

(4) Application No: PAP/2016/0213

Land South of Gardeners Cottage, Pooley Lane, Polesworth,

Outline application (access only) for residential development, for

Mr K Holloway - N P Holloway And Son

Introduction

This application was reported to the Board in January but determination was deferred to enable a site visit to take place. Following that visit, the Board deferred determination at its March meeting in order to request officers to engage with the applicant so as to seek amendments to the overall proposal. In short, these were to reduce the level of the development plateau and the scale of the proposal. Additionally officers were asked to review the consultation response from the Highway Authority.

The applicant has confirmed that he is not prepared to amend the proposal, indicating in summary that the Council has the opportunity to deal with these suggested amendments at reserved matters stage and that the Highway Authority has not objected.

These matters will be taken up in the report below.

For the convenience of Members the previous report is attached at Appendix A.

The Development Plan

Members will be aware that planning decisions are taken in accordance with the Development Plan unless material planning considerations indicate otherwise. Case-law has shown that the reference to the Development Plan here means the Development Plan “as a whole”. In other words proposals may accord with some policies and not with others. A balancing exercise between these positions therefore then has to be addressed. This section of the report will identify the policies that this proposal offends and those that support it.

The Development Plan in this case is the Core Strategy 2014 and the saved policies of the North Warwickshire Local Plan 2006. There is, as yet, no adopted Polesworth Neighbourhood Plan to be considered as part of the Development Plan.

Policy NW2 of the Core Strategy sets out a settlement hierarchy as the Council’s spatial strategy for the location of new development. Polesworth is identified in this hierarchy as a Category 1 settlement. Herein development will be permitted within its development boundary. However the policy continues by saying that it is expected that over the plan period, more than 50% of the Borough’s requirements will be provided in or adjacent to category 1 settlements. The proposal therefore accords with this policy as the proposal is adjacent to the development boundary.

Policy NW5 deals with the distribution of new housing within the settlement hierarchy. Polesworth with Dordon is identified for a minimum of 440 houses in the plan period. The proposal therefore accords with this policy.

Policy NW6 refers to affordable housing provision. The applicant has indicated that he would be prepared to provide 40% provision through a Section 106 Agreement. The proposal thus accords with this policy.

Policy NW10 identifies a number of considerations that need to be taken into account in all determinations. It is considered that there is no conflict with the criteria set out in this policy. However the one relating to highway matters (number 6) will be looked at again later in this report.

It is considered that there is conflict with Policy NW12. This policy requires all development proposals to demonstrate a high quality of sustainable design that positively improves a settlement's character, appearance and environmental quality of an area. The conflict here is due to the prominence of the site and its visibility on the skyline when viewed particularly from Polesworth to the east. This will be developed further later in this report.

It is considered that there is conflict with Policy NW13. This policy requires the protection of the quality character, diversity and local distinctiveness of the natural environment. In particular within the identified landscape character areas development will conserve enhance or where appropriate restore landscape character. The conflict here is as set out above and will be developed further in this report by reference to the Landscape Character Appraisal of the Borough.

In respect of Policy NW14 it is considered that there is less than substantial harm to the setting of Pooley Hall – a nearby Grade 2 Listed Building – or to the Polesworth Conservation Area. However there is still harm and that has to be placed into the final balance. However as this is less than substantial, there is no conflict with the policy.

There is conflict with Policy NW19. This directs new development to the south and east of Polesworth and Dordon and introduces the Meaningful Gap as a measure to respect the separate identities of Polesworth, Dordon and Tamworth. The Council has defined this Gap and the site falls within it.

Policy NW1 deals with sustainable development. It is left to last here as the assessment rests on the outcome from consideration of a number of Core Strategy policies. The policy cannot be satisfied because of the conflict with a number of policies and the reference in the policy to matters affecting determinations when the Development Plan is out of date.

The policies in the Core Strategy not mentioned above are either not applicable to the case or are neutral in their affect.

The saved policies of the Local Plan are not considered to carry weight in this case.

As can be seen here, the proposal conflicts with policies NW1, NW12, NW13 and NW19. It is however in accord with policies NW2, NW5, NW6 and NW10. The issue is therefore where the balance lies – in other words which policies carry the greater weight. However this assessment should not be undertaken at this time as there are material planning considerations here that will affect the weight given to these policies.

These now need to be set out.

Other Material Planning Considerations

The Polesworth Conservation Area was designated in 1995. It describes the history of the settlement of Polesworth and concludes by saying that it “has a distinctive character which reflects the geography of its setting and its history, and this is unique to North Warwickshire”. It also draws attention to both views into and out of the settlement, which are said to contribute to its character. In particular it draws attention to the steeply rising ground to the south and east which is dominated by Pooley Hall. The hill provides a number of view-points into the settlement and acts as a “back-cloth for the whole area in this direction”.

The North Warwickshire Landscape Character Assessment of 2010 has Polesworth in the Anker Valley Character Area. This describes a “visually open and broad indistinct valley becoming steeper and more defined to the north close to Polesworth”. There are said to be “wide views across the valley from upper slopes with views out being generally contained”. The management strategies outlined in the area include reinforcing “the existing settlement pattern” and that expansion should “include appropriate landscape planting to integrate the settlement edge within the landscape and limit encroachment on the valley”.

Thirdly there is the recent Ansley appeal decision. This is attached at Appendix B. The key outcome of this decision was that the Inspector concluded that the Council did not have a five year housing supply. He concluded that at the time – November 2016 - the figure amounted to a 3.5 year supply. The situation has been updated and the supply now stands at 4.5 years. It therefore has to be acknowledged that the Council does not have a five year land supply. Consequently the housing policies of the Core Strategy are out of date. This has the consequence of reducing the weight given to those housing policies.

Fourthly is the recent St Modwen appeal decision. This is attached at Appendix C. The key outcome of this decision in respect of the current proposal is that the Inspector concluded that the geographic extent of the Meaningful Gap as defined by the Council carried little weight and that Policy NW19 should be interpreted upon the content of the words therein, without reference to a defined area. This does not reduce the weight given to Policy NW19 but any reason for refusal based on it should be evidenced on the basis of its wording alone.

Discussion

a) Paragraph 14 of the NPPF

The Ansley appeal decision is the starting point for the discussion on the balance between the relevant policies. Because of the lack of a five year housing land, paragraph 14 of the NPPF comes into effect. This states that in such circumstances, “planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole”.

The benefits of this proposal are new housing to assist meeting our housing requirements; reducing the deficit of the five year supply, the provision of affordable housing, an open spaces contribution for enhancement of sites in Polesworth and footpath enhancements.

The adverse impacts have been identified above as conflict with Policies NW1, NW12, NW13 and NW19. All of these policies have been found to be sound through the adoption of the Core Strategy being in accord with the NPPF and they are not “out of date”. As such they carry full weight. Policy NW1 is very much a repetition of paragraph 14 so should not figure in this assessment. So the issue here is whether the conflict with policies NW12, NW13 and NW19 is significant and that that conflict can be demonstrated. It is considered that this is the case here.

Proposals that do not positively improve Polesworth’s character, appearance and environmental quality will be in conflict with Policy NW12. Proposals that do not conserve and enhance landscape character will conflict with policy NW13. Polesworth’s character and appearance stem from its evolution within the Anker Valley surrounded by higher land. Development has extended up and over that higher land particularly to the south towards Dordon. The higher ground to the east remains as open land with open views into and out of the settlement. The higher land to the west is marked by a distinct and quite dominant tree lined scarp running along the river’s edge. This is a note-able feature that has shaped the settlement’s character and is highly visible from within the settlement itself. New development on the appeal site will impact on this character and appearance by introducing visible built development on the skyline standing proud of the scarp when viewed from the south and from the east. It will reduce the natural definition of this side of the settlement and lead to a similar situation referred to above of new development extending over higher land to the south towards Dordon. This impact will be significant as it large in scale; prominent and visible in the wider public domain. The proposal is an incongruous addition to the pattern of the settlement by adding a salient of new development in open countryside unrelated to the existing built form. The evidence to support these conclusions is based in the Conservation Area Designation Report and the Landscape Character Appraisal. The Designation report draws attention to a unique character and to the steeply rising ground to the east acting as a back-cloth for view into and out of the settlement. These attributes will be affected by the development. Because of the explicit recognition of the significance of the slopes and the views into and out of the Conservation Area, harm will be caused. The Landscape Character Appraisal reinforces the same points. In particular there is a need to limit the “encroachment” into the valley and to integrate new development into the settlement edge. The proposal here does neither. The combination of these matters points to there being significant harm as a consequence. The proposals do not accord with the “improvement”, “enhancement” and “conservation” requirements of policies NW12 and NW13. There is thus also conflict with the NPPF policies set out in paragraphs 17, 56, 58 and 109.

Policy NW19 requires there to be a meaningful gap between Polesworth and Tamworth in order to respect their separate identities. The St Modwen appeal decision concluded that the geographic definition of this Gap as depicted by the Council carried little weight.

The Inspector therefore returned to the actual wording of NW19 in order to assess the impact of that development on that policy. Members are advised to do the same here. In other words does the proposal “respect the separate identities of Polesworth and Tamworth”? It might be suggested that it does, because of the distance between the two settlements. However this is to ignore the topography which was explicitly described above in the Designation Report and the Landscape Character Appraisal. This is a proposal on a pronounced and dominant skyline feature, which does not reflect the built form of Polesworth and does not integrate well into the settlement edge. Indeed it doesn’t integrate at all. Its visual presence can fairly be said to be perceived as not

being part of Polesworth and visually being perceived as encroachment from the west. In these respects the proposal lessens the significance of the gap separating the two settlements. The proposal does not accord with policy NW19, nor NPPF policy as set out in paragraphs 17 and 58.

