

An illustrative Master Plan illustrates these features at Appendix B.

A series of off-site highway works at a number of junctions are also proposed as a consequence of new traffic generated by the proposal. None of these are within North Warwickshire. They are outlined at page 16 of Appendix C.

The application is accompanied by an Environmental Statement and other supporting documents. For the benefit of Members, there is a useful summary in an Explanation Document. This is attached in full at Appendix C.

A full hard copy of all of the submitted documents is available for Members to view by request. The appended document also usefully sets out the timetable for public exhibitions and for contacts to webinars and also to social media coverage in its Section 6. Members wish to undertake their own research using this material.

Development Plan

North Warwickshire Local Plan 2021 – LP1(Sustainable Development); LP6 (Strategic Employment Land) and LP29 (Development Considerations)

Other Material Planning Considerations

The National Planning Policy Framework

Observations

There are three issues arising from this proposal and its potential impact on North Warwickshire – strategic employment requirements, traffic generation and the nature of the proposal itself.

In respect of the first, Members will be familiar with Policy LP6 of the Local Plan. This states that:

“Significant weight will be given in decision taking to supporting economic growth and productivity, particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A on Figure 4.10 of the West Midlands Strategic Employment Sites Study of September 2015 (or successor study) which cannot be met via forecast supply or allocations. The relevant scheme will be required to demonstrate that:

- a) access to the strategic highway network is achievable and appropriate,

- b) the site is reasonably accessible by a choice of modes of transport, and
- c) it is otherwise acceptable taking account of the living conditions of those nearby”.

The Plan indicates that the policy does not override other policies in Plan but recognises that there are particular locational requirements specific to certain employment uses. The Policy however is only one amongst all of the others in the Plan and thus will need to be considered in respect of the Plan as a whole. Area A is effectively the M42/M6 Corridor and includes land in the Green Belt and the Strategic Gap.

Members will be aware of the receipt of application PAP/2021/06663 for a proposed employment development (B2, B8 and Eg (iii) uses) in the north-east quadrant at Junction 10 of the M42 and that there are other areas of interest at Junctions 9 and 10 for similar developments.

The first issue that officers would raise is how far this proposed Rail Freight Terminal could be seen as meeting some of the demand set out in the West Midlands Strategic Employment Sites Study referred to in Policy LP6 and thus remove pressure on the Green Belt and the Strategic Gap in Area A. The site is clearly not in Area A, but it is not too distant and importantly it will have a dedicated rail connection and it is proposing B8 development opportunities. Developers who may advance the conclusions of the Strategic Site Study as a reason for supporting their own applications, may equally find this site to be a viable alternative particularly if they are not led by site-specific requirements.

The second main issue revolves around traffic generation. The proposals do not include off-site highway works along the A5, with the applicant concluding that there would be limited impacts referring in part to the planned A5 improvements between the M69 and the M42 Motorways. The relevant Highway Authorities will have been consulted on the application and they will report directly to the Secretary of State. The issue that officers would raise is whether this proposal, if permitted, would take up capacity on the A5 that has already been “built-in” as a consequence of the strategic highway and employment allocations in the Local Plan. If so, that might prejudice the “delivery” of these sites.

A third issue revolves around the nature of the application itself. The whole proposal is predicated on it being a rail freight interchange – it being rail-led. Members will be aware that both at Hams Hall and at Birch Coppice, many of the occupiers are not rail-based and that attempts to condition occupiers to using rail as their primary method of business was not supported by the Planning Inspectorate. The weight to be afforded to the sustainability credentials of the proposal may thus be diluted if the rail-led activity cannot be delivered in practice. The site then becomes another B8 Logistics Park with an associated rail terminal.

It is therefore considered that the Council might not wish to raise an objection to this proposal provided that the Secretary of State can be confident that:

- a) The applicant can demonstrate that there is a robust system in place to ensure that occupiers – both initial and subsequent - of the associated buildings do indeed conduct the majority of their business through the rail freight terminal.
- b) The applicant can demonstrate that this facility can assist in delivering some of the outcomes of the West Midlands Strategic Employment Sites Study

- c) The applicant can demonstrate that the traffic impact on the A5 between the M69 and the M42 will not take up capacity on the A5 that has already been accounted for in the allocation of the strategic housing and employment allocations set out in the North Warwickshire Local Plan 2021.

Recommendation

That a further report is brought to the next Meeting.

Hinckley National Rail Freight Interchange

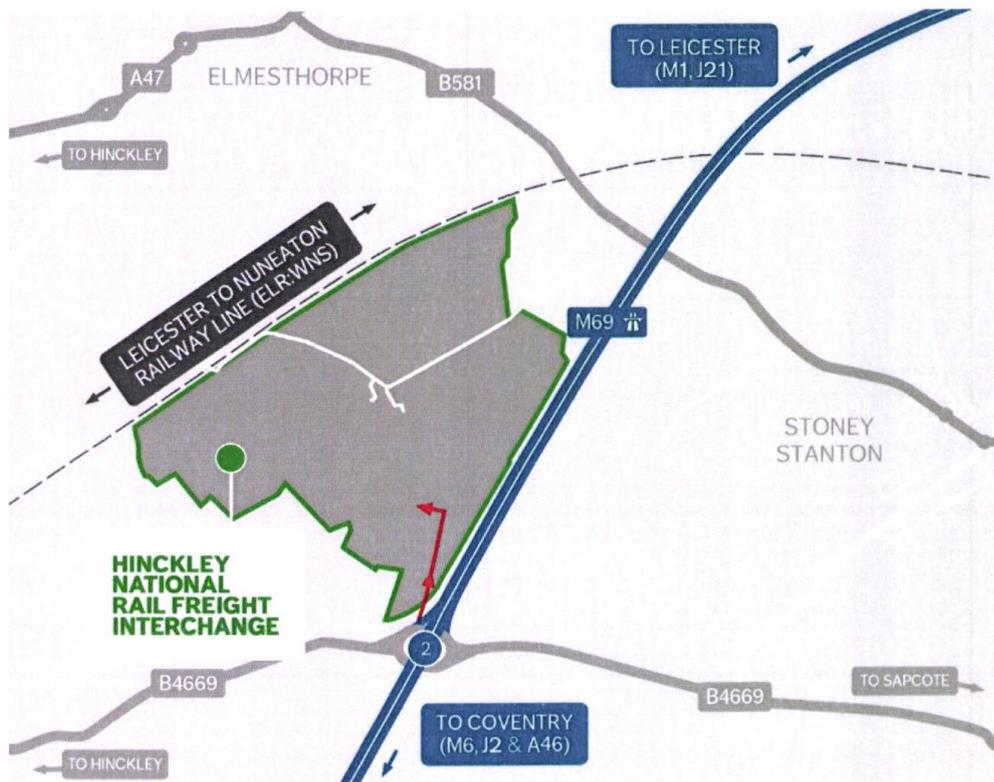
Community Explanation Document

List of Contents

| | | |
|-----|--|---------|
| 1. | Introduction to the Hinckley National Rail Freight Interchange | Page 2 |
| 2. | Tritax Symmetry (Hinckley) Ltd – The Applicant | Page 2 |
| 3. | What is a Strategic Rail Freight Interchange? | Page 3 |
| 4. | The Emerging Proposals | Page 4 |
| 5. | Statutory Consultation on the HNRFI | Page 7 |
| 6. | The Statutory Consultation | Page 9 |
| 7. | Informal Consultation | Page 11 |
| 8. | Policy Context | Page 11 |
| 9. | Meeting the need for SRFIs | Page 12 |
| 10. | Why this location? | Page 13 |
| 11. | Highway Works | Page 14 |
| 12. | Economic Benefits | Page 17 |
| 13. | Proposed Rail Terminal | Page 18 |
| 14. | The Felixstowe to Nuneaton Freight Railway Line Today | Page 18 |
| 15. | The Felixstowe to Nuneaton Freight Railway Line in the Future | Page 19 |
| 16. | Transport and Access Arrangements | Page 19 |
| 17. | The Likely Impacts of the Hinckley National Rail Freight Interchange | Page 20 |
| 18. | The DCO Application Process | Page 21 |
| 19. | Further Information | Page 22 |

1. Introduction to the Hinckley National Rail Freight Interchange

1.1 This document, referred to as the 'Community Explanation Document' (CED), is intended to provide a straightforward summary of our proposals for a Strategic Rail Freight Interchange known as the Hinckley National Rail Freight Interchange (HNRFI) or the 'Proposed Development'. HNRFI is located west of the M69 and east of the Felixstowe to Nuneaton railway, south of Elmesthorpe. The plan below shows the location of Hinckley National.



2. Tritax Symmetry (Hinckley) Ltd – The Applicant

2.1 The project is being promoted by Tritax Symmetry (Hinckley) Ltd (TSH) (The Applicant), which has been established by Tritax Symmetry Ltd especially for this development proposal. Tritax Symmetry Ltd was formed in February 2019 following the acquisition of db symmetry by Tritax

Big Box REIT plc, a FTSE 250 company. Tritax Symmetry Ltd has a land portfolio comprising some 4150 acres of land that is capable of accommodating 40 million sqft of logistics space.

- 2.2 Through Tritax Symmetry Ltd, TSH has become a Gold Leaf Member of the UK Green Building Council (UKGBC) committing to the low carbon agenda. The buildings will achieve net zero carbon in construction through initiatives such as funding high quality accredited and verified offset schemes. Any offset scheme selected will be in line with the current principles set out in UKGBC's net zero framework.

3. What is a Strategic Rail Freight Interchange?

- 3.1 A Strategic Rail Freight Interchange (SRFI) is a large multi-purpose freight interchange and distribution centre linked into both the rail and trunk road systems, with good rail connectivity to the main ports, reducing the need for road traffic between ports and major towns and cities.
- 3.2 The aim of an SRFI is to optimise the use of rail in the freight journey by maximising rail trunk haul and minimising some elements of the secondary distribution leg by road.
- 3.3 Government policy is that SRFIs are important because they can provide a range of transport, environmental, and economic benefits. These include moving freight by rail instead of lorries to get freight off the roads and on to trains, and as a result the national policy is that there should be a network of SRFIs in the UK. The transfer of freight from road to rail has an important part to play in a low carbon economy and in helping to address climate change.
- 3.4 Rail projects including SRFIs are covered by the National Policy Statement (NPS) for National Networks. This states that '*SRFIs are a key element in reducing the cost to users of moving freight by rail and are important in facilitating the transfer of freight from road to rail*'. Amongst other things, the National Networks NPS also provides guidance on the environmental impact assessment of SRFI proposals. TSH is following this policy advice.

4. The Emerging Proposals

4.1 The main features of HNRFI comprise:

- a) New rail infrastructure providing access to the series of parallel sidings
- b) Intermodal freight terminal ('railport') capable of accommodating up to 16 trains per day of up to 775m in length
- c) Hard surface areas for container storage
- d) Up to 850,000m² GIA of warehousing and ancillary buildings with a total footprint of 650,000m² and up to 200,000m² of mezzanine floorspace
- e) Lorry park with HGV fuel filling station
- f) Energy services area incorporating an electricity sub-station connected to the local distribution network and a gas-fired heat and power plant (10MW generation capacity fed from solar PV including standby capacity (20MW) and battery (20MW))
- g) Terrain remodelling, hard and soft landscape works, amenity water features and planting
- h) Noise attenuation measures – acoustic barriers up to 6m in height
- i) Pedestrian, equestrian and cycle access routes and infrastructure
- j) A new link road from M69 junction 2 to the B4668 / A47 Leicester Road including:
 - New access road connecting to an internal road network serving the SRFI
 - New rail bridge within the SRFI site
 - New junction at B4668 / A74 Leicester Road
- k) Works to the M69 motorway at Junction 2 comprising:
 - Reconfiguration of existing roundabout and approach lanes
 - Additional southern slip roads

An illustrative masterplan has been prepared which is displayed below:



General Development Applications

(6/g) Application No: PAP/2021/0350

Land South Of Gardeners Cottage, Pooley Lane, Polesworth,

Approval of reserved matters for the erection of 40 dwellings and associated works. Appeal ref APP/R3705/W/18/3203467., for

Mr Stuart Pearson - Lagan Homes Ltd

Introduction

This application is referred to the Board in light of there presently being non-compliance with a Section 106 Agreement in respect of on-site affordable housing provision.

The Site

The site is accessed via Pooley Lane off of the B5000 to the west of Polesworth. It comprises approximately 2 hectares of agricultural land and is bound by Gardeners Cottage to the north; the Coventry Canal and a public footpath to the east, the Lynch to the south and Pooley Lane to the west (Appendix A). The scheme will be accessed through a new vehicular access along Pooley Lane, which has already been consented at outline stage. The site does not have any significant trees and hedges in its centre but they are found all along the boundaries. Contour lines are orientated north/south and run parallel to Pooley Lane. There is an approximate difference in height of 8 metres between the western and the eastern boundaries.

The Proposal

This is an application for the the approval of reserved matters for residential development of up to 40 dwellings following the grant of outline planning permission at appeal in late 2018. Those matters relate to layout, design and landscaping.

The proposal includes the access off Pooley Lane, behind the retained hedgerow which will protect the site. The layout indicates that the access road will dissect the site into two areas – one of 25 dwellings to the south adjacent to the Lynch and Pooley Heights and the second for the remaining 15 to the north adjacent to the boundary with the Gardeners Cottage (Appendix B). Streetscenes have been provided showing the mix of the housetypes within the scheme (Appendix C).

The mix of house types is set out below.

| House type | Numbers |
|----------------|---------|
| 2 bed bungalow | 2 |
| 2 bed | 7 |
| 3 bed | 19 |
| 4 bed | 10 |
| 5 bed | 2 |
| | 40 |

The layout provides surface water attenuation to the east of the site close to the boundary with the properties in the Lynch. A public right of way exists outside of the site within a group of trees to the eastern boundary. No alterations are proposed to this Right of Way, however a path along the eastern boundary that runs north to south bringing pedestrians through the development is proposed. Another footpath to the western boundary with Pooley Lane is proposed to run parallel to the road and will provide refuge within the scheme for pedestrians rather than walking along Pooley Lane which has no designated footpath. The footpath then rejoins Pooley at the start and end of the development. Due to the difference in levels across of the site, the site will be developed on two platforms - one at a similar level to Pooley Lane and one at a similar level to the properties in the Lynch (Appendix D).

Background

On 25 September 2018 outline planning permission was granted subject to conditions following an appeal. The appeal was also accompanied by a Section 106 Agreement.

This includes an obligation to provide 40% of the units on site as affordable housing with 65% of those to be socially rented units (10 units) and 35% as shared ownership (6 units). Other obligations require contributions amounting to just under £80k towards public open space in Polesworth, the George Eliot NHS Trust and improvements to public rights of way.

Currently, the applicant has submitted a viability assessment in respect of the site. It is his view that the provision of 40% affordable housing on the site together with other Section 106 contributions and the development constraints make the development unviable. This is a matter that is being dealt with by officers taking advice from the District Valuer.

With the principle of development here granted at appeal, the Board will only need to consider the reserve matters which essentially are the details as appended to this report.

Development Plan

The North Warwickshire Local Plan 2021 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP6 (Amount of Development), LP7 (Housing Development), LP9 (Affordable Housing Provision), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP27 (Walking and Cycling), LP29 (Development Considerations), LP30 (Built Form), LP33 (Water Management), LP34 (Parking), LP35 (Renewable Energy and Energy Efficiency) and LP39 (Housing Allocations).

Other Relevant Material Considerations

The National Planning Policy Framework 2021 – (the “NPPF)

Consultations

Inland Waterways Association - No objections

Police Architectural Liaison Officer – No objections subject to comments

Canal and Rivers Trust – It initially objected to the application in terms of the attenuation pond and gabion walls. However, following amendments, the Trust has no objection subject to conditions.

Warwickshire Fire and Rescue Service – No objection subject to conditions.

Warwickshire County Council as Lead Local Flood Authority - It initially objected to the proposal, but as a number of amendments were made, there is no longer an objection subject to conditions.

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

Warwickshire County Council (Ecology) – No objection, the proposal indicates biodiversity net gain for habitat and for hedgerows.

Warwickshire County Council as Highway Authority – It had initial concerns and required a Road Safety Audit (RSA). There is no objection in principle to the proposal given the appeal decision, but there are concerns raised in the RSA in respect of highway and pedestrian safety and the gradients of the road which need resolution.

Environmental Health Officer – No objections subject to the requirement for a Construction Management Plan; a Noise Impact Assessment and a Contaminated Land Assessment

Housing Officer – There is a local need for affordable housing in the area.

NWBC Refuse and Waste – No objections to the scheme

Representations

Two letters of objection have been received in respect of the scheme, concerned with the following points:

- The adjacent property is a care provider, the residents will be affected by the construction traffic and construction noise and disturbance.
- The proposal will overshadow adjacent properties.
- There will be a disproportionate effect on disabled residents.
- The position of the adjacent gardens is such that adjacent residents will be affected.
- It is presently unsafe to walk along Pooley Lane.
- Service users with asthma will be affected by dust.
- The proposal will have a detrimental impact on the service users of the adjacent property.
- Concerned that the proposed access would lead to an unacceptable risk to highway safety. Existing road has no footpath or lighting and does not have the capacity for increased traffic. Significant improvements would have to be made.
- The development would make significant impact on the character of the area, Pooley Park and the Pooley Hall (Listed Building).

- Reference is made to the landscape barriers along the eastern boundaries adjacent to the Canal. Such barriers should be maintained in accordance with planning conditions.
- The wildlife and biodiversity are really important on the site.
- The western hedge should be maintained and should be protected by planning condition.
- All the trees and hedgerows should be managed in the future.
- All traffic should be restricted from parking at all on Pooley Lane and should not go past the most northern point of the site.

Observations

a) Principle

The grant of outline planning permission with conditions and the Section 106 Agreement mean that the principle of development has already been agreed. Notwithstanding this position, there are a number of detailed matters that need to be assessed within this “reserved matters” application. Indeed, the Inspector also raised matters that would affect them. These relate to the need to agree finished floor levels in view of the topography of the site; the need to improve connections to existing rights of way and to mitigate any lighting impacts on wildlife within the surrounding wooded areas.

b) Design and Layout

Given the proximity of the site to the edge of Polesworth; its Conservation Area to the east and a number of listed and unlisted heritage assets, it is important that the design and layout of the site is of a high standard. The Inspector considered that the area of dense woodland around the northern boundary was such that the setting of Pooley Hall would not be affected by the development. Nevertheless, the more rural setting of this site needs to be reflected in the design of the houses and the chosen materials. The materials include dark red brickwork, including some Flemish bond brickwork on key properties within the scheme at the entrance to the scheme (such as plots 1 and 16). Additionally, there is use of black rainwater goods, set-backs on windows, cut eaves and detailing (corbelling). Plots 8 and 9 have used stone coping on the roofs to pay homage to Pooley Hall which is sited close to the northern boundary. The provision of a number of chimneys has also been included. Overall, therefore the proposals are welcomed in design terms.

The layout has been designed to improve and increase pedestrian connectivity through the site. The proposal does not include a footpath diversion to the existing footpath within the belt of trees adjacent to canal on the eastern boundary but provides an offline footpath into the scheme from the Lynch at the southern boundary that will provide improved use through lighting and surfacing. Another footpath is proposed running parallel to Pooley Lane at the top of the scheme on the western boundary, noting the lack of footpath on the highway. This will ensure pedestrians will be able to cut into the development and walk safely within the scheme and then back onto Pooley Lane or use the internal footpath that links to the public right of Way. The levels constraints across the site inevitably means that the two “platform” approach is appropriate even although that leads to concerns about how they are then connected. As a consequence, the

proposed angled access into the site which cuts across the contours is much preferred rather than having that at right angles to the Lane.

c) Highway Impacts

Originally the Highway Authority objected to the application in that there was no road safety audit for the proposed access along Pooley Lane. There is however no objection in principle to the scheme. Revised transport information and a road safety audit were then submitted, and the internal layout of the site has been revised to reflect highway requirements. The footpath linkages within the scheme are a benefit to the proposal. Overall, there are no fundamental comments expressed by highways that cannot be resolved, however there are still some outstanding matters to be resolved.

d) Impact on Residential Amenity (Light, Aspect and Privacy)

The Local Plan requires development to comply with Supplementary Planning Guidance and in turn this allows for consideration of national guidance. This provides guidance on the way buildings should relate to each other and the impact of this on levels of acceptable amenity for both existing and future occupiers. Paragraph 127 of the NPPF is also relevant and sets out the need for planning to deliver a good standard of amenity for all existing and future occupants of buildings. On this site the main issues relates to where the development is adjacent to the Lynch and Pooley Heights. Residents have indicated that the proposal will lead to detrimental impacts. However, the development is sited at 90-degrees to the existing dwellings and therefore there is no direct overlooking to properties. Separation distances are 14 metres which would comply with guidance.

The development is on sloping site and this could lead to amenity issues on site. Retaining features are proposed to deal with the differences in height between the houses fronting Pooley Lane and those at the bottom of the slope. The separation distances are between 21 and 24 metres and there are limited window to window relationships. At present the layout is acceptable. However, in view of this development constraint it is considered appropriate to remove permitted development rights – extensions and dormer windows - as these may lead to future issues of loss of privacy.

Overall, it is considered that the scheme is acceptable from a residential amenity perspective.

e) Biodiversity

An Environmental Management Plan is required through the outline permission. The appeal Inspector considered that the site had low ecological value and concluded that bio-diversity gain could be more appropriately addressed within the landscaping details to be submitted at the reserved matters stage. Hence the addition of the condition. He also added a condition in respect of the lighting impacts on wildlife in the eastern woodland boundary. This will be addressed separately through a further application specifically to address this matter.