It is these circumstances that it is concluded that significant and demonstrable harm will be caused under paragraph 14 of the NPPF. It is also considered that this outweighs the benefits arising from the proposal as set out above. This is because the harm would be permanent; conflict with a strategic spatial policy of the Core Strategy and not improve, enhance or conserve the local environment. As a consequence the social, economic and environmental roles of planning as set out within the NPPF are not in balance. This therefore points to the conclusion that the policies that are not supporting the proposal should carry more weight in the final planning balance.

b) Other Considerations

There are other considerations that need to be addressed and placed into a final assessment.

The applicant has argued that this is an outline planning application and thus that given the five year land supply situation, planning permission can still be granted because the matters identified above as constituting harm can be addressed by planning condition. This is by virtue of either specific conditions or through the standard outline condition which would reserve details of landscaping, layout, scale and appearance for later determination. It is agreed that conditions are a possibility but there are some important issues here. Firstly the Board will need to determine the application on a matter of principle. If it is minded to refuse then conditions are not a means of mitigating that decision in principle. Secondly, the Board has requested the applicant to reconsider the parameters plan submitted with the application and to reduce the quantum of development. That has not been accepted by the applicant who wishes to retain the existing description. Thirdly, the changes that the Board is looking at go to the heart of the application – quantum and layout. As such the actual description of the application needs changing, rather than accommodating those changes via conditions. In all of these circumstances, the Board is recommended to firstly determine the application as a matter of principle – if refusal then there will be no conditions, if approval then conditions will have to be considered.

The applicant in urging the Council to approve this proposal under paragraph 14 of the NPPF is also suggesting that he would be prepared to agree to a quicker timetable for commencement. In other words rather than having a condition requiring approval of reserved matters within two years he would agree to a twelve months condition.

The applicant is also suggesting that some matters can be dealt with through a Section 106 Agreement. This can be case if the Board is minded to support the proposal in principle. For the sake of clarity, if the Board is so minded then the following matters should be included within such an Agreement. Members should be aware that the first three of these matters will also have to carry weight as benefits arising from the proposal and so place them in the final planning balance.

- 40% provision of affordable housing
- A contribution of £85,814 towards public open space in Polesworth

- Works to resurface the public footpath AE16 with a bound material and to install street lighting from the site to the B5000
- Maintenance and management of the woodland areas (including that on the scarp slope), hedgerows and balancing pond.

Additionally Members should be aware that any planning condition to reduce the total number of units on this site could well affect the viability of the scheme and thus the scope of these four matters. It is considered that the only one here to carry any weight is that of the affordable housing provision. Open space contributions can be requested from other housing schemes.

Members have expressed concern about the Highway Authority's response. Vehicular access clearly has to be from Pooley Lane. The County's recommended vision splays for this can be achieved. There is no highway objection relating to the increased use of the junction of Pooley Lane with the Tamworth Road. In these circumstances a refusal based on highway grounds is unlikely to be supported unless there was strong technical rebuttal evidence. The main issue from Member's has been the view that pedestrians and cyclists moving to and from the site would use Pooley Lane and would be put at risk because of the nature of that Lane. The County Council's response is that by making the public footpath AE16 more attractive, that would become the natural and safer line of travel into Polesworth as it is more direct and leads directly to the Tamworth Road. There is merit in this argument. The concern about safety on Pooley Lane is however still an issue. In these circumstances it is considered that the detailed layout of the residential estate, if approved in principle, should enable and allow for pedestrian connections to be made through the estate linking to the AE16. There is space to allow this and there could also be a path on the inside of the hedge fronting Pooley Lane. It is thus recommended that this matter is one that is appropriate for planning condition and through the consideration of the layout a reserved matters stage. Members are not recommended to consider a highway refusal reason in these circumstances.

c) Conclusions

The matters raised above need to be placed into the final planning balance. It is clear that there is conflict between policies of the Core Strategy that support the proposals and others where it does not. The balancing exercise in this case is made more "difficult" because of the Ansley appeal decision - the lack of a five year housing land supply – which means that the housing policies of the Core Strategy are out of date. In these circumstances paragraph 14 of the NPPF becomes central to assessment of the final planning balance. It is considered that there is significant harm caused here to policies in the Core Strategy that are not out of date and which reflect other policies in the NPPF, so that when taken as a whole there is significant harm. That harm can be demonstrated as outlined in this report. The final balance therefore falls on the harm outweighing the benefits. The other matters put forward by the applicant do not alter the principle of this conclusion.

Recommendation

That planning permission be **REFUSED** for the following reason:

1. "The proposal does not positively improve the Polesworth character or the appearance and environmental quality of the area; conserve, enhance or restore landscape character or respect the meaningful gap between Polesworth and Tamworth. This causes significant and demonstrable harm which, notwithstanding the lack of a five year housing land supply is sufficient to outweigh the benefits that would arise from the proposal. It is thus not in accord with policies NW12, NW13 and NW19 of the North Warwickshire Core Strategy 2014 or the National Planning Policy Framework 2012."

BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0213

Background Paper No	Author	Nature of Background Paper	Date
1	Head of Development Control	Letter	7/3/17
2	Agent	E-mails	13/3/17

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.

(2) Application No: PAP/2016/0213

Land South of Gardeners Cottage, Pooley Lane, Polesworth,

Outline application (access only) for residential development, for

Mr K Holloway - N P Holloway And Son

Introduction

This application was referred to the Planning board at its February meeting, but determination was deferred to enable Members to visit the site. This has now occurred and the matter is referred back to the Board for a decision.

The previous report is attached at Appendix A for convenience.

A note of the site visit will be made available at the meeting.

Recommendation

That the recommendation as set out in Appendix A be agreed.

General Development Applications

(#) Application No: PAP/2016/0213

Outline application (access only) for the residential development of up to 40 dwellings for

Mr K Holloway

Introduction

This application is reported to the Planning and Development Board at the discretion of the Head of Development Control in view of the objections received and in view of two recent appeal decisions which are relevant to the determination of this application.

The Site

The proposed development site lies to the north of the housing development known as The Lynch off the B5000 on the west side of Polesworth. The site is bound by Gardeners Cottage to the north; the Coventry Canal and public footpath AE16 to the east, the Lynch to the south and Pooley Lane to the west. The settlement of Polesworth lies to the east of the site and the M42 is further to the west.

The site measures some 2 hectares and is bound by mature hedgerows along its northern and western boundaries with a landscaped buffer to its eastern boundary. The gardens of the properties on The Lynch form its southern boundary.

The outline of the site is shown at Appendix A.



The Proposal

The scheme relates to the development of this field with residential units. It is submitted in outline format but with details of the vehicular access from Pooley Lane. The Masterplan submitted with the proposal includes the extent of a development plateau along with the access off Pooley Lane and landscaped areas. The indication in the plans submitted is that the site can accommodate up to 40 dwellings.

The following documentation has been submitted with the application:

- A Design, Access, Heritage and Planning Statement
- A Preliminary Ecological Appraisal
- A Flood Risk Assessment with surface drainage calculations
- Surface Water Storage Calculations
- An Access Layout
- An Archaeological Heritage Assessment
- A Reptile Survey

The proposal would be the subject of a Section 106 Agreement with the following draft heads of terms suggested by the applicant:

- 40% of the units to be affordable housing with 85% of these as socially rented units and 15% as shared ownership.
- £85,814 towards public open space in Polesworth
- Works to resurface the public footpath AE16 with a bound material and to install street lighting from the site to the B5000
- Maintenance and management of woodland areas and hedgerows within the site.
- Maintenance and management of the surface water balancing pond.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15 (Nature Conservation), NW16 (Green Infrastructure), NW19 (Polesworth and Dordon) and NW22 (Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

Other Material Planning Considerations

The National Planning Policy Framework 2012 – (the "NPPF")

The Draft Local Plan for North Warwickshire – 2016

Appeal Reference: APP/R3705/W/15/3136495 - St Modwen

Appeal Reference: APP/R3705/W/16/3149573 - Ansley

Consultations

Inland Waterways Association – It confirms that it objects to the proposal. It recognises that the landscaped buffer will be retained between the site and the canal. However, the topography of the site means that it rises away from the canal and so the development will be prominently visible from the Coventry Canal. It considers that this development will extend a finger of built development into the presently open countryside and so diminish the attractiveness of the canal's rural setting for recreational and tourism uses.

Environmental Health Officer – No comments to make on the application other than about the proximity of housing in the northern corner of the site which is close to an area of land being used for the training of heavy plant operatives.

Warwickshire (Public Rights of Way) – It confirms that there is no objection to the scheme. However, as the Right of Way AE16 runs through the site there is a need to ensure that the balancing pond and none of the vegetation proposed encroaches on this path. This footpath needs to remain open at all times. A request is made for a contribution towards the maintenance of footpaths in the area.

Warwickshire Museum – It confirms that the proposed development lies within an area of archaeological potential and it is probable that the field has been in an agricultural use since at least the medieval period. A number of Roman and medieval period finds have been found in the area. As such they confirm that an archaeological evaluation should be undertaken on the site before the application is determined. This archaeological evaluation was undertaken and the Planning Archaeologist re-consulted.

Warwickshire Fire and Rescue Service – It requests that a planning condition regarding the provision fire hydrants on the site is imposed.

Warwickshire Wildlife Trust – The Trust confirms that the Preliminary Ecological Appraisal is suitable for determining this application and this Appraisal shows that the woodland and majority of the hedgerow will be retained and protected. A reptile survey has also been submitted. With regards to Biodiversity then at present there is a loss of 49% of the biodiversity of the site. This is due to the loss of low value improved grassland. Conditions are suggested if the application is approved.