In respect of the landscaping the applicant has said that the proposals present an overall net gain of 0.49 habitat units (11.58%) and a gain of 0.96 hedgerow units (60.48%) over the existing habitat values. This conclusion is agreed by the County Ecologist. It is thus recommended that a Landscape Ecological Management Plan is

prepared for the site in order to require in detail how the proposed landscaping works and detailed management prescriptions are to be implemented and maintained.

f) Flooding

Surface water drainage is to be provided through an attenuation pond at the lowest point of the scheme. In principle this solution can be provided on site and a suitably worded condition will ensure that the actual detail of this can be “reserved” for future approval.

g) Trees and Hedgerows

The significant belt of trees to the eastern boundary and hedgerows to the west and northern boundary define the site. These are to be retained. However, a condition will be required in order to submit an Arboricultural Method Statement to show how the root protection areas of these features are to be protected from any retaining features and from the construction of the new footpaths.

h) Affordable Housing and Housing Mix

The affordable housing obligation requires 40% onsite provision (16 units) through 10 social rented units and 6 shared ownership dwellings which must be constructed before the occupation of half of the open market houses. However, at present there is no recognition of this within the proposals – there being no reference to tenure - although house types cover a substantial range as indicated above. It is not known if the applicant intends to provide no on-site provision but with an off-site contribution in lieu, or whether the 40% provision is to be reduced.

A viability report is currently with the District Valuer. Strictly speaking the tenure of the proposed houses is not a matter for consideration here as the determination rests on the acceptability of the detail of the layout and design of the proposed houses. However, the outcome of the response from the District Valuer may require subsequent amendments to the house types being proposed and that may then affect the layout. More importantly, the provision of on-site affordable housing is a matter of principle here – it being within a 106 Agreement approved by the Planning Inspector. As such it would be prudent to defer any determination at the present time.

i) Other Issues

As members can see from the representations, comments have been received in respect of construction issues. The Inspector covered this issue in the outline planning permission through the need for the submission and approval of a Construction Management Plan. When this is submitted, the local community will be consulted.

The Environmental Health Officer has commented in respect of potential noise impacts from HS2 and from the M42, which may affect the properties fronting Pooley Lane. There is no appropriate condition attached to the outline planning permission and so it is considered precautionary to add such a condition here requiring a Noise Assessment to be submitted together with proportionate mitigation measures for these properties. A contaminated land condition is not necessary, as the site was previously used for agriculture.

Conclusion

It is considered that the details of the layout, landscaping, scale and appearance of this proposal do meet the expectations set out within the original masterplan that was agreed at the outline planning application stage. It thus satisfies the relevant policies in the Development Plan. However, there are still outstanding matters to resolve as addressed in the recommendation.

Recommendation

That the Council is minded to support the details as submitted and described in this report subject to the conditions set out below, but that this position will be reviewed after consideration of a further report to be referred to the Board upon receipt of the final comments of the Warwickshire County Council as Highway Authority and receipt of the District Valuer's response to the applicant's viability report dealing with the provision of on-site affordable housing.

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

LHPLP-MCB-ZZ-ZZ-DR-A-0230-D5-P6_Site Layout plan 25.01.2022
LHPLP-MCB-ZZ-ZZ-DR-A-0231-D5-P5_External Materials and Boundary Treatments Plan 25.01.2022
LHPLP-MCB-ZZ-ZZ-DR-A-0232-D5-P5_Surfacing Material Plan 25.01.2022
LHPLP-MCB-ZZ-ZZ-DR-A-0234-D5-P4_Refuse Strategy Plan 07.01.2022
LHPLP-MCB-ZZ-ZZ-DR-A-0237-S2-P2_Garden size plan 07.01.2022
LHPLP-MCB-ZZ-ZZ-DR-A-0238-D5-P2_EVCP strategy plan 07.01.2022
LHPLP-MCB-ZZ-ZZ-DR-A-0240-S2-P4_Site Layout plan separation distances 07.01.2022
LHPLP-MCB-ZZ-ZZ-DR-A-0300-D5-P2 - Illustrative Streetscenes 1,2,3 & 4 - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0500-D5-P3 - Preliminary Site Sections A,B,C,D & H - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0501-D5-P3 - Preliminary Site Sections E,F,G,I & J - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0105-D5-P1-Enfield 2B_Rear Patio - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0107-D5-P1-Enfield_Rear Patio - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0108-D5-P1-Greencastle 3B_SP - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0110-D5-P2-Katesbridge_Rear Patio - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0111-D5-P1-Greencastle 3B_ST - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0113-D5-P3-Hilltown B - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0114-D5-P3-Knightstown -10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0115-D5-P1-Cookstown - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0116-D5-P3-Portadown - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0117-D5-P3-Kildare - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0118-D5-P3-Enfield_Bay_Rear Patio - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0121-D5-P2-Bantry - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0122-D5-P3-Bushmills_SP - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0123-D5-P3-Cavan - 10.12.2021
LHPLP-MCB-ZZ-ZZ-DR-A-0124-D5-P2-Monaghan - 10.12.2021

LHPLP-MCB-ZZ-ZZ-DR-A-0125-D5-P3-Cavan_Affordable Rent - 10.12.2021
 LHPLP-MCB-ZZ-ZZ-DR-A-0126-D5-P1-Portadown - 10.12.2021
 LHPLP-MCB-ZZ-ZZ-DR-A-0127-D5-P1-Portadown_Elev - 10.12.2021
 LHPLP-MCB-ZZ-ZZ-DR-A-0128-D5-P1-Kildare - 10.12.2021
 LHPLP-MCB-ZZ-ZZ-DR-A-0129-D5-P1-Kildare_Elev - 10.12.2021
 HPLP-MCB-ZZ-ZZ-DR-A-0130-D5-P2-Garages - 10.12.2021
 LHPLP-MCB-ZZ-ZZ-DR-A-0201-D5-P2_Site Location plan - 01.06.2021
 LHPLP-MCB-XX-XX-DA-A-0010-D5-P2_Design Access Statement - 01.06.2021
 BG21.145.3 Pooley Lane, Polesworth Arboricultural Impact Assessment Report -
 REV1 – 04.01.2022
 BG21.145 Pooley Lane, Polesworth Hard and Soft Landscape Plan REV4 –
 22.12.2022
 SK03 F - Proposed Levels Sheet 1 - 09.12.2021
 SK04 F - Proposed Levels Sheet 2 09.12.2021
 SK05 A - Proposed Gabion Sections 09.12.2021
 T20150 SK03_E Development Layout - Vehicle Swept Path RCV 09.12.2021
 T20150 SK04_E Development Layout - Vehicle Swept Path Sprinter Sheet 1
 09.12.2021
 T20150 SK05_E Development Layout - Vehicle Swept Path Sprinter Sheet 2
 09.12.2021
 T20150 SK06_C Vehicle Swept Path - Fire Appliance 09.12.2021
 T20150 SK07_D Development Access Arrangements 09.12.2021
 T20150 SK08_B Pooley Lane Vehicle Swept Path RCV 09.12.2021
 T20150 SK09_B ARTIC NB 09.12.2021
 T20150 SK10_B Pooley Lane Vehicle Swept Path ARTIC SB 09.12.2021
 Pooley Lane Slope Stability Assessment- MGC 20-42-let
 Pooley Lane Slope Stability Assessment- MGC 20-42-let-Rev2
 Pooley Lane, Polesworth - Surface Water Drainage Statement rev A
 39456_T_REV 0 (Topographical survey) 01.06.2021
 BG21.145 Pooley Lane Polesworth Biodiversity Net Gain Metric REV2
 01.06.2021
 BG21.145 REV2 Pooley Lane Polesworth - Biodiversity Impact Assessment
 Report 01.06.2021
 Land East of Pooley Lane Energy Statement Rev0 01.06.2021
 Report on Stakeholder Engagement FINAL 01.06.2021

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

2. No development shall commence until an Arboricultural Method Statement including necessary remedial works has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include detail of works required to the trees and hedgerows in and adjacent to the site prior to construction due to the position of the development and how they are to be carried out. The construction shall be carried out in accordance with the approved details.

REASON: To ensure the protection of the existing trees and hedgerows in the vicinity of the development.

3. No development shall commence until a biodiversity and ecological management plan (BEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the BEMP shall include the following:
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures. The BEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where results from monitoring show that conservation aims and objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON: To ensure a net biodiversity gain in accordance with NPPF and the adopted Local Plan.

4. No development above slab level shall commence until details of the proposed materials, including bricks, tiles and recessed windows have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure that the development is of a high standard of design to accord with adopted North Warwickshire Local Plan 2021.

5. No development above slab level shall commence until details of the management responsibilities of all land has been submitted to and approved in writing to the Local Planning Authority. This shall include the boundary features, fences, hedgerows and trees, attenuation pond, pathways, retaining structures including shared driveways. The management of these areas shall be carried out in accordance with the scheme in perpetuity.

REASON: To ensure that the development is of a high standard of design and visual appearance to accord with adopted North Warwickshire Local Plan 2021.

6. No development above slab level shall commence until details of mitigation in respect of road noise and rail noise to the approved dwellings most notably those directly adjacent to Pooley Lane has been submitted to and approved in writing by the Local Planning Authority. The mitigation shall include details of acoustic glazing to the front of the dwelling fronting Pooley Lane. The sound insulation scheme should demonstrate the building envelope is capable of reducing environmental noise to meet:
 - 30dB LAeq,8hr within bedrooms between 11pm and 7am
 - 42dB LAmax,f within bedrooms between 11pm and 7am
 - 35dB LAeq,16hr within living rooms between 7am and 11pm

REASON: To ensure that the future occupiers of the dwellings have sufficient amenity within the dwellings to accord with Local Plan and the NPPF.

7. Notwithstanding the submitted details, no development above slab levels shall commence until details in respect energy efficiency mitigation indicating the production of 10% operational energy from on-site renewables across the whole site and its phasing has been submitted and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the approved details have been carried out and implemented in accordance with the approved details.

REASON

In the interests of achieving sustainable development and meeting development plan policy requirement LP35 of the adopted North Warwickshire Local Plan and the Air Quality SPD.

8. No development above slab level shall commence until detail in respect of information and communications technologies has been submitted and approved in writing. No dwelling hereby approved shall be occupied until the approved details have been carried out in accordance with the approved details.

REASON

In the interests of achieving sustainable development and meeting development plan policy requirement LP36 of the adopted North Warwickshire Local Plan.

9. No works to construct the attenuation pond and associated cellular storage tanks shall be undertaken until a detailed design and construction methodology has first been submitted to and approved in writing by the Local Planning Authority. Both the design and construction methodology shall identify and incorporate measures to demonstrate that the construction and operation of the pond and tanks will not risk adversely affecting the stability of the adjacent canal cutting slope. The development shall thereafter only be carried out in accordance with the approved details.

REASON: In the interests of avoiding the risk of creating land instability arising from any impacts from construction of the proposed Gabion wall, which could adversely affect the stability or structural integrity of the adjacent Coventry Canal cutting slope in

accordance with the advice and guidance on land stability contained in paragraphs 174 and 183 of the National Planning Policy Framework and in the National Planning Practice Guidance.

10. No works to construct or install the Gabion wall shall be undertaken until a detailed design and construction methodology has first been submitted to and approved in writing by the Local Planning Authority. The design shall include details to show how the gabion baskets are to be toed into the existing slope and of any capping at the top of the wall and the methodology shall include details of all proposed excavations and earthmoving to be undertaken and shall identify any measures required to minimise the risk of destabilising the nearby canal cutting slope during and after the works. The development shall thereafter only be carried out in accordance with the approved details.

REASON

In the interests of avoiding the risk of creating land instability arising from any impacts from construction of the proposed Gabion wall, which could adversely affect the stability or structural integrity of the adjacent Coventry Canal cutting slope in accordance with the advice and guidance on land stability contained in paragraphs 174 and 183 of the National Planning Policy Framework and in the National Planning Practice Guidance.

11. Notwithstanding the provisions of Classes A and B, of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), no extensions or roof alterations shall be erected, except as authorised under the submitted application, without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

REASON:

In order to maintain and protect the privacy of neighbouring residential properties in accordance with policy LP29 and LP30 of the adopted North Warwickshire Local Plan.

General Development Applications

(6/h) Application No: CON/2022/0010 and CON/2022/0011

a) CON/2022/0010

**Barwell Sustainable Urban Extension, Land west of Ashby Road Barwell
Outline application including access for up to 2500 new residential dwellings, an employment zone for general industrial uses and storage and distribution uses, a new community hub and local health facility and retail units**

b) and CON/2022/0011

Earl Shilton Sustainable Urban Extension, Mill Lane, Earl Shilton

Outline application for up to 1000 dwellings and land for employment uses together with retail space as part of a community centre and ancillary works

Introduction

Hinckley and Bosworth Borough Council has invited the Council to make representations in respect of these two planning applications as part of the process leading to their determination.

At its last meeting the Board considered two large applications for developments of land outside of the Borough as a consequence of consultation requests from the respective Local Planning Authorities. It resolved to convene a group of Members to review the two applications and for their comments to be referred back to the Board. These are now reported elsewhere on this agenda – the Langley SUE and the Hinckley Rail Freight Terminal. The two latest applications referred to in the header above, were also referred to that group of Members and their comments have been taken into account in preparing this report.

The group of Members looking at these cases comprised Councillors Bell, Dirveiks, Hancocks, D Humphries, Phillips and Simpson.

The Proposals

These two sites are both allocated for residential development within the Hinckley and Bosworth Local Plan 2006 – 2026 and both are the subject of a detailed Action Area Plan dating from 2014 which sets out a development framework for both sites. The principle of their release for the proposals is acknowledged and it will be for the Hinckley and Bosworth Council to assess the two applications against that Framework.

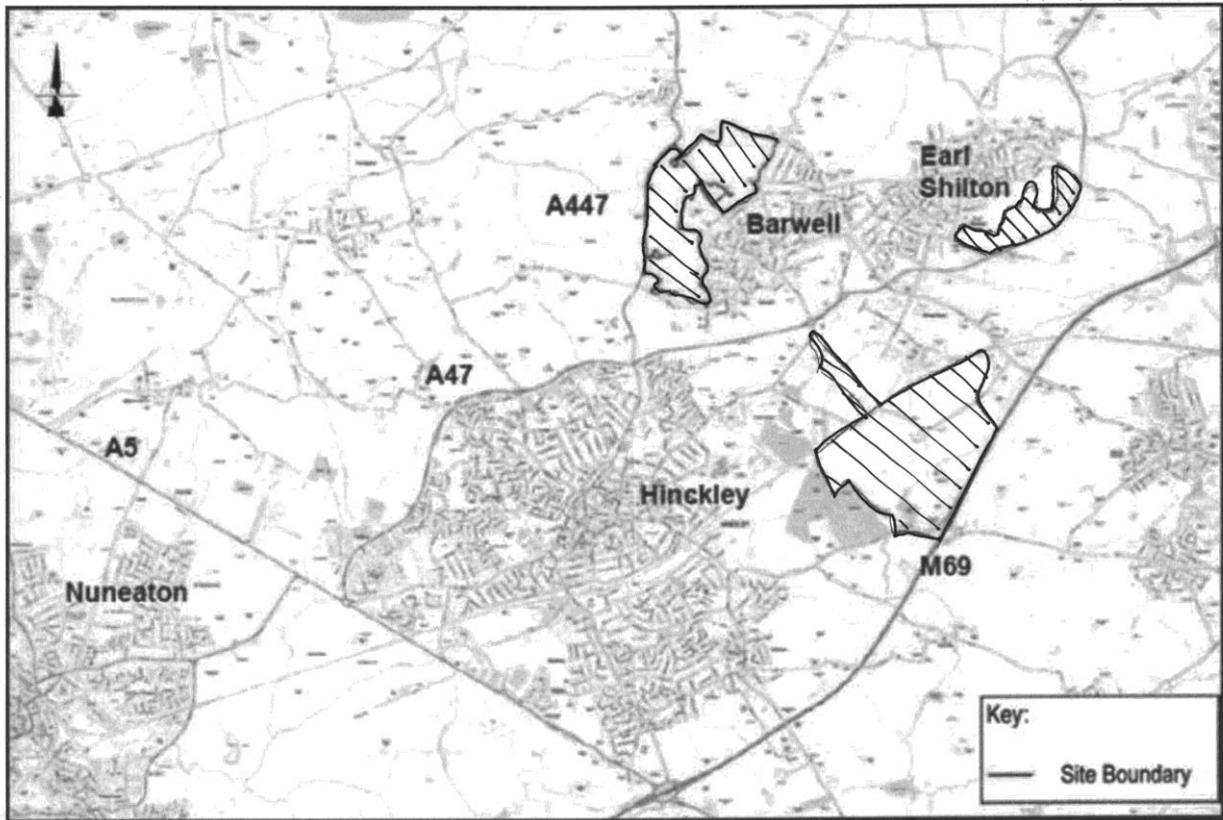
The Barwell extension is to the west of that settlement and the one at Earl Shilton is to the south. Both are marked on the attached plan at Appendix A. The plan also shows the location of the proposed Railway Terminal site.

Observations

Given the policy status behind these proposals, there is very little that this Council can refer to in any representations. Being on the northern side of Hinckley itself, the traffic impact is more than likely to be greater on the connections to Hinckley and Leicester. There will be some impact on the A5 but this is unlikely to be significant. There is neither thought to be an impact on the rural character of the Borough as with the Langley proposals dealt with elsewhere on the agenda.

Recommendation

That The Hinckley and Bosworth Borough Council be informed that this Council has no comments to make in respect of these proposals unless the Board considers otherwise.



Agenda Item No 7

Planning and Development Board

7 March 2022

**Report of the Head of Development
Control**

**Infrastructure Funding Statement
2021**

1 Summary

- 1.1 This report outlines the current position in respect of the contributions made to the Council within Section 106 Agreements.

| |
|--|
| <p>Recommendation to the Board</p> <p>That the Statement is now published.</p> |
|--|

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Background

- 3.1 The Council is required to publish an annual statement on the receipt and expenditure of the financial contributions which it receives through Section 106 Agreements.

- ... 3.2 The 2021 Statement is attached at Appendix A.

- 3.3 The Statement includes all contributions that come to the Borough Council. In this respect, as can be seen, a substantial amount is then forwarded to other agencies as they deliver the services for which the contributions have been sought, notably the County Council. Members should be aware that there are other Agreements which are made between developers and the County Council directly. As a consequence, these contributions are not included in our Statement, but they will appear in the County Council's Statement.

4 Observations

- 4.1 The first table attached to the Statement outlines the total monies received by year and by purpose. The second illustrates the expenditure of these contributions, again by year and purpose. The final table shows the monies still to be expended and again by purpose. Whilst there is £1.8 million identified in this table, Members will see that some of this will be transferred to the County Council and the George Eliot NHS Trust, amongst others. The

balance and that which the Borough Council holds is itemised in the Statement at paragraph 2.6 onwards. These paragraphs also identify how and where these are to be expended by the appropriate Divisions.

5 Report Implications

5.1 Finance and Value for Money Implications

5.1.1 The Statement identifies the monies available to the appropriate Divisions for the delivery of services to mitigate the impact of new developments. There are no time periods in which to expend these contributions (normally ten years) but no refunds were made in 2021.

5.2 Legal, Data Protection and Human Rights Implications

5.2.1 All contributions included within Section 106 Agreements have to meet statutory requirements.

5.3 Environment, Climate Change and Health Implications

5.3.1 The contributions are significant in that they help in mitigating adverse impacts that would otherwise arise as a consequence of new development and are thus linked to Development and Corporate Plan objectives.

5.4 Links to Council's Priorities

5.4.1 The contributions link to Corporate Plan policies and its priorities of delivering high quality services and promoting sustainable communities.

The Contact Officer for this report is Jeff Brown (719310).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

| Background Paper No | Author | Nature of Background Paper | Date |
|---------------------|--------|----------------------------|------|
| | | | |



North Warwickshire
Borough Council

NORTH WARWICKSHIRE BOROUGH COUNCIL

Infrastructure Funding Statement

December 2021

1. Introduction

1.1 An Infrastructure Funding Statement (“IFS”) is an annual report published to provide a summary of all financial contributions arising from Section 106 Planning Agreements and Community Infrastructure Levy contributions (“CIL”) within a Local Planning Authority’s area for a given financial year. The Borough Council is not a Charging Authority under the CIL Regulations and this IFS only relates to Section 106 contributions.

1.2 Planning Obligations – also known as Section 106 Agreements – are legal Agreements which can be attached to the grant of a planning permission to mitigate the impact of new development. They can only be sought where they are directly related to the development; fairly and reasonably related in scale and kind to the development and necessary to make the development acceptable in planning terms. Financial contributions arising from these Agreements can be used on-site or off-site according to the terms of the Agreement and are paid at times as set out in the respective Agreements.

1.3 The Borough Council is not a Unitary Authority and thus many of the contributions to mitigate the impacts of new developments are paid to the Council and then transferred to the Authority or Agency responsible for the delivery of the mitigation. In the Borough Council’s case they are mostly transferred to Warwickshire County Council acting as the Highway, Public Health and Education Authority for the Borough. Other recipients are the local NHS Trust and the Police Authority. Several contributions are also made directly to the Warwickshire County Council, without coming through the Borough Council.

1.4 The majority of the contributions retained by the Borough Council go towards the provision either directly or indirectly of affordable housing and for recreation/ amenity provision.

1.5 Contributions set out in Section 106 Agreements may not be realised if the associated development does not proceed. Payments are also often phased through the lifetime of a development and as a consequence, the contributions received in one year will not necessarily be expended in that same year.

1.6 Agreements often include repayment clauses if there is no expenditure undertaken in respect of contributions made by an applicant or developer.

2. Section 106 Contributions

2.1 Table One below summarises the total value of contributions received since 2013 by the purpose of the payment. It includes contributions that will be expended by the Borough Council, as well as those to be forwarded to the County Council and other Agencies. It can be seen that the contributions for the Borough Council are mainly to be directed at affordable housing as well as recreation and open space purposes. These contributions have been regularly received.