Highway Authority – The County Council confirms that it has no objection to the proposal. Pooley Lane is a private road owned by the applicant. Because of this it does not have a speed restriction placed on it. There is a need for the new junction into the site to incorporate 'y' distances of 70 metres as a minimum in the interests of the users of Pooley Lane. Pooley Lane does not have any footways or street lighting. As such the Section 106 Agreement should ensure that the public footpath AE16 linking the site to the B5000 is surfaced with a bound material and street lighting is installed.

Warwickshire County Council's Flood Risk Management Officer – He confirms that there is no objection to the proposal subject to the imposition of a planning condition relating to the design of the surface and foul water drainage schemes.

Warwickshire County Council's Infrastructure Team – It requests monies towards Sustainable Travel Packs and Library Services.

5/35

Representations

Polesworth Parish Council – It wishes to raise the following questions related to the maintenance of the public footpath; the potential to rebuild the collapsed wall at The Lynch and whether Pooley Lane is wide enough to cope with the additional traffic.

Nine letters of objection have been submitted from local residents raising the following issues:

- The site is located within the Meaningful Gap and residents see the protection of this gap between the two settlements as being very important.
- Pooley Lane is a narrow road without any footpaths or street lighting. This highway network cannot cope with the traffic likely to be generated from this housing scheme.
- The services and schools around the site cannot cope with additional people.
- This site lies outside the Development Boundary for Polesworth and is not a preferred site as identified in the Site Allocations Plan.
- The site is important for nature conservation and is used by a variety of bird species.
- The site is in close proximity to the historic building of Pooley Hall.

Observations

a) Introduction

There have been two recent appeal decisions in the Borough which need to be taken into account during the determination of this proposal. They are material to the determination of this case. The first appeal decision relates to the issue of whether the Borough has a 5-year housing land supply. The second appeal decision relates to the wording of Policy NW19 and the weight to be given to its wording in respect of retaining the separate identities of Polesworth and Dordon and Tamworth and to maintain a meaningful gap between them.

This report will assess this proposal against the Development Plan policies in the Core Strategy and the weight to be given to these policies as a result of the conclusions made by the Inspectors when determining these two appeal decisions.

b) The Principle of Development

The site lies outside of the Development Boundary for Polesworth. Policy NW2 in North Warwickshire's Core Strategy seeks to develop a broad distribution pattern for development with more than 50% of the housing and employment requirements being provided in or adjacent to the Market Towns outside of the Green Belt and their associated settlements. Polesworth with Dordon is identified as one of these Market Towns.

This proposed site is adjacent to the development boundary for Polesworth which includes the existing development known as The Lynch. As such, the proposal accords with this Policy.

There is a public footpath which runs through the site and links it to Polesworth town centre via Tamworth Road. The Section 106 contribution sought is to surface this footpath and install street lighting to ensure that occupiers can use this path for direct access to the bus services along Tamworth Road and for the shops, services and schools in Polesworth. These pedestrian linkages comply with the requirements of Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities.

As such it is considered that the site proposed is in a sustainable location being located adjacent to a Market Town outside the Green Belt and complies with the settlement hierarchy as laid out in Policy NW2 and the criteria in Policy NW10.

The site has not been identified as a preferred housing allocation for Polesworth in the Council's Draft Local Plan. This is because the site is located within the area of land identified as a Meaningful Gap between Polesworth and Dordon and Tamworth as identified in Policy NW19 of the Core Strategy. The Council has developed guidance to inform the implementation of Policy NW19 and the draft Local Plan. Following public consultation and modification this Meaningful Gap Assessment was adopted by the Council in August 2015 as guidance to inform the implementation of Policy NW19. This guidance shows the site to be located within Area 2 due to its higher sensitivity to development impact as it follows the broad, eastern corridor of the M42. The guidance further goes on to say that small scale very limited development may be able to be accommodated in this area.

As this proposal is for the development of the majority of the site for up to 40 housing units, it would not be classed as being small in scale and so would be contrary to the guidance informing Policy NW19. However, this is where Members need to be made fully aware of the implications of the two recent appeal decisions on housing land supply and the wording of Policy NW19 before making a decision on this application.

Policies NW2 and NW19 are policies which control the supply of housing. Paragraph 49 of the NPPF states that:

"Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."

Accordingly, the Council must demonstrate that it has a five year land supply for its Development Plan to be considered up to date and for the relevant policies controlling the supply of housing to carry significant weight.

In the Ansley appeal decision the Inspector gives weight to the more recent housing need evidence from 2015 for the Coventry and Warwickshire housing market area (CWHMA) 2011-2031, which shows that the Council's objectively assessed need has increased to 4740, which includes allowance for an economic uplift in both the Coventry and Warwickshire Housing Area as well as the neighbouring Greater Birmingham, Solihull and Black Country housing market area. Furthermore, the Council has agreed to accept an additional 540 dwellings redistributed from Coventry and Warwickshire thus its total housing requirement is 5280. It is acknowledged that this new requirement is set out in policy LP6 of the emerging North Warwickshire Local Plan.

As such the Inspector found that the Council's housing need would increase from that advocated in Core Strategy policy NW4. Whilst it is acknowledged that the Core Strategy is just two years into adoption, the 2015 evidence is significant and new, irrespective of the age of the development plan and therefore it should form the basis of calculating the housing requirement.

Therefore the Inspector found that on the evidence before them, the Council's five year housing supply figure is closer to a 3.5 years supply.

The Council will be producing a revised housing land supply figure in March 2017 which will include the two large sites which were discounted by the Inspector the one in Ansley and the Old Holly Lane application in Atherstone. This should result in the Council's housing land supply being closer to 5 years rather than 3.5 years. However, it is unlikely to show that the Council does have a 5 year housing land supply.

Bullet point 4(1) of paragraph 14 of the Framework is engaged because the Council cannot demonstrate that it has a five year supply of housing at this moment in time. This is reinforced by the fact that the Council is not progressing its Draft Site Allocations Plan and Draft Development Management Plan such that there have been delays in bringing forward housing sites through a Local Plan to meet the housing requirement.

Paragraph 14 of the Framework states that a presumption in favour of sustainable development exists and should be seen as a golden thread running through decision-taking. This paragraph states that Councils should:

- Where the development plan is absent, silent or relevant policies are out of date, grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

As such there is a presumption that the principle of residential development is accepted in this sustainable location at the present time. However, the test that needs to be fulfilled in accordance with paragraph 14 is whether the adverse impacts of granting a planning permission here for housing would significantly and demonstrably outweigh the benefits.

The main impacts of approving a residential development site in this location are:

- The impact on the meaningful gap between Polesworth and Dordon; and
- the impact on the character and appearance of the area.

c) The Meaningful Gap

The maintenance of a strategic gap between Polesworth and Dordon and Tamworth has been a longstanding planning policy objective for the Council, and is very important locally. This is undisputed and is referred to in Core Strategy Policy NW19. It states that proposals "...to the west of Polesworth and Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them."

At the St Modwen appeal, the Inspector found that there was no definition of what constitutes a 'meaningful gap' within the Core Strategy, or any other adopted development plan document. Instead, a judgement is required based on the evidence available, which includes the Council's 2015 *Meaningful Gap Assessment* ('MGA').

As already identified in this report, the MGA identifies the application site within Area Two.

The Inspector determining the St Modwen appeal stated that although the MGA has been subject to consultation and is a material consideration used to support the emerging Local Plan, the starting point is the adopted Core Strategy. In the Core Strategy the relevant test is whether or not a meaningful gap would be maintained to the west of Polesworth and Dordon and Tamworth.

The land to the south of this site is not located within the Meaningful Gap as this contains the development known as The Lynch. The fields between Pooley Lane and the motorway will remain undeveloped and so there is an argument that the development of this site will extend the development along this side of Pooley Lane but will ensure that there is a defined gap between the proposed development and the open fields to the west of Pooley Lane.

Draft Policy LP5 in the emerging *North Warwickshire Local Plan* includes a third criterion that all new development in the 'gap' should be small in scale, not intrude visually into the gap, or physically reduce its size. However, the plan is only at the draft stage and consultation is still on-going. Bearing in mind that they may be subject to change, the Inspector in the St Modwen appeal did not give Policies LP5 and LP2 any significant weight in reaching their decision.

Therefore, when assessing the proposal against the wording of Policy NW19 in the adopted Core Strategy, development on this site will still maintain a meaningful gap between the west of Polesworth and Tamworth. This is coupled with the fact that Policy NW19 is not a housing delivery policy and thus has moderate weight, whilst the Council cannot demonstrate a five year housing land supply.

d) The impact on the character and appearance of the area

The proposed site is an enclosed field. From Tamworth Road the site itself is obscured by the development known as The Lynch. From the Coventry Canal the site is obscured by the mature boundary trees and hedges along the Canal and along the public footpath to the east. However, in view of the topography of the site which steeply slopes away from the Canal up towards Pooley Lane, the site is visible from the village of Polesworth. At present, views from Polesworth towards the west are of open countryside. The development plateau as proposed would involve dwellings being built along Pooley Lane and so these would be clearly visible when viewed from Polesworth.

In comparison, although the adjoining development at The Lynch has been constructed on this steep slope, the development has only been built half way up this slope and does not extend up to Pooley Lane. The property along Pooley Lane in this location is a bungalow and in virtue of its height there are limited views of The Lynch development and this bungalow from Polesworth.

The Inland Waterways Association object to the proposal on the upper reaches of this site due to the potential for this development to obscure views from the Canal into the attractive open countryside. Indeed, this was also one of the reasons why the site was

not allocated as a preferred site in the Draft Local Plan as it is a prominent site in the landscape due to its topography.

Public Right of Way AE16 runs alongside the eastern boundary of the site, and from here this is an attractive field which positively contributes to the overall rural character and appearance of the area. The site is surrounded by expansive open countryside to the west.