2.2 Table Two illustrates the expenditure from these contributions

2.3 In respect of the affordable housing expenditure this has been spent in part or in full on the delivery of affordable housing provision in Church Lane Corley; Cadman Close in Mancetter, the former garage sites at Lister and Princes Road, Atherstone, the acquisition of plots at Spon Lane,

Grendon and St Helena, Polesworth and the redevelopment the club site in Hurley. The more recent contributions have been directed to the new builds at Long Street and Coleshill Road in Atherstone.

2.4 In respect of open space and recreation expenditure, this has assisted in the delivery of open space and recreation enhancements at Kitwood Avenue, Dordon; Boot Hill, Grendon together with Meadow Gardens and Rowlands Way in Atherstone.

2.5 It should be noted that the contributions in Table One also includes payments for the maintenance of new or existing facilities that are to be enhanced. They are thus not available for new works. These payments will necessarily reduce over time.

2.6 Table Three identifies the contributions held, yet to be spent. These will be expended by the Borough Council as set out below in the next few paragraphs. Some will be transferred to the County Council and other Agencies as appropriate.

2.7 In respect of the affordable housing (£135,800 from Table Three) this will go towards the Atherstone new builds.

2.8 In respect of open space and recreation (£821,393 from Table Three excluding the maintenance contributions), the majority of this sum (some 75%) is to be directed towards related undertakings in Abbey Green Park in Polesworth and in Warton. The balance is for developments in Atherstone, at Boot Hill Recreation Ground, Grendon, Cole End Park in Coleshill and towards play-related projects in Austrey.

2.9 In respect of skills and training (£175,000 from Table Three) this will go towards actions following a Business Survey undertaken in mid-2021 which identified future training and skills needs within the Borough.

2.11 The transport and cycle routes item (£90,000 from Table Three) is to be used to better connect the Birch Coppice and Core 42 employment sites with Dordon through improvements to existing routes in conjunction with the County Council.

2.11 The planning and liaison items (£20,000 referred to in the Table) will be directed to a Conservation Area Appraisal for Caldecote (£10,000) and to a Baxterley Community Fund (£10,000). Work has already commenced on procuring a consultant for the first with a publication date for a consultation draft later this year. The Baxterley Parish Council is aware of the Fund.

2.12 There have been no refunds or repayments made to applicants or to developers because of there being no expenditure within any respective time periods set out in the Agreements.

| Table 1 | Pre 14-15 | 14-15 | 15-16 | 16-17 | 17-18 | 18-19 | 19-20 | 20-21 | Total |
|---|---------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|---------------------|
| | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| The value of the payment received & purpose of payment | | | | | | | | | |
| Affordable Housing | 180,900.00 | 259,676.00 | 635,700.00 | 38,250.00 | 115,516.41 | 34,522.00 | - | 160,000.00 | 1,424,564.41 |
| Staff Training & Education | 10,000.00 | - | - | 40,000.00 | - | 95,000.00 | 30,000.00 | | 175,000.00 |
| Transport & Cycle routes | - | - | - | 50,000.00 | - | 40,000.00 | - | | 90,000.00 |
| Open Space Etc | 592,461.87 | 27,039.76 | 152,582.55 | 376,305.00 | 10,000.00 | - | 112,430.84 | 177,649.50 | 1,448,469.52 |
| Maintenance of Onsite open space | - | - | - | 275,044.25 | - | - | 80,000.00 | | 355,044.25 |
| Planning Plus Liason Committee | 20,000.00 | - | - | - | - | - | - | | 20,000.00 |
| Footpaths | - | - | - | - | - | - | - | | - |
| Leisure Facilities | - | - | - | - | - | - | - | | - |
| Biodiversity | - | - | - | - | - | - | - | | - |
| Other | - | - | - | - | - | - | - | | - |
| George Elliott Hospital | - | - | - | - | - | 41,442.45 | 25,365.00 | 62,122.00 | 128,929.45 |
| Local GP Surgeries | - | - | - | - | - | - | - | 12,583.00 | 12,583.00 |
| Warwickshire Police | - | - | - | - | - | - | - | | - |
| Warwickshire County Council | 630,591.85 | - | 15,000.00 | - | - | - | 12,965.00 | | 658,556.85 |
| Wheeled Bins | - | - | - | 18,421.00 | 17,331.60 | - | - | | 35,752.60 |
| | 1,433,953.72 | 286,715.76 | 803,282.55 | 798,020.25 | 142,848.01 | 210,964.45 | 260,760.84 | 412,354.50 | 4,348,900.08 |

| Table 2 | Pre 14-15 | 14-15 | 15-16 | 16-17 | 17-18 | 18-19 | 19-20 | 20-21 | Total |
|--|---------------------|--------------|------------------|-------------------|-------------------|-------------------|------------------|------------------|---------------------|
| | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| The amount of the payment that has been spent | | | | | | | | | |
| Affordable Housing | - | - | 73,600.00 | 884,850.00 | 175,792.41 | 154,522.00 | - | - | 1,288,764.41 |
| Staff Training & Education | - | - | - | - | - | - | - | - | - |
| Transport & Cycle routes | - | - | - | - | - | - | - | - | - |
| Open Space Etc | 524,325.26 | - | 5,731.00 | 4,491.35 | - | 4,675.00 | 22,364.76 | 65,488.54 | 627,075.91 |
| Maintenance of Onsite open space | - | - | - | - | - | - | - | - | - |
| Planning Plus Liason Committee | - | - | - | - | - | - | - | - | - |
| Footpaths | - | - | - | - | - | - | - | - | - |
| Leisure Facilities | - | - | - | - | - | - | - | - | - |
| Biodiversity | - | - | - | - | - | - | - | - | - |
| Other | - | - | - | - | - | - | - | - | - |
| George Elliott Hospital | - | - | - | - | - | - | - | - | - |
| Local GP Surgeries | - | - | - | - | - | - | - | - | - |
| Warwickshire Police | - | - | - | - | - | - | - | - | - |
| Warwickshire County Council | 630,591.85 | - | - | - | - | - | - | - | 630,591.85 |
| Wheeled Bins | - | - | - | - | - | - | - | - | - |
| | 1,154,917.11 | - | 79,331.00 | 889,341.35 | 175,792.41 | 159,197.00 | 22,364.76 | 65,488.54 | 2,546,432.17 |

| Table 3 | Pre 14-15 | 14-15 | 15-16 | 16-17 | 17-18 | 18-19 | 19-20 | 20-21 | Total |
|---|-------------------|-------------------|-------------------|--------------------|--------------------|------------------|-------------------|-------------------|-----------------------|
| | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| The amount that has been committed but not spent | | | | | | | | | |
| Affordable Housing | 180,900.00 | 259,676.00 | 562,100.00 | - 846,600.00 | - 60,276.00 | - 120,000.00 | - | 160,000.00 | 135,800.00 |
| Staff Training & Education | 10,000.00 | - | - | 40,000.00 | - | 95,000.00 | 30,000.00 | - | 175,000.00 |
| Transport & Cycle routes | - | - | - | 50,000.00 | - | 40,000.00 | - | - | 90,000.00 |
| Open Space Etc | 68,136.61 | 27,039.76 | 146,851.55 | 371,813.65 | 10,000.00 | - 4,675.00 | 90,066.08 | 112,160.96 | 821,393.61 |
| Maintenance of Onsite open space | - | - | - | 275,044.25 | - | - | 80,000.00 | - | 355,044.25 |
| Planning Plus Liason Committee | 20,000.00 | - | - | - | - | - | - | - | 20,000.00 |
| Footpaths | - | - | - | - | - | - | - | - | - |
| Leisure Facilities | - | - | - | - | - | - | - | - | - |
| Biodiversity | - | - | - | - | - | - | - | - | - |
| Other | - | - | - | - | - | - | - | - | - |
| George Elliott Hospital | - | - | - | - | - | 41,442.45 | 25,365.00 | 62,122.00 | 128,929.45 |
| Local GP Surgeries | - | - | - | - | - | - | - | 12,583.00 | 12,583.00 |
| Warwickshire Police | - | - | - | - | - | - | - | - | - |
| Warwickshire County Council | - | - | 15,000.00 | - | - | - | 12,965.00 | - | 27,965.00 |
| Wheeled Bins | - | - | - | 18,421.00 | 17,331.60 | - | - | - | 35,752.60 |
| | 279,036.61 | 286,715.76 | 723,951.55 | - 91,321.10 | - 32,944.40 | 51,767.45 | 238,396.08 | 346,865.96 | - 1,802,467.91 |

Agenda Item No 8

Planning & Development Board

7 March 2022

Report of the Chief Executive

**Water Orton Conservation Area
boundary extension**

1 Summary

- 1.1 The report seeks the authority to consult on an extension to the Water Orton Conservation Area and, if there are no representation made during the consultation process, ask that it be approved.

Recommendation to the Board

- a) That Members approve for consultation the draft boundary extension to the Water Orton Conservation Area boundary;
- b) That a Draft Appraisal be approved for consultation by the Chairman, Opposition Spokesperson and local Ward Members;
- c) That a consultation be carried out and any representations brought back to Board for consideration; and
- d) That, if in the event of there being no representations, the extension to the Water Orton Conservation Area Boundary be approved.

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Introduction

- 3.1 Water Orton Conservation Area was designated in June 1983. The report can be found at:
https://www.northwarks.gov.uk/downloads/download/1574/conservation_areas_downloads

Local Members have been in discussion with the Heritage & Conservation Officer and it is considered that an extension to the boundary should now be promoted. A suggested draft boundary is attached as Appendix A.

• • •

- 3.2 Given the imminent threat to demolition of an un-designated heritage asset (Water Orton Railway Station Buildings) the Council is proposing to extend the existing Water Orton Conservation Area boundary. The proposal will mean the area identified in Appendix A will be designated as an extension to the designated Water Orton Conservation Area. The area proposed for immediate designation in this case is limited to the area highlighted at Appendix A.

4 **Background**

- 4.1 Conservation Areas are areas of ‘special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance’. Section 69(1), of the Planning (Listed Buildings and Conservation Areas) Act (LBA) 1990) imposes a duty on Local Planning Authorities to identify appropriate parts of their areas, to designate them as Conservation Areas and to keep them under review from time to time (section 69(2)).
- 4.2 The National Planning Policy Framework (2021) (NPPF) requires local authorities to consider when designating new conservation areas; paragraph 191 states: ‘When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.’
- 4.3 The Council considers that the proposed extension to the Conservation Area meets this test because it includes notable surviving examples of early 19th to mid-20th Century urban fabric. The historic street layout also remains as it was during the later 19th and early 20th Century and this contains well defined and architecturally interesting developments along the street frontages advocating several phases of urban development within the settlement.
- 4.4 Furthermore, paragraph 192 of the NPPF is particularly relevant with regards to conservation area appraisals and provides that ‘Local Planning Authorities should have up-to-date evidence about the historic environment in their area and use it to assess the significance of heritage assets and the contribution they make to their environment.’ The draft Conservation Area appraisal will provide detail as to the merits of the proposal for the boundary extension and complies with the requirements of this paragraph. In this respect, the draft Conservation Area appraisal for the boundary extension is being finalised and will be reported to the next meeting of the Planning & Development Board.
- 4.5 The historic environment is extensively recognised for the contribution they make to our cultural inheritance, economic wellbeing and enhancement to quality of life. Public support for the conservation and enhancement of areas with architectural and historic interest is well established. Such areas provide a familiar and cherished local sense of distinctiveness and contribute to preserving the historic environment which shapes the character of North Warwickshire.

- 4.6 The proposed extension to the Conservation Area boundary, as indicated by the draft boundary extension plan at Appendix A, extends to the south of the existing Conservation Area and includes Marsh Lane and the junction with the railway bridge and New Road with Birmingham Road, extending to Coleshill Road and the junction with Plank Lane. Whilst this area is not as historic as the existing Conservation Area designation, it is nevertheless an integral extension to the historic core of Water Orton and the boundary extension reflects 19th and 20th Century buildings with a mix use of retail, housing, and social infrastructure (a school, a Methodist Church, and the Church of St. Peter and St. Paul and two public houses).
- 4.7 The Water Orton Railway Station and associated Victorian buildings have been a feature of the area since they were first established and retains associated historic transport links with the wider area. The only listed building in the boundary extension is the Church of St Peter and St Paul. There are, in addition, many non-designated Heritage Assets which are worthy of protection and preservation through the Conservation Area status as a result of the boundary extension.

5 The designation process

- 5.1 In 2017, Historic England published guidance on conservation area appraisals, '*Understanding Place: Historic Area Assessments.*' This document sets out the importance of providing a sound evidence base for the informed management of the historic environment. The purpose of this evidence base is to provide a sound basis for rational and consistent judgements when considering planning applications within conservation areas. Historic Area Assessments and Conservation Area Appraisals, once they have been adopted by the Council, can help to defend decisions on individual planning applications at appeal. They may also guide the formulation of proposals for the preservation and enhancement of the area.
- 5.2 Designation of a Conservation Area, including that of its boundary extension, imposes certain duties on Planning Authorities. These duties are twofold; firstly, to formulate and publish from time to time proposals for the preservation and enhancement of the conservation areas in their district. Secondly, in exercising planning powers, a local authority must pay special attention to the desirability of preserving and enhancing the character and appearance of conservation areas. As such, there is also a presumption against the demolition of buildings within a conservation area. There are no relevant Planning Applications affecting the area at the moment, with the exception that the Water Orton Station Building is at imminent threat.
- 5.3 Whilst designation does not preclude demolition should a reasoned and justifiable case be made; the retention of existing non-designated heritage assets would mean that the historic environment is preserved.

5.4 If the resolution were supported to extend the boundary to the existing Conservation Area, the next stage is to finalise the Appraisal that will describe the special character of the area subject to the boundary extension, with this and the draft boundary proposal; a public consultation process will seek the views of local residents, businesses and other local interests over the definition of the boundary extension and the pending draft Conservation Area Appraisal. Notification of the consultation on the proposed Conservation Area boundary extension and the supporting documents will be put in the local press and published on the Council's website. A report will be brought back to the Board once the consultation exercise has been carried out. If, however, there are no representations made during the consultation process this report seeks approval of the draft extension to the Conservation Area.

5.5 The designation of Conservation Area boundary extension is then reserved to Planning Board before designation is confirmed.

6 Duties and implications following designation

6.1 The extension to the Conservation Area boundary gives the Local Planning Authority additional powers over the development and the use of land within it and has the following consequences:-

- control of demolition of buildings - all demolition will require conservation area consent of any unlisted building larger than 115cm².
- any new development will need to enhance or preserve the conservation area.
- protection of trees – certain criminal offences arise if trees in the conservation area are cut down or wilfully damaged without the consent of the LPA.
- duty of LPA to formulate and publish from time to time proposals for the conservation and enhancement of conservation areas (eg, by updating conservation area appraisals).
- certain permitted development rights are more restricted and or Article 4 directions may be imposed limiting permitted development rights.
- exclusion of certain illuminated advertisements (although not very relevant in this context).
- The conservation area must be registered as a local land charge (section 69(4)).

6.2 There is no statutory right of appeal against a building being included in a conservation area. However, it is possible to seek a judicial review of an LPA's decision to designate a Conservation Area. The designation does not preclude demolition and we would like to work with Network Rail to see if their needs could be met without the loss, or the substantial loss, of the non-designated Heritage Asset being that of the railway station building.

7 Report Implications

7.1 Legal and Human Rights Implications

7.1.1 There is a legal process which must be followed when designating or extending a Conservation Area. The process suggested in the report complies with the regulations.

7.2 Environment, Climate Change and Health Implications

7.2.2 Extension of the conservation area and resultant protection of trees is likely to have environmental and climate change benefits.

7.2 Human Resources Implications

7.2.1 The Heritage & Conservation officer will be assisted during the consultation process by members of the Forward Planning Team.

The Contact Officer for this report is Fiona Wallace (01827 719275).

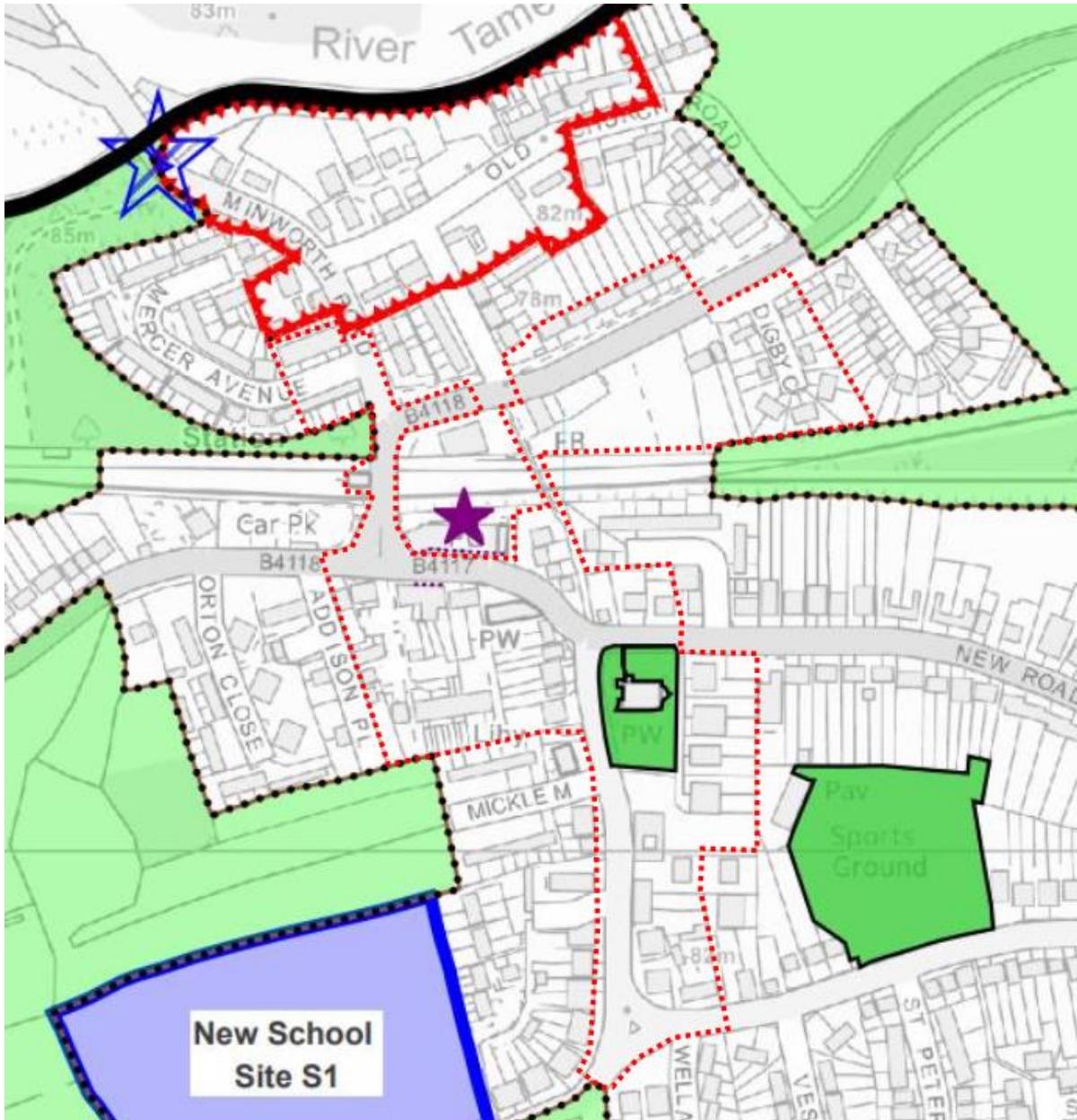
Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

| Background Paper No | Author | Nature of Background Paper | Date |
|----------------------------|---------------|--------------------------------------|--------------|
| 1 | Fiona Wallace | Draft Conservation Area Boundary Map | January 2022 |

Draft Extension to Water Orton Conservation Area boundary

Extension shown as



Agenda Item No 9

Planning and Development Board

7 March 2022

Report of the Chief Executive

Submission of Water Orton Neighbourhood Plan for Referendum

1 Summary

- 1.1 This report informs Members of the progress of the Water Orton Neighbourhood Plan and seeks approval for a formal referendum, in accordance with section 16 of the Neighbourhood Planning (General) Regulations 2012, to be carried out.

Recommendation to the Board

That the Water Orton Neighbourhood Plan (as amended) be taken forward to referendum.

2 Consultation

- 2.1 Councillors Macdonald and Reilly have been sent a copy of this report for comments. Any comments received will be reported verbally at the meeting.

3 Background

- 3.1 The Localism Act 2011 introduced a mechanism for local communities to produce neighbourhood plans. In North Warwickshire it is the Parish Councils who can seek designation and create a group to lead on the production of the neighbourhood plans. Once a neighbourhood plan is 'made' (adopted) it becomes part of the statutory development plan for that area and will be used, alongside local and national planning policy and guidance, to determine planning applications.

- 3.2 There are now 12 designated Neighbourhood Plan areas within the Borough of which 6 have an Adopted Neighbourhood Plan. These are Austrey, Arley, Coleshill, Fillongley, Hartshill and Mancetter.

4 Water Orton

- 4.1 Water Orton is the seventh Neighbourhood Plan that has been formally examined by an Independent Examiner, Mary O'Rourke, who was appointed by North Warwickshire Borough Council in September 2021, with the approval of Water Orton Parish Council. The examiner produced a report with recommendations for changes to be made to the submitted Water Orton

Neighbourhood Plan and its associated documents and, if these changes were made, then the Water Orton Neighbourhood Plan could go forward to referendum.