The loss of open countryside land and an attractive field would amount to harm to the character of the area. Policy NW12 of the Core Strategy is predominately a design policy and states that all development proposals must demonstrate a high quality of sustainable design that positively improves the individual settlement's character, appearance and quality of an area. The policy is relevant to the determination of the proposal and there would be some conflict with it for this reason.

Being an elevated site its loss would be widely felt. As such it is considered that the development plateau shown on the Masterplan and the indication that the proposal would accommodate 40 dwellings would cause a significant level of harm to the character and appearance of the village and to the landscape character and visual receptors. This harm would be significant.

The applicant's agent has indicated that they wish to work with the Council in order to design a residential scheme which reduces these impacts on the character and appearance of the area to a more acceptable level. They propose to amend the scheme to:

- i) Include the entire landscape buffer alongside the Canal which is within their ownership to be included in the planning application site boundary. Planning conditions can then be imposed on this buffer as well as Heads of Terms in the Section 106 Agreement to ensure that the trees and hedgerows in this location and around the site are protected and enhanced and that these areas are maintained in the future.
- ii) Reduce the development plateau being applied for so that a buffer strip is incorporated into the scheme along Pooley Lane. This will also compensate for the loss of hedgerow required in order to achieve visibility splays of 70 metres. A large area of land to the north and north-west of the site will become a landscaped area and so is excluded from any development. This will also address the concerns being raised by the Environmental Health Officer with regard to noise from the neighbouring commercial uses as well as address the concerns raised regarding the loss of biodiversity. Any impacts on the setting of Pooley Hall which is a Listed Building will also be lessened.
- iii) Lower the levels of the site towards Pooley Lane but excluding this buffer strip.
- iv) Reduce the numbers of units being applied for in recognition of the reduction in the development plateau. A more suitable number would appear to be 30 dwellings.

It is the opinion of Officer's that if these amended plans are submitted then this will reduce the impact of development on this site on the character and appearance of the countryside in this locality. Although there will still be an impact, it is considered that the weight to be given to this impact could lessen to moderate. Members are invited to decide whether, on balance, the Board can support an amended scheme.

e) Highway Infrastructure

The Highways Authority has no objections to the increase in traffic along Pooley Lane or at its junction with the B5000 Tamworth Road as a result of this scheme. They acknowledge that Pooley Lane is a private highway which is not maintained by the Highway Authority. They do raise concerns that although the speed limit on this private road is 30mph, this is not so evident in ways that it would usually be in a publicly maintained highway as the road does not have repeater speed limit signs or street lighting. As such, they recommend that a condition is imposed to ensure that the visibility splays from the new access onto Pooley Lane are a distance of at least 70 metres.

Concerns are also raised about Pooley Lane's lack of street lighting and footways making it unattractive for pedestrians and cyclists to use. They do, however, recognise that the majority of pedestrians will use public footpath AE16 as being the quickest route into Polesworth and Pooley Country Park. As such, improvements to this footpath are required before any of the dwellings are occupied to provide for surfacing in a bound material and street lighting for its length from its whole length within the development site up to the public highway of the B5000 Tamworth Road.

As such, it is considered that an amended scheme here showing an increase in the visibility splays and improvements to public footpath AE16 will mean that the proposed scheme complies with Policy NW10 (Development Considerations) in the Core Strategy and Policies TPT1, TPT3 and TPT6 in the North Warwickshire Local Plan 2006.

f) Loss of Biodiversity

Warwickshire Wildlife Trust raises concerns about the loss of biodiversity through the development of this site. Through the use of WCC's Biodiversity Impact Assessment calculator, the original plans show a loss to biodiversity of 1.72 biodiversity units resulting from this development. This is as a result of the loss of poor improved grassland.

Paragraph 118 of the NPPF states that when determining planning applications, Authorities should aim to conserve and enhance biodiversity by applying the principle of if significant harm resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

The amended plans being sought from Officers will reduce the amount of land which is developed. These areas of land can be planted to offset the loss of this poor improved grassland habitat. There is also the possibility of planting mature native trees such as beech, English Oak and field maple in these areas.

The Trust also recommends that planning conditions are imposed on the need for a construction environment management plan, a Landscape and Ecological Management Plan and a Lighting Design Strategy for light-sensitive biodiversity. Compliance with these conditions will protect the biodiversity value of this site.

As such it is considered that in accordance with the requirements of the NPPF, significant harm to biodiversity is reduced if the development plateau is reduced in area to allow these areas to be set aside for biodiversity enhancements and through the retention and management of the existing vegetation on the site.

g) Impact on the Archaeological Value of the Site

Concerns have been raised by the Planning Archaeologist at Warwickshire County Council regarding the potential for the site to contain Roman remains. The site lies approximately 170 metres from Pooley Hall which is a Listed Building and its eastern boundary adjoins the Coventry Canal which is a heritage asset and Polesworth Conservation Area which is some 300 metres away.

Following these concerns, an Archaeology Report has been submitted by the applicant. The Report concludes that although the site is within a sensitive heritage location, development on this site will not greatly affect the significance of these known heritage assets. The amendments to the scheme as recommended in the character and landscape section to reduce the amount of built development to the north and north-west of the site will lessen the impact on the setting of Pooley Hall and on views from the Canal and the Conservation Area.

The Archaeology Report acknowledges that it is possible that the site contains as yet unidentified earth fast archaeological remains from previous occupation of the site. As the application is submitted in outline and so there is flexibility on where the development can take place on the site, it is recommended that a planning condition is imposed requiring a programme of archaeological works to be undertaken on site before the submission of any reserved matters applications. This works will include a geophysical survey followed by a programme archaeological trial trenching.

As such it is considered that amendments to the scheme as proposed by the applicant will address any concerns raised about the potential for development on this site to impact on the setting of the heritage assets in the locality.

h) Residential amenity

With regards to the residents to the north and south of the site, the application is submitted in outline format and so any reserved matters application can ensure that the units are all orientated to have their rear gardens backing onto any rear gardens of these existing residential properties. The proposal to reduce the levels on site will reduce the impact on the residents at The Lynch. The proposal to reduce the development plateau to the north and north-west will also reduce the impact on the residents at Gardeners Cottage.

As such it is not considered that there will be a significant loss of privacy or loss of light from the proposal for the residents to the north and south of the site. The proposal thus complies with Policy NW10 (Development Considerations) in the Core Strategy 2014.

i) Affordable Housing

Policy NW6 (Affordable Housing Provision) requires that 40% of the dwellings shall be affordable units. This can be required through a Section 106 Agreement whereby 40% of the dwellings are affordable units with 85% of these units being socially rented units.

j) Access to services and education

A number of the objections received raise concerns about the pressure on the existing services in the area from the occupiers of these units. Warwickshire County Council has not asked for any contributions towards education from this proposal. A contribution is required towards the provision and improvement of open space in Polesworth. There

have been no objections raised by the NHS regarding the provision of medical services in the area.

Conclusions

The scheme involves the development of this field in the open countryside and within an area of land categorised as the Meaningful Gap between Polesworth and Tamworth. As discussed, although Policy NW2 encourages the development of land adjoining the development boundaries of the Market Towns outside of the Green Belt, there are other policies in the Core Strategy which the development of this site conflicts with. The weight given to these other policies in this report has been substantial and so normally this application would need to be considered for refusal.

However, Members have been made aware of the implications of the two recent appeal decisions in the Borough and how they impact materially on the determination of this application. Whilst the Council cannot demonstrate a five year housing land supply, there is a presumption to approve sustainable development without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

It is considered that the development plateau shown on the Masterplan and the indication that the proposal would accommodate 40 dwellings would cause a significant level of harm to the character and appearance of the village and to the landscape character and visual receptors. This harm would be significant.

As indicated in the report the applicant's agent wishes to work with the Council in order to design a residential scheme which reduces these impacts on the character and appearance of the area to a more acceptable level. It is the opinion of Officers that if these amended plans are submitted then this will reduce the impact of development on this site on the character and appearance of the countryside in this locality. Although there will still be an impact, it is considered that the weight to be given to this impact could lessen to moderate. Members are invited to decide whether, on balance, they can support an amended scheme. This amended scheme will then be reported back to the Planning and Development Board at a later meeting.

Recommendation

That the Board is minded to support an amended scheme being submitted on this site and that the matter be reported back to an early meeting of the Board for a determination. The amendments should:

- i) include the entire landscape buffer alongside the Canal which is within their ownership in the planning application site boundary. Planning conditions can then be imposed on this buffer as well as in the Heads of Terms in the Section 106 Agreement to ensure that the trees and hedgerows in this location and around the site are protected and enhanced and that these areas are maintained in the future.
- ii) reduce the development plateau being applied for so that a buffer strip is incorporated into the scheme along Pooley Lane. This will also compensate for the loss of hedgerow required in order to achieve visibility splays of 70 metres. A large area of land to the north and north-west of the site will become a landscaped area and so excluded from any development. This will also address the concerns being raised by the Environmental Health Officer with regard to

5/43

noise from the neighbouring commercial uses as well as address the concerns raised regarding the loss of biodiversity. The impacts on the setting of Pooley Hall which is a Listed Building will also be lessened.

- iii) Lower the levels of the site towards Pooley Lane but excluding this buffer strip.
- iv) Reduce the numbers of units being applied for in recognition of the reduction in the development plateau. A more suitable number would appear to be 30 dwellings.