- 4.2 Water Orton Parish Council had their request for designation of a neighbourhood plan area approved on 5 December 2019. Following a range of public consultations, the Parish Council undertook the statutory minimum 6 week consultation period associated with their draft Neighbourhood Plan between 2 September and 16 October 2020. The Neighbourhood Plan was then submitted to North Warwickshire Borough Council who undertook a formal consultation for 6 weeks from 29 May 2021 until 9 June 2021. All comments from the North Warwickshire Borough Council consultation (15 in total) were then passed directly to the Independent Examiner.
- 4.3 The independent Examiner considered the representations and the Plan as a whole and produced a report with a number of recommended changes to make the plan conform with local and national planning policy. The Parish Council has made all of the recommended changes to the Draft Water Orton Neighbourhood Plan.
- 4.4 The Neighbourhood Plan can only go to referendum if the Council is satisfied that it meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 and convention rights in the Human Rights Act 1988. The Basic Conditions as far as material to this application are:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority; and
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, retained EU obligations.
- 4.4 The Plan must also comply with the definition of a Neighbourhood Plan and the provisions that can be made by a Neighbourhood Plan or can do so as modified. If the Neighbourhood Plan meets these criteria, a referendum must be held.
- 4.5 It is considered that the neighbourhood plan meets the basic conditions and complies with the definition of a neighbourhood plan. The Council is therefore satisfied that the neighbourhood plan as revised (with recommendations from the Examiner's Report dated 13 September 2021) complies with the legal requirements and basic conditions set out in the Localism Act 2011 and can therefore proceed to referendum.

4.6 It is important to note that the Examiner recommended that the referendum area should not extend beyond the designated area to which the Plan relates, ie, beyond the Water Orton Parish boundary. The Council agrees with this recommendation.

5 Finance and Value for Money Implications

5.1 The Borough Council can claim £20,000 for each Neighbourhood Plan. The money can be applied for when a decision statement is issued detailing their intention to send the plan to referendum.

5.2 Legal and Human Rights Implications

5.2.1 The process referred to above conforms to the legal requirements for Neighbourhood Plans and referendums.

5.3 Human Resources Implications

5.3.1 Staff time is expected to be provided by the Borough Council to support and advise the Parish Council and community in taking forward a Neighbourhood Development Plan. However, staff time is limited to an advisory role, due to the other work priorities of the Forward Planning Team and that this role must be provided to the other Parishes who are also considering undertaking Neighbourhood Plans.

5.4 Environment, Climate Change and Health Implications

5.4.1 Each Neighbourhood Plan will need to consider the effects of the Neighbourhood Plans' contents in terms of environmental, climate change and sustainability issues in accordance with the relevant regulations.

5.5 Links to Council's Priorities

5.5.1 The designation of the Neighbourhood Plan Designation Area has links to the following priorities:

- 1 Enhancing community involvement and access to services;
- 2 Protecting and improving our environment; and
- 3 Defending and improving our countryside and rural heritage.

The Contact Officer for this report is Sue Wilson (719499).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

| Background Paper No | Author | Nature of Background Paper | Date |
|----------------------------|-------------------------------|---|----------------|
| 1 | Intelligent Plans | Inspectors Report on Water Orton Neighbourhood Plan | September 2021 |
| 2 | Water Orton NP Steering Group | Water Orton Neighbourhood Plan | January 2022 |
| 3 | NWBC | Decision Statement | February 2022 |

Agenda Item No 10

Planning and Development Board

7 March 2022

Report of the Head of Development Control

HS2 Bromford Tunnel Portal Update

1 Summary

- 1.1 On 4 October 2021 Members considered a report concerning the Bromford Tunnel and the Bromford Tunnel Portal. The report set out the changes to the scheme to extend a tunnel, the legal advice that the Council had received in respect of the lawfulness of those changes and suggested an approach to addressing the matter of planning enforcement for the works deemed to be unauthorised. Members deemed that it was not, at that time, expedient to commence enforcement action. It resolved to keep the matter under review and that it would receive future reports on the matter as developments occurred.
- 1.2 This report sets out the up to date position and details changes in circumstance. The report identifies matters for consideration in re-examining the expediency of taking enforcement action.

Recommendation to the Board

- a) **That Members note the report and conclude that, the issue of formal enforcement action be kept under review; and**
- b) **That delegated authority to initiate appropriate formal enforcement action is given to the Chief Executive, in consultation with the Chair, Opposition Spokesman and Local Ward Members.**

2 Background

- 2.1 Members will be aware that HS2 Ltd has announced its intention to alter the line arrangements where the route travels through Birmingham and into North Warwickshire. Instead of the railway being overland, it wishes now to form a tunnel, to be known as the 'Bromford Tunnel'.
- 2.2 When the High Speed Rail (London - West Midlands) Act 2017 was passed it was proposed that the Bromford tunnel should travel 2.8km from Washwood Heath to Bromford/Castle Vale. HS2 now wishes to extend the tunnel to 5.7km. The portal (entrance/exit) for the extended tunnel will be at Water Orton, west of Attleboro Lane.

3 Update

- 3.1 The report to the Planning and Development Board in October 2021 (**Appendix A – circulated separately in Confidential Papers**) advised Members of the legal advice received in respect of the lawfulness of the Bromford Tunnel works and discussed the expediency of pursuing enforcement action in respect of works that officers deemed to be unauthorised.
- 3.2 HS2 submitted a Schedule 17 application for the Plans and Specifications for works including the Bromford Tunnel Portal on 22 September 2021 and a Decision was issued on 8 October 2021 which set out the position that the Council that it did not consider that the works were authorised by the High Speed Rail (London - West Midlands) Act 2017. A copy of the notice is attached as **Appendix B**.
- ...
- 3.3 The October 2021 report set out that Officers had held a constructive meeting with HS2 Heads of Planning and Project Managers in the previous month and that they had expressed a desire to work with the Council to address the Council's concerns about the revisions to the scheme in the Water Orton locality. At the meeting officers had indicated that any application for Schedule 17 consent would not be determined because of the conclusion that the works were beyond Act Powers. HS2 indicated an intention to ask Ministers to call the application in for determination.
- 3.4 HS2 established that a call in by Ministers would likely have a longer timeframe than an appeal to the Planning Inspectorate against non-determination of the Schedule 17 application.
- 3.5 After the passage of 8 weeks from the date of submission of the Schedule 17 application, HS2 appealed against non-determination. The Planning Inspectorate issued a start date letter.
- 3.6 Officers had concern that the appeal had been started without the Planning Inspectorate having carried out its own assessment of whether the works were within Act powers and thus capable of being determined through the Schedule 17 Plans and Specifications route.
- 3.7 With the benefit of legal advice, in late December, the Council issued a Judicial Review Pre-Application Protocol letter challenging the Inspectorate's jurisdiction to determine an appeal.
- 3.8 In response to the Judicial Review Pre-Application Protocol, the Council was given an assurance that as the first step in considering the appeal the Planning Inspector would hear legal argument from both parties as to why they do, or do not, consider the works to be authorised by the Act and that the Inspector would come to a decision about whether there is jurisdiction to proceed to determine the appeal. If the Inspector concluded that he has jurisdiction he would then proceed to consider the substance of the appeal.

3.9 The appeal regime for HS2 applications differs from the appeal regime for planning applications (as set out in the High Speed Rail (London-West Midlands) Act 2017 Guidance on Planning Appeal Procedures, Recovered Appeals and Call-Ins March 2018). In recognition of the expediency to be placed on the delivery of this nationally significant major infrastructure project, the appeal procedure is designed to run to tight timeframes and there is an expectation that most appeals will proceed through an exchange and consideration of written representations. However, the appeal regime recognises that there may be instances when a scheme necessitates consideration at a hearing or an inquiry. The Council's legal advisors considered this to be such a case given the complexity of legal argument surrounding the judgement of whether the works fall within or outside the provisions of the High Speed Rail (London - West Midlands) Act 2017.

3.10 On 8 February 2022 the Council's Statement of Case was submitted to the Planning Inspectorate. It presented the Council's legal argument and, on a without prejudice basis, identified its case in respect of the proposed development. The Statement of Case set out the reasoning why it is argued that a hearing is appropriate in this case.

3.11 On 17 February 2022 the Planning Inspector wrote to both parties communicating his decision to revert the appeal process to a Hearing. His letter is included as **Appendix C**. He stated:

. . .

The issues at hand are of a complex and technical nature. There are legal matters in dispute as well as matters concerning the substance of the appeal itself. The documentation sent in by the parties is on a scale for an oral event and I consider it would be necessary to test this evidence orally and for the parties to focus on the key pieces of evidence in this case.

The Inspector identifies that the appeal turns on two main issues: Firstly, whether the revised works are authorised by the 2017 Act; and secondly and if so, whether the works fall within the scope and assessment of the original Environmental Statement.

3.12 Members will note that the Inspector is having some difficulty interpreting the scheme differences from the plans and information submitted by HS2 and has requested additional plans. Officers have also struggled with comparing the two schemes so the Inspector's requirements are very much welcomed.

3.13 The appeal date has not been set but parties are looking to find mutually convenient dates in either May or June 2022.

3.14 Officers have had limited contact from HS2 followed the first meeting with its Heads of Planning and Project Managers in early September 2021. It is fair to say that the constructive dialogue has not really materialised, at least partially as the appeal process has taken prominence.

- 3.15 However, Officers have now also met with officials from the Department for Transport who are keen to ensure the future progress of HS2 in North Warwickshire proceeds on a more satisfactory basis.
- 3.16 Members will be aware from a report to the February meeting of the Board that a Transport and Works Act Order application has been made to the Secretary of State seeking to make 'a minor amendment' to the High Speed Rail (London – West Midlands) Act 2017 ("the 2017 Act"). HS2 argues that the effect of the amendment would be to remove a legal impediment to a small part of the High Speed railway authorised by the 2017 Act being constructed within tunnel under the powers conferred by the Act, rather than partly on viaduct (being less than 30 metres in length and located near Water Orton to the east of Birmingham) as originally envisaged under the 2017 Act.
- 3.17 The Council is due to make representations on this Order by the end of the consultation period (3 March 2022). As reported previously, officers are minded to query the omission of an Environmental Statement with the application (given the Screening Decision of the Secretary of State for Transport in March 2021) and to prompt the Secretary of State to make a ruling on his interpretation of whether HS2 are entitled to hold the position that the Act already authorises the tunnel extension as ancillary change to the scheme (given that the Order presupposes that HS2 are correct in their liberal interpretation that the wording of the scheduled works is the only impediment to the revision of the scheme to tunnel the route in all parts of the tunnel extension other than in this small section). This representation is likely to parallel the issues being considered by the appeal Inspector and the timeframe for the consideration of the TWAO application is also uncertain.
- 3.18 Five months has now passed since the Board last considered the expediency of enforcement action and it is probable that this matter may not be concluded for several more months (given a Hearing date in May/June, time for the Inspector to deliberate and issue his decision, possibly including a Ministerial referral). It is appropriate for Members once again to consider the expediency of enforcement action.
- 3.19 Officers have informally approached HS2 with a request for them to voluntarily halt some or all of the works, however, they have indicated that they do not intend to do so.

4 Considerations in respect of the way forward

- 4.1 Member will recall from the previous reports on this matter that HS2 have proceeded to commence the construction of the tunnel portal, notwithstanding that the Schedule 17 appeal remains undetermined and that the Transport and Works Act Order application is only just made.
- 4.2 In October 2021, the Board took the decision that it was not expedient, at that time, to initiate formal enforcement action, in recognition of:
- The national importance of the project
 - The commitment to work constructively with the Council

- The anticipated Ministerial call in being a potentially appropriate and timely way in which to bring clarity to the HS2 claim that the works are authorised by the Act
- 4.3 Officers can advise that there has been no halt to construction at the land west of Attleboro Lane. Large construction compounds are in operation, the cutting diaphragm walls are constructed and it is understood that work has commenced on the construction of the portal headwall and concrete capping beams. HS2 (in its presentation to the Special Management Zone) has set out a construction timetable that plans for assembly of the tunnel boring machine in quarter 2 of 2022 and tunnel boring to commence in quarter 3 of this year, inferring that the portal will be fully constructed by that date. The project timeframe and details of the sitelayout and appearance are included in at Appendix D (**Appendix D – circulated separately in Confidential Papers**)
- 4.4 Member will recall that the development which is the subject of the appeal was not processed as an application. The Council did not therefore have the benefit of input from consultees and third parties. Through appeal notification, officers are aware that some consultees, near neighbours and the Special Management Zone Chair made representation to the Planning Inspectorate. There may be other representations forwarded that Officers are, as yet, unaware of. The appeal will afford an opportunity to highlight and discuss the representations made. However, it also means that scrutiny of the detail of the proposal and its impacts is rather unusually taking place as an integral part of the appeal process and officers are still looking into effects and seeking advice on both potential construction impacts and operational impacts.
- 4.5 In terms of construction impacts, issues to be explored will include whether the altered construction activity creates any new significant environmental effects from noise/vibration/disturbance (that are not addressed by the Code of Construction Practice and compliance with Environmental Minimum Requirements) - the scheme changes in respect of construction include:
- a change in the scale of construction compound scale/activity
 - the tunnel boring operation
 - spoil processing and spoil disposal arrangements
 - the 24 hour operation of the tunnel boring machine and spoil processing
- 4.6 In terms of operational impacts, whether the altered form of the development and associated mitigation (yet to be fully determined) creates any new significant environmental effects from noise/vibration/disturbance (that are not addressed by the Code of Construction Practice and compliance with Environmental Minimum Requirements) - the scheme changes in respect of operation include:
- the omission of the landscaped bund
 - changes in the amount of land given over to planting
 - the effects of the travel of the train into and out of the tunnel entrance/exit
 - the operation of the support buildings
- 4.7 Members will be aware that formal enforcement action is not an automatic response to development which proceeds in an unauthorised manner. It is only

expedient to proceed where specific harms are identified and enforcement action is a reasonable and proportionate means to addressing the identified harms. This harm can have regard to due process but should not normally be exclusively related to process.

- 4.8 In this instance, the development is a project advanced in the national interest and work associated with substantiating harm is ongoing. At this stage whilst Officers have concerns about possible impacts it is not timely to conclusively report on a specific proposed enforcement strategy.
- 4.9 Members will also be aware that, in the event that enforcement action is challenged, the Council encounters costs risks. In a project of a scale such as this, the costs risk to the Council could be considerable.
- 4.10 HS2 will clearly be aware that they proceed at their own risk and that enforcement powers are available to North Warwickshire Borough Council.
- 4.11 This is a challenging situation. On one hand if the works proceed at pace potential harms may occur and identified issues may be challenging to remedy retrospectively, on the other hand, this case has proven to be one which fluidly changes and information upon which to base a reasonable enforcement position is still being formulated. Regard must also be had to the fact that the appeal case is very significant, having potentially scheme wide implications. Officer's and their legal advisers feel that it is important to obtain authority to act appropriately in a timely manner.
- 4.12 Delegated authority is therefore sought, in consultation with specified Members, to ensure that appropriate formal enforcement action may be pursued in respect of the unauthorised works associated with the Bromford Tunnel Portal.

5 Report Implications

5.1 Finance and Value for Money Implications

- 5.1.1 In the event of formal enforcement the Council will likely have to defend its action. There would be officer and professional costs associated with the proceedings and there is a risk of costs being sought by the appellant.

5.2 Legal Implications

- 5.2.1 The Council has sought legal advice from counsel throughout this process and the disputed issues are now before Secretaries of State through the appeal process where the differing interpretations of the legislation will be aired.

5.3 Environment and Sustainability Implications

- 7.3.1 It is important that scheme changes are appropriately assessed for environmental impact. The Council's action to date has sought to establish that due process and effective assessment and mitigation are established. A failure

to enforce effectively and in a timely manner runs the risk of harm to environmental considerations.

The Contact Officer for this report is Erica Levy (719294).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

| Background Paper No | Author | Nature of Background Paper | Date |
|----------------------------|---------------|-----------------------------------|-------------|
| | | | |



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Date: 08 October 2021

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

Application Correspondence

Schedule 17 High Speed Rail (London-West Midlands)
Act 2017 Application

Application Ref: HS2/2021/0005

Site Address

HS2 Land at Attleboro Lane, Water Orton.

Grid Ref: Easting 417103
Northing 290528

Description of Development

Sch17 Application - Water Orton Cutting, Bromford Tunnel East Portal & Attleboro Lane Overbridge

Applicant

HS2 Limited

Dear Sir or Madam

I refer to the submission of the above application seeking approval of Plans and Specifications under Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017.

This is to notify you that North Warwickshire Borough Council does not consider that the proposed works are authorised by the Act and therefore are not capable of being approved by the requested method of determination.

Specifically, the proposed Bromford Tunnel East Portal is not a Scheduled Works. HS2 Ltd and the Secretary of State for Transport acknowledge that fact and propose to pursue a Transport and Works Act Order to authorise a change to the scheme. Furthermore, the Secretary of State has deemed that the change to the scheme is EIA development and that an EIA should accompany the application for the Transport and Works Act Order. The application is not yet made, nor granted.

The Council is aware that HS2 consider the changes incorporated in this application to be authorised by reliance upon Section 2 of the High Speed Rail (London - West Midlands) Act 2017. North Warwickshire Borough Council disagrees and considers that the works, by virtue of the fact that they are not related to a Scheduled Works, and by fact and degree, are beyond the scope of the Act. It is the Council's view is that section 2 cannot be relied upon to consent variations to the scheme which are of a magnitude not envisaged by the Act and work which, in their own right, would need to be the subject of stand alone separate consenting regime and associated Environmental Assessment.

In addition, the Council considers that the proposals falls foul of s.20(2) of the Act on account of the Secretary of State's conclusion to the effect that the extension would be likely to have significant effects on the environment (Screening Decision dated 3 March 2021).

If you wish to proceed with an application for the Bromford Tunnel East Portal it is the Council's view that the submission of a full planning application will be required.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. Green', written in a cursive style.

Head of Development Control



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BS1 6PN

Direct Line: 0303 444 5566
Customer Services: 0303 444 5000
e-mail: ETC@planninginspectorate.gov.uk

Your Ref:

Our Ref: APP/HS2/18

Date: 17 February 2022

Dear All,

Plans and Specifications submission under Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017 for works comprising Water Orton Cutting including Bromford Tunnel East Portal, Attleboro Lane Overbridge and ancillary works.

Following my email on the 15 February 2022, the Inspector has confirmed that he has decided that the appeal needs to be heard by way of a Hearing. His reason for changing the procedure is as follows:

- *The issues at hand are of a complex and technical nature. There are legal matters in dispute as well as matters concerning the substance of the appeal itself. The documentation sent in by the parties is on a scale for an oral event and I consider it would be necessary to test this evidence orally and for the parties to focus on the key pieces of evidence in this case.*

As set out in previous correspondences, the Inspector identifies that the appeal turns on two main issues: Firstly, whether the revised works are authorised by the 2017 Act; and secondly and if so, whether the works fall within the scope and assessment of the original Environmental Statement.

The Inspector will rely on current statements of case and appendices from both parties for the Hearing so there will be no need to reissue them. However, by no later than four weeks from the start of the Hearing date, the Inspector wishes to be furnished with the following additional documents:

- Final comments on the Council's Statement of Case from the appellant. The Inspector wishes to stress that this document should only comment on matters raised by the Council. The Inspector will not accept a repetition of arguments in the Statement of Case or the introduction of new evidence at this stage.
- A summary position, no greater than 1500 words, of each party's statement of case.
- Longitude section drawings of the existing intended scheme and the proposed extended tunnel works including land level changes, starting from the originally intended Bromford Tunnel eastern portal at the Castle Bromwich Business Park to its intended portal at Water Orton. The plans should be at a readable scale, and the

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

Inspector requests these to be at least at A2 size. These should be sent in as a hard copy to the Inspectorate.

- A reissue of the drawings of the intended changes sent previously to the Inspector following his request to do so but at least at A2 scale and sent as a hard copy to the Inspectorate.
- An Environmental Statement Position Statement from the appellant, setting out from the original Environmental Statement where the proposed works fall within its scope and assessment, or a signpost document as to where such information is contained within the appellant's statement of case, for ease of reference for the Hearing.
- A statement of common ground from both parties.
- A copy of the 2017 Act with the relevant articles/schedules clearly highlighted for ease of reference at the Hearing submitted jointly by both parties. This may form part of the statement of common ground if the parties wish.
- Details of the arrangements for an accompanied site visit. The Inspector observed much of the site from the surrounding areas and does not need to do this again. However, the key land, that being located between the Castle Bromwich Business Park and the B4118 Birmingham Road, appeared inaccessible to the public and largely obscured from wider viewpoints. The Inspector wishes to visit this area and to be accompanied by the main parties.
- Names of the persons to be attending the Hearing from each side.

The duration of the hearing will be two days. The Inspector has suggested holding the hearing on either: -

- 26-27 April 2022
- 3-4 May 2022; or
- 9-10 May 2022

Please liaise with each other and confirm a date for the hearing within 10 days of this letter.

Yours sincerely

R Haley

Ruthie Haley
Case Officer

Agenda Item No 11

Planning and Development Board

7 March 2022

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 12

Land New Arley – Report of the Head of Development Control

Paragraph 6 – by reason of the need to consider the making of an order.

Agenda Item No 13

Enforcement Notice - Report of the Head of Development Control

Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Agenda Item No 14

Confidential Extract of the Minutes of the meeting of the Planning and Development Board held on 7 February 2022

Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Agenda Item No 15

Confidential Extract of the Minutes of the meeting of the Planning Sub-Committee held on 11 February 2022

Paragraph 6 – by reason of the need to consider the making of an order.

Confidential Appendices for Agenda Item No 10 (HS2 – Bromford Tunnel Portal)
- Report of the Head of Development Control

Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings; and

Paragraph 6 – by reason of the need to consider the making of an order.

In relation to the item listed above members should only exclude the public if the public interest in doing so outweighs the public interest in disclosing the information, giving their reasons as to why that is the case.

The Contact Officer for this report is Julie Holland (719237).