BACKGROUND PAPERS

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

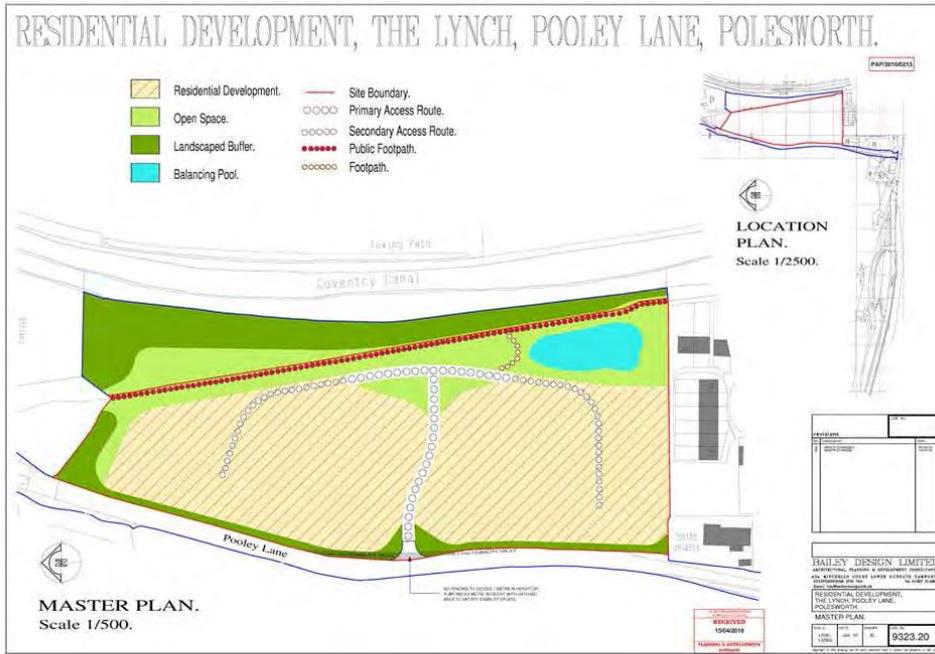
Planning Application No: PAP/2016/0213

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/5/16
2	Press Notice	Atherstone Herald	9/6/16
3	R Clark	Objection	18/6/16
4	L Smith	Objection	16/6/16
5	S Lea	Objection	2/6/16
6	T Owens	Objection	7/6/16
7	B Coley	Objection	10/6/16
8	L Taft	Objection	13/6/16
9	Inland Waterways	Objection	3/6/16
10	Pollution Control Officer	Consultation	9/6/16
11	Planning Archaeologist	Consultation	8/6/16
12	Fire Officer	Consultation	8/6/16
13	Wildlife Trust	Consultation	7/6/16
14	Agent	E-mail	27/6/16
15	Highways Authority	Consultation	30/6/16
16	G Smith	Objection	11/7/16
17	WCC Flood Risk Officer	Consultation	4/7/16
18	Planning Archaeologist	Consultation	3/8/16
19	Polesworth Parish Council	Consultation	8/7/16
20	S Wilkinson	Letter	8/8/16
21	J Price	Objection	27/6/16
22	WCC Infrastructure Team	Consultation	27/6/16
23	Snr Pollution Control Officer	Consultation	27/6/16
24	WCC Rights of Way	Consultation	16/6/16
25	M Williams	Objection	22/9/16

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





Appeal Decision

Inquiry held on 8, 9 and 10 November 2016

Site visit made on 10 November 2016

by **R W Allen B.Sc PGDip MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 January 2017

Appeal Ref: APP/R3705/W/16/3149572

Land North of Nuthurst Crescent, Ansley, Warwickshire CV10 9PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C R Muller (Muller Property Group) against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2015/0370, dated 16 June 2015, was refused by notice dated 10 November 2015.
 - The proposal is development of up to 79 residential units and associated access.
-

Decision

1. The appeal is allowed and outline planning permission is granted for development of up to 79 residential units and associated access at Land North of Nuthurst Crescent, Ansley, Warwickshire CV10 9PJ in accordance with the terms of the application, Ref PAP/2015/0370, dated 16 June 2015, subject to the conditions set out in the Schedule of Conditions at the end of this decision.

Application for Costs

2. At the Inquiry an application for costs was made by Mr C R Muller (Muller Property Group) against North Warwickshire Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. The appeal proposal is in outline form, with all matters reserved for subsequent approval with the exception of access. Any other details shown which would be a reserved matter, such as the layout, I shall treat as being indicative only. An obligation under Section 106 of the Planning Act is before me dated 7 November 2016 which makes provisions for local facilities and infrastructure, which I discuss further below.

Main Issues

4. As the Statement of Common Ground deals with all other matters, the main issues are:
 - The effect of the proposed development on the character and appearance of the village of Ansley; and
 - Whether the Council is able to demonstrate that it has a five year supply of deliverable housing sites.
-

Reasons

Character and appearance

5. The appeal site is an enclosed field located adjacent to the northern settlement edge of the village of Ansley. From Tunnel Road the site itself is obscured by boundary trees and hedges but it is visible from Nuthurst Crescent and the Public Right of Way (PRoW) which runs alongside the southern boundary of the site, and from here I find it to be an attractive field which positively contributes to the overall rural character and appearance of the area. The appeal site is surrounded by expansive open countryside to the north and east.
6. The proposed development would, in relative terms, amount to a significant increase in the quantum of dwellings for Ansley. However because of its reasonably enclosed nature, the proposed development would not have any significant effects on the Church End to Corley-Arden Hills and Valleys Landscape Character Area (LCA), in which the appeal site lies. From what I observed at my site visit, the substantial visual effects from the scheme would be experienced only when seen by receptors adjacent to the unenclosed southern boundary and the PRoW, so the visual harm would be localised and limited. Contrary to the Council's assertion, I did not observe any particular noteworthy facet of the allotment gardens when seen from Tunnel Road. As such I am satisfied that all medium and long-range views of the development would not have significantly harmful visual effects.
7. The Council's main concerns however centre on the fact that the proposed development would fail to respect the settlement morphology of Ansley which it says is defined by a historic pattern of linear growth along Birmingham Road, and its resultant staggered and irregular eastern village edge. The morphology of the settlement is not disputed by the appellant. I observed this to be particularly perceptible and understood on the western side of Birmingham Road, where a single row of road frontage exists with few buildings behind, and where views of the open countryside are apparent and visible through the gaps between the properties.
8. The eastern side of Ansley is notably different in character, as much but not all of the defined linear urban grain has been enclosed at the rear by extensions to the village with residential development in Nuthurst Crescent, Croft Mead, Malthouse Close, Ludford Close and St Lawrence Road. Although the two are easily identifiable and distinguishable from one another, the newer dwellings nonetheless now form an integral part Ansley's overall character, and have changed the original linear pattern of the village.
9. The proposed development would not be visible or apparent when travelling along Birmingham Road, such that the original linear pattern would remain unaffected and the origins of the village morphology would not be lost. Because of the current layout of Ansley, there would to some extent be a concentration of housing at the south eastern end of the village as a result of the proposed development. However, the existing residential development in St Lawrence Road, and the forthcoming units to be constructed on a plot of land identified at the Inquiry as 'ANS4', both of which lie at the northern end, would ensure Ansley would not be notably or unduly unbalanced.
10. The proposed development would not extend the built form of the village any further into open countryside beyond the existing development in St Lawrence

Road. While the eastern settlement edge would effectively be redrawn as a result of the scheme, the irregular and staggered edge would evidently remain albeit in a different form. Thus one of the key characteristics of the village would not be compromised.

11. The loss of open countryside land and what I have found to be an attractive field would amount to harm to the character of the area. Policy NW12 of the North Warwickshire Core Strategy (Core Strategy) is predominately a design policy and such matters are not before me. Nevertheless the policy states that all development proposals must demonstrate a high quality of sustainable design that positively improves the individual settlement's character, appearance and quality of an area. The policy is relevant to the determination of the appeal and there would be some conflict with it for this reason.
12. However, its enclosed nature is such that the loss would not be widely felt. I am satisfied for the reasons set out above that the proposed development itself would not cause a significant level harm to the character and appearance of the village overall, or the landscape character or visual receptors. The overall harm would be moderate to which I attach some weight to in my decision.

Five year housing land supply

13. Paragraph 47 of the Framework requires local planning authorities to ensure that their local plans meet in full the objectively assessed needs (OAN) in their housing market area, and to identify and update sites sufficient to provide five years' worth of housing against their housing requirements, with an additional buffer of 5 or 20%.
14. Core Strategy policy NW4 states that within the plan period (2011-2029) a net amount of 3650 dwellings will be built, equating to 203 dwellings per annum (dpa). This requirement is underpinned by the Strategic Housing Market Assessment (SHMA) from 2013, and which also includes a provision of 500 additional dwellings to meet the needs arising from the neighbouring authority of Tamworth. However, the Council's five year housing calculations for the appeal do not include the Tamworth provision, and I find no evidence before me, particularly having regard to the Inspector's report into the Core Strategy, which supports this approach. I find the Council's argument that it can accordingly demonstrate a 9.4 years housing supply is accordingly unsound. That said, the Council maintains that, even adopting the 203 dpa requirement, it can still demonstrate a very healthy housing supply.
15. The main parties dispute the appropriate housing requirement. This is because a more recent SHMA from 2015 for the Coventry and Warwickshire housing market area (CWHMA) 2011-2031 shows that the Council's OAN has increased to 4740, which includes allowance for an economic uplift in both the CWHMA as well as the neighbouring Greater Birmingham, Solihull and Black Country housing market area (GBS&BCHMA). Furthermore, the Council has agreed to accept an additional 540 dwellings redistributed from the CWHMA, thus its total housing requirement is 5280. This new requirement is set out in policy LP6 of the emerging North Warwickshire Local Plan (emerging Local Plan), and the Council cites no impediment to meeting this requirement in full.
16. The Council says that because the 2015 SHMA, and indeed the emerging Local Plan, have not yet been subjected to external examination, it should be afforded little weight. I understand why the Council has formed this view, as

indeed it is entirely plausible that the evidence underpinning the 2015 SHMA will be tested when it is subjected to the development plan examination. However, I find nothing before me which doubts the inevitability that the Council's housing need will increase from that advocated in Core Strategy policy NW4. What remains to be tested is the amount of this increase. However on the evidence before me, I find it likely that the increase would be considerable. While the Core Strategy is just two years into adoption, and I acknowledge the Framework's requirement in paragraph 17 that planning should be genuinely plan-led, I nevertheless find that the 2015 SHMA is significant new evidence irrespective of the age of the development plan, and that it should form the basis of calculating the housing requirement.

17. Emerging Local Plan policy LP6 also makes an additional provision for 3790 dwellings from the GBS&BCHMA. Combined, the policy states that 9070 dwellings will be required in the emerging Local Plan period. However as the emerging policy states, this element of housing provision is only an aspiration, and the Council states that this is predicated on the need for infrastructure provisions being delivered. No evidence is before me as to what additional or new infrastructure would be needed or indeed whether it would be realistic to consider that it could be delivered. Whether the Council can accommodate these additional dwellings is therefore unproven and considerably doubtful at this stage and prior to the development plan examination, and I do not find it appropriate to consider 9070 dwellings as the housing requirement. The impeding adoption of the Birmingham Development Plan does not alter my findings on this matter.
18. It was established at the Inquiry that, basing the housing requirement on 5280, the Council's five year housing requirement including the addition of shortfall in line with the Sedgefield approach, and a 20% buffer, is 2358 dwellings to the year 2020/21, equating to 472 dpa. The main parties agree that assessed against such a requirement, the Council can only demonstrate a 4.9 years housing supply assuming all of its projected and forecasts sites, amounting to 2331 were to come forward in the next five years. However, the appellant disputes some of these sites which he says reduces housing supply to 2.8 years.
19. I find that the majority of the questioned sites would, individually, not deliver large numbers of dwellings on them. Even accounting for the issues which are currently preventing those sites from coming forward now, I heard little persuasive evidence to suggest that their delivery would be unlikely or insurmountable in the next five years. As such I am prepared to give the benefit of the doubt to the Council. However, I heard at the Inquiry that two sites where considerable numbers of housing are forecast in the next five years, identified as 'Holly Lane, Atherstone' and 'Orchard Colliery' for 300 and 385 units respectively, either do not benefit from all necessary planning permissions; do not have developers on board; or require the delivery of improved or new infrastructure. The Council was unable to confirm whether both sites are at a stage where their delivery would be imminent and at the rate necessary to achieve the forecasts set in the five year supply. I must therefore cast some doubt that these sites will deliver at the rate the Council suggests, and I have accepted the appellant's likely and considerably reduced forecasts for the said sites.

20. I therefore find, on the evidence before me and deducting the above sites from the forecast, that the Council's five year housing supply figure is closer to 3.5 years supply. I have not included a lapse or non-implementation rate in this calculation. While many local authorities do apply such a figure, there is no policy or guidance which requires it and the evidence before me is not sufficient to persuade me that one should be applied. In any event, I note the Council has not made any provision for windfall sites in its five year housing figures. If I applied both, it would have little overall bearing on my findings on the absence of a five year housing supply.
21. In reaching my conclusion on this matter, I acknowledge the chain of events prior to the Inquiry and the late questioning of supply sites by the appellant and its reasons for doing so, and the Council's decision to respond orally to this at the Inquiry in order to 'keep the show on the road'. However, on the two sites I have found doubtful to be delivered in the coming five years, the Council did not indicate a need for additional time to produce rebuttal evidence or that written submissions on these sites would have added anything further over the oral evidence the Council gave. Even if I were to accept the written explanations from the Council, it would not alter the agreed position between the parties that a five year housing supply could not be demonstrated.
22. I have also had regard to the two appeal decisions advanced by the Council as relevant to the appeal before me (*Ref: APP/R3705/W/16/3150188 for Delves Farm, Boulters Lane, Wood End, and APP/R3705/W/16/3150719 at 78 Tamworth Road, Polesworth*). In both cases, the Inspectors were tasked with examining the effect of the proposed development on the character and appearance of their respective areas. Neither Inspector was asked to determine the Council's five year housing land supply position nor the balancing exercise required thereafter. I can draw little direct comparisons from these decisions. In any event, I have made my decision on the evidence before me.
23. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The Council accepts that in the event that a five year supply of housing cannot be demonstrated, Core Strategy policies NW1, NW2, NW4 and NW5 are relevant housing policies and in such circumstances are out-of-date.
24. I have nonetheless afforded moderate weight to them in my decision particularly Core Strategy policies NW2 and NW5, which seek to promote sustainable growth via a settlement hierarchy, which I find consistent with Framework's approach to sustainable development. Core Strategy policy NW2 states that Ansley is a 'Category 4' settlement, and Core Strategy policy NW5 identifies a minimum of 40 dwellings for the village which I am told has already been exceeded and on sites of no more than 10 units. As I have set out above, the proposal would result in a sizeable increase in residential dwellings in the village, and significantly more than envisaged in Core Strategy policy NW5. However, these figures are a minimum requirement, and should be viewed in the context of my findings that the council cannot demonstrate a five year supply of housing land and by the level of harm it would cause, which I have already identified as being moderate.

Other Matters

25. Concerns have been raised in respect of the effect of the proposed development on the local highway network particularly from the location of the access point onto the busy Tunnel Road, and whether this would undermine highway safety for oncoming traffic. I observed at my site visit that Tunnel Road was moderately busy and there was a steady stream of fast travelling cars in both directions. As I discuss below, the appellant will be obligated to pay for the extension of the 30 mph zone to include the access to the appeal site. With that in mind, no evidence is before me to demonstrate that any material harm would occur from the proposed development and its access, or that the junction could not be adequately designed to ensure sight lines would be effective to ensure adequate egress. Neither the Council nor Warwickshire County Council as the highway authority has raised this as an issue.
26. Concerns have also been raised as to the effect of the proposed development on existing infrastructure, and that there is little in the way of shops or services to meet additional dwellings. My attention has been drawn to additional development in the neighbouring borough, the boundary of which adjoins the eastern and northern edges of the appeal site. However, insufficient evidence is before me to suggest that the proposed development would place an undue burden on services so I can afford little weight to this in my decision.

Planning Obligations

27. The Council seeks a financial contribution of £6000 towards a traffic regulation order to extend the 30 mph speed limit further along Tunnel Road to include the access from the proposed development. The Council also seeks a provision for 40% affordable housing from the scheme.
28. Paragraph 204 of the Framework says requests for planning obligations must meet three tests, which are: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably relate in scale and kind to the development. Paragraph 50 of the Framework seeks that development provides a wider choice of housing. The appellant has not advanced any objections to the content of the obligation. In light of the evidence before me, including the responses from the Council, I am satisfied that obligation would be consistent with the tests of Framework and with the provisions contained within the Community Infrastructure Levy Regulations 2010 in respect of pooled contributions.
29. The Council also seeks monitoring costs totalling £1250. However, no written justification for this requirement is before me, particularly given that the obligation is in the form of a unilateral undertaking and as such it is not obvious what monitoring would be required. Therefore I have not taken the monitoring contribution into account in my decision.

Conditions

30. I have considered the conditions suggested by the Council against paragraph 206 of the Framework, and made changes necessary to comply with those requirements.
31. A condition specifying the numbers of dwellings that can be developed on the appeal site is necessary for the avoidance of doubt. Because of the proximity of the railway line to the site, I am satisfied that a condition restricting pile

driving is necessary to ensure such works would cause no harm to the rail infrastructure. A condition requiring the details of surface water drainage is necessary in the interests of sustainable construction. While no specific evidence of the presence of bats is before me, a condition requiring a survey prior to removal of any trees on site is necessary as a precautionary measure and in the interests of habitat preservation. A condition requiring details of pedestrian and cycle routes through the site is necessary to promote sustainable access and movement. A condition for the submission and approval of a construction management plan is necessary in the interests of the living conditions of occupiers of surrounding properties.

32. The Council has suggested a condition requiring compliance with the two approved plans. However, one relates only to the red line plan and as such it is not necessary. A condition is required to ensure the vehicular access is taken from Tunnel Road as shown on the second drawing. But because there is insufficient detail of it on the submitted drawing, I find that a further condition is necessary requiring details of the access from Tunnel Road, and I incorporate details on visibility splays within the wording to be submitted to the Council.
33. Matters relating to foul sewage are controlled under other legislation. Insufficient evidence has been advanced by the Council for the need for a scheme for the provision of adequate water supplies and fire hydrants on the site. These conditions I find are unnecessary and I have not imposed them.

Planning Balance and Conclusions

34. Bullet point 4(1) of paragraph 14 of the Framework is engaged because I have found that the Council cannot demonstrate that it has a five year supply of housing. This is reinforced by the fact that the Council is not progressing its Draft Site Allocations Plan and Draft Development Management Plan such that there have been delays in bringing forward housing sites through a Local Plan to meet the housing requirement. Paragraph 14 of the Framework states that a presumption in favour of sustainable development exists and should be seen as a golden thread running through decision-taking. Where the development plan is absent, silent, or relevant policies for the supply of housing are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
35. I agree with the main parties that the proposed development would have social and economic benefits in providing new dwellings to meet the needs of present and future generations, would provide local construction employment opportunities and support accessible local services. The proposed development would also make worthwhile contributions to the supply of housing and affordable housing in the borough and help contribute to the five year supply. I attach considerable weight to these benefits. As I have stated above, developing an open and attractive field would inevitably result in harm to the character and appearance of the area but for the reasons I have already outlined above, this harm would be moderate.
36. In applying the tilted balancing exercise required by bullet point 4(1) of paragraph 14 of the Framework, I find that the moderate level of environmental harm I have identified would not significantly and demonstrably outweigh the benefits of the scheme. I therefore find the proposal would

amount to sustainable development in accordance with the Framework when taken as a whole, and that a presumption lies in its favour. The proposed development would conflict with Core Strategy policies NW1, NW2, NW4 and NW5, which seek to direct growth towards a settlement hierarchy. However for the reasons given above, these policies are out-of-date and only moderate weight can be attached to them. I find that the presumption in favour of sustainable development outweighs this conflict and that with Core Strategy policy NW12, details of which I have outlined above.

37. For the reasons given above I conclude that the appeal should be allowed.

R Allen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to the Local Planning Authority for approval in writing before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No more than 79 dwellings shall be constructed on the site.
- 5) No vibro-impact or piling works shall be undertaken on the site unless in accordance with a scheme which has first been submitted to the Local Planning Authority for approval in writing.
- 6) No development shall commence on site until a detailed surface water drainage scheme for the development based on sustainable drainage principles and an assessment of the hydrological and geo-hydrological context of the site has been submitted to the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details.
- 7) The means of vehicular access shall be carried out as illustrated on the approved drawing Sketch Layout 2 MP5002 SK02.1.
- 8) No development shall take place until a details of the site's vehicular access and visibility splays on to Tunnel Road has first been submitted the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details prior to occupation of the dwellings. There shall be no obstruction of any kind within the approved visibility splays.
- 9) No development shall take place until a scheme to provide for both pedestrian and cycle access into the development hereby approved from Nuthurst Crescent has first been submitted the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details prior to occupation of the dwellings.
- 10) No development shall take place on site until a Construction Management Plan has been submitted to the Local Planning Authority for approval in writing, which shall remain in force throughout the construction period. The Plan shall provide details of the arrangements for:
 - Details of the location of storage compounds, haul roads and car parking for site operatives and visitors;
 - Details of the hours of working and the hours of delivery of goods, plant and materials;
 - Wheel washing facilities and any dust suppression measures;
 - Noise control during construction;
 - Site lighting details;
 - Measures for the protection of trees that are to be retained;

- Details of household refuse from occupied dwellings during construction; and
 - Details of the contact for any local concerns with the construction activities of the site.
- 11) No development shall take place until a bat survey has been undertaken in respect of all of the trees to be removed and the findings together with any mitigation measures have first been submitted to the Local Planning Authority for approval in writing.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jack Smyth of Counsel Instructed by Mr Steve Maxey

He called:

Mrs Dorothy Barratt Planning Officer
BA (Hons) DUPI MRTPI

FOR THE APPELLANT:

Mr Killian Garvey of Counsel Instructed by Mr Charles Robinson

He called:

Mr Carl Taylor TPM Landscape
BA (Hons) DipLA CMLI

Mr Charles Robinson DLP Planning
B Tech (Hons) MPhil MRTPI

Mr Alex Roberts DLP Planning
BA (Hons) MRTPI

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Document entitled 'Select Committee on National Policy for the Built Environment Building better places' by www.parliament.uk
2. Strategic Housing Land Availability Assessment 2015
3. Table of housing completions and expired permissions 2006/07 to 2015/16
4. Updated Unilateral Undertaking dated 7 November 2016
5. Folder of Core Documents of Legal Submissions
6. Extract of the South Oxfordshire Local Plan 2032 Preferred Options dated June 2016
7. Table on the agreed position between the parties on the five year housing position assuming different scenarios

Appeal Decision

Inquiry held on 20-22 September 2022

Site visit made on 23 September 2016

by **Matthew Birkinshaw BA(Hons) Msc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 November 2016

Appeal Ref: APP/R3705/W/15/3136495

Land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by St Modwen Developments Ltd against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2014/0648, dated 17 December 2014, was refused by notice dated 11 August 2015.
- The development proposed is the development of land within Use Class B1(c) (light industry), Use Class B2 (general industry), and Use Class B8 (storage and distribution), demolition and removal of existing structures and associated works. Details of access submitted for approval, all other matters reserved.

Decision

1. The appeal is allowed and outline planning permission is granted for the development of land within Use Class B1(c) (light industry), Use Class B2 (general industry), and Use Class B8 (storage and distribution) and demolition and removal of existing structures and associated works on land south east of the M42 Junction 10, Tamworth, Warwickshire, B78 2EY in accordance with the terms of the application, Ref PAP/2014/0648, dated 17 December 2014, subject to the conditions in the schedule at the end of this decision.

Procedural Matters

2. The application was submitted in outline with all matters reserved except for access. I have therefore determined the appeal on the same basis, treating the layout, landscaping, scale and appearance of the scheme as indicative.
3. After the deadline for submissions the appellant provided a Supplementary Proof of Evidence on behalf of Peter Leaver. Although this introduced new information it responded to the Council's *Addendum to the 2013 Employment Land Review* which had only become available in late July 2016. It was therefore not possible for the appellant to address its content any sooner. The addendum also represents the most up-to-date evidence concerning employment land in the area and is directly relevant to the appeal. For these reasons, and considering that the Proof responded to the issues in dispute, was made available to the Council prior to the Inquiry, and discussed throughout, taking it into account would not prejudice the interests of other parties.

4. The appellant also provided a copy of a Council Board Report concerning new commercial development under consideration at Hams Hall, Coleshill (Ref PAP/2016/0399). As the report was dated 5 September 2016 it was not possible to include this information either. The report is also a public document, raises issues relevant to the appeal proposal and was discussed at the Inquiry. I have therefore taken it into account in my decision.
5. In response to the appellant's late submissions the Council provided additional material of their own. As this evidence relates directly to the points raised by the appellant, in the interests of fairness I have considered it as part of the appeal. Furthermore, appeal decision APP/R3705/W/16/3150719 is dated 9 September 2016, and could not have been submitted any sooner.
6. On the final day of the Inquiry a signed and dated Section 106 Agreement and a signed and dated Unilateral Undertaking were submitted. Both documents had previously been provided in draft and did not introduce any substantive new information that had not already been available. On this basis, and because it would not prejudice the interests of any party, I have considered both documents in reaching my decision.
7. Finally, following the Inquiry the Council confirmed that it had reached a unanimous decision to support the approval of planning permission at Hams Hall subject to referral to the Secretary of State (Ref PAP/2016/0399). In the interests of fairness additional comments have been sought from the appellant in response to this latest position, which I have taken into account.

Background and Main Issues

8. The appeal site comprises an area of agricultural land located to the south-east of the M42 at Junction 10. Bisected by Trinity Road it extends to roughly 25.4ha and falls outside the settlement boundaries of Tamworth to the west and Polesworth and Dordon to the east. In such areas Policy NW2 of the *North Warwickshire Local Plan Core Strategy* states that development will be limited to proposals necessary for agriculture, forestry or other uses which require a countryside location.
9. The Council's reasons for refusing planning permission are twofold. Firstly, it is claimed that the proposal would harm the separate identity of Dordon and undermine the meaningful gap between Polesworth and Dordon and Tamworth. The second reason for refusal states that the need for additional employment land is not evidenced, and that the scheme would compromise the objectives of the development plan contrary to one of the Core Planning Principles of the National Planning Policy Framework ('the Framework') which advocates that planning should be genuinely plan-led.
10. However, on the first day of the Inquiry the Council accepted that there are not currently enough allocated sites, or sites with planning permission to meet employment needs and that more land is required¹. It was also confirmed that the proposal would not prejudice the local plan-making process. Instead, the second reason for refusal was presented on the grounds that allocations in the emerging *North Warwickshire Local Plan* would provide sufficient land to meet the identified need, and subsequently, the weight which can be attributed to this factor in the planning balance is reduced².

¹ ID10

² *Trusthouse Forte (1987) 53 P&CR 293*

11. Taking this into account, and after having heard the Council's case in full at the Inquiry, the main issues are:
- The effect of the proposal on the separate identity of Dordon, and whether or not it would maintain a meaningful gap between Polesworth and Dordon and Tamworth; and
 - Whether or not there is a requirement for additional employment land in the area, having particular regard to the emerging *North Warwickshire Local Plan*.

Reasons

The Separate Identity of Dordon and the Maintenance of a Meaningful Gap

12. The development boundary for Dordon is identified on the policies map carried forward from the *North Warwickshire Local Plan*. It defines an urban area focused primarily to the north of the A5. Dordon is a broadly linear settlement and is separated from the M42 by open fields and Birchmoor. This swathe of countryside, which continues south to encompass the appeal site and Freasley, divides Dordon to the east, from Tamworth to the west.
13. The maintenance of a strategic gap between Polesworth and Dordon and Tamworth has been a longstanding planning policy objective for the Council, and is very important locally. This is undisputed and is referred to in Core Strategy Policy NW19. It states that proposals "...to the west of Polesworth and Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them."

Separate Identity of Dordon

14. Dordon and Tamworth are two clearly separate towns. Tamworth is located predominantly to the west of the M42 and is a considerably larger urban area. Dordon is approximately 1–1.7km to the east and is situated on higher ground rising up from the motorway. It is physically and visually divorced from Tamworth. This relationship is particularly evident from the A5 looking north-east, and from the public open space off Kitwood Avenue facing west/south-west. From both locations the expanse of farmland between the M42 and the main body of the settlement north of the A5 differentiates each settlement. This area of open land would be unaffected by the appeal scheme.
15. The Council argues that the proposal would erode an area of undeveloped land to the south of the A5 which also contributes to the separation of the two settlements. Combined with new sites proposed and under construction around the Birch Coppice Business Park it is suggested that the appeal scheme would result in an almost continuous form of development that would dilute the separate identity of Dordon.
16. However, Dordon and Birch Coppice vary in their role, form, function, layout, scale and appearance. Dordon is a small town characterised by a mix of predominantly terraced and semi-detached housing focused to the north of the A5. In contrast, Birch Coppice is situated south of the dual-carriageway and comprises a large business park with substantial commercial buildings accessed from a series of roundabouts. The settlement of 'Dordon', the separate identity of which Policy NW19 seeks to protect, is therefore materially different to Birch

Coppice, and is not currently read in the same context as the industrial development to the south.

17. Furthermore, the indicative design does not seek to act as an extension of the existing employment area. On the contrary, to the east of the appeal site (and on land controlled by the current owners) would be a substantial area of planting around the easement of a gas pipeline. Combined with the siting of the former spoil heap this would provide a physical and visual separation between the nearest proposed buildings and Birch Coppice. The plans also illustrate how a substantial landscape buffer measuring roughly 20-50m would run along the site frontage. Whilst not intended to screen the proposal, this would nonetheless limit its visual impact from the A5 and provide some relief to the built form along this side of the road.
18. In summary therefore, I consider that by reason of the large area of farmland that would remain to the north of the A5, the location of Dordon on higher ground to the east, and its materially different character and appearance to Birch Coppice, subject to an appropriate final design the proposal would respect the separate identity of Dordon. As a result, there is no conflict with the first requirement of Core Strategy Policy NW19.

Maintenance of a 'Meaningful Gap'

19. At the Inquiry the Council confirmed that there is no definition of what constitutes a 'meaningful gap' within the Core Strategy, or any other adopted development plan document. Instead, it was put to me that a judgement is required based on the evidence available, which includes the Council's 2015 *Meaningful Gap Assessment* ('MGA').
20. The MGA identifies the appeal site within Area 9. It establishes that the area is part of a significant gap between Dordon and the M42, forms part of the rural gateway to the Borough and that significant development would effectively merge the settlements of Tamworth and Dordon from Wilnecote to Birch Coppice. The Council asserts that because it would no longer be possible to ascertain where Tamworth ends and Dordon begins, there would no longer be a meaningful gap between them.
21. However, in response to suggestions that the scheme would be a logical extension of Tamworth Mrs Barratt took a different view at the Inquiry, describing how it would be read as a free-standing, separate development due to the intervening motorway. Given the size of the M42, which runs through a tree-lined cutting in this location, I agree that it provides a definitive boundary and clear separation to Tamworth beyond. On this basis the tree-lined motorway would limit the perception of any harmful coalescence from Wilnecote to Birch Coppice.
22. Furthermore, although the MGA has been subject to consultation and is a material consideration used to support the emerging Local Plan, the starting point is the adopted Core Strategy. Policy NW19 is entitled "Polesworth and Dordon". It states that development must maintain a meaningful gap between Polesworth and Dordon on one side, and Tamworth on the other.

23. With the exception of a single row of houses on the southern side of the A5 Polesworth and Dordon are concentrated to the north of the dual-carriageway. This is illustrated on the Council's policies map. In contrast, Birch Coppice is a large free-standing employment allocation to the south. Although recent expansion has brought development close to the existing row of houses accessed from the pedestrian footbridge, for the purposes of the Core Strategy it does not form part of either settlement.
24. Thus, the relevant test is whether or not a meaningful gap would be maintained to the west of Polesworth and Dordon, excluding Birch Coppice. Without encroaching on the land north of the A5 there would continue to be a large, central area of open space separating the two towns. This area and the role that it plays in separating Dordon from Tamworth are evident on the aerial photographs provided by the Council³. The photographs demonstrate that in quantitative terms, a substantial gap would be maintained.
25. That being the case, given its size, scale and proximity to Birch Coppice I have also considered the qualitative effects of the proposal. As guidance⁴ referred to by Mr Williams' points out, relying solely on a 'scale rule' approach to maintaining separation between settlements should be avoided, and the character of a place, and the land in between needs to be taken into account.
26. The only landscape/visual assessment relied upon by the Council is the MGA. This uses a traffic-light scoring system and concludes that development of the appeal site and its immediate surroundings would undermine the gap. Although the traffic-light system is easy for members of the public to follow, there is no indication how the scores have been reached in a transparent and consistent manner. The MGA also relies on the 'geographic proximity/narrowness of the gap' in each sub-area without any detailed qualitative assessment of how the character of the area would change, or how it would be perceived from any locally important viewpoints.
27. On the other hand the appellant has provided a qualitative and quantitative assessment, in addition to the Landscape and Visual Impact Assessment (LVIA) submitted with the planning application. This evidence identifies that the appreciation of the gap between Dordon and Tamworth is not only based on cartographic geometry, but how it is perceived from the A5, surrounding public footpaths and from the respective settlements.
28. One of the main viewpoints of the site is from the A5 travelling east after leaving the roundabout at Junction 10. At present the open fields in front of the spoil heap are clearly visible to drivers and passengers. At the Inquiry it was argued that eroding this part of 'the gap' would change the approach into North Warwickshire and undermine the concept of leaving an urban area and travelling into a rural one, contrary to the spatial vision of the Core Strategy.
29. However, after a very short distance, and just beyond the 'Welcome to Warwickshire' sign referred to by the parties the fields north of the A5 come into view. Because the farmland drops down below the road before rising up, combined with its open character and proximity to the east-bound carriageway this area of countryside dominates the foreground. Dordon becomes visible at a higher level and there is an unequivocal gap in between. The undulating,

³ ID11

⁴ Planning on the Doorstep: The Big Issues - Green Belt

open character of the farmland to the north of the A5 would therefore ensure that drivers entering the Borough and heading east would still be faced with a predominantly rural setting to Dordon. Based on the evidence provided the scheme would not conflict with the spatial vision of the Core Strategy.

30. Travelling further east the main public viewpoint from Dordon is taken from the sports pitch beyond Kitwood Avenue. From this elevated position views of Birch Coppice and the large commercial buildings beyond the M42 are possible. Due to the size and scale of the appeal proposal it would introduce a highly visible form of development into the swathe of countryside which follows the M42 to the south, especially at night from street lights, buildings and vehicles.
31. Nevertheless, the expanse of farmland between the M42 and Dordon would extend beyond the sports pitch for some considerable distance down to the motorway. Due to the openness of this area, its lack of significant built form and the change in level, residents on the western edge of Dordon would continue to experience an unequivocal sense of separation from Tamworth.
32. Elsewhere clear views of the appeal site are possible from the public right of way to the north of the A5. In this location the scheme would result in one of the greatest changes to the countryside separating Dordon and Tamworth. Although the scale of development would erode the open fields between the spoil heap and Trinity Road, members of the public looking towards the site would do so from open agricultural land, with Dordon above and Tamworth on the other side of the M42. Walkers would therefore still be able to easily ascertain that there was a large, clear gap between the two settlements.
33. Similarly, from land south of the A5 there would be a demonstrable change to the local environment viewed from Trinity Road and/or public footpaths AE55 and AE52. Despite the foreground becoming dominated by development, when looking north-east from footpath AE52 views of the open land beyond the A5 would continue to be possible along the landscaped eastern site boundary with the majority of Birch Coppice screened behind the spoil heap. When passing through the site along footpath AE55 the open area of farmland north of the A5 would come into view and the appreciation of a strategic gap between Dordon and the motorway would remain.
34. In reaching this view I have taken into account that other developments have been granted planning permission in the area, and that additional sites are proposed for allocation in the emerging Local Plan. Nevertheless, there is nothing to suggest that the open land north of the A5 would be eroded. Even in the event that proposed allocation DOR22 is completed, this area would continue to provide a clear separation between the two towns. As identified above, the indicative layout also illustrates that buildings would be set-back from the A5 behind a formal area of planting, in addition to a generous landscape buffer along the eastern site boundary. Combined with the partial screening of Birch Coppice afforded by the spoil heap from the south and west this would prevent the creation of a continuous line of built development along the road frontage.

Summary

35. Based on the evidence provided I therefore conclude that due to the open farmland to the north of the A5, combined with the location of Dordon on higher ground, it's different character and appearance to Birch Coppice and the

inclusion of a landscaped buffer along the eastern site boundary, the proposal would respect the separate identity of Dordon, and, maintain a meaningful gap between Polesworth and Dordon and Tamworth. As a result, there is no conflict with Core Strategy Policy NW19. Subject to a high quality design at the reserved matters stage the proposal would also accord with Core Strategy Policy NW12 which, amongst other things, requires developments to demonstrate a high quality design that positively improves the character, appearance and environmental quality of an area.

36. Draft Policy LP5 in the emerging *North Warwickshire Local Plan* includes a third criterion that all new development in the 'gap' should be small in scale, not intrude visually into the gap, or physically reduce its size. However, the plan is only at the draft stage and consultation is still on-going. Bearing in mind that they may be subject to change, I have not given Policies LP5 and LP2 any significant weight in reaching my decision.

The Need for Employment Land

37. The Core Strategy was adopted in 2014 and states that between 2011 and 2029 a minimum of 60ha of 'local employment land' will be provided. It also seeks to direct employment towards settlements appropriate to their size and position in the hierarchy.
38. The Inspector's Report into the Examination of the Core Strategy made clear that it only relates to 'local' employment land. Although the September 2013 Employment Land Review (ELR) identified a requirement for regional logistics sites, the Core Strategy does not seek to meet this need. The Inspector found insufficient evidence to set a requirement for North Warwickshire when sub-regional work was still on-going. Rather than increase the number of allocated sites it was therefore considered more appropriate to adopt the Core Strategy and include a mechanism for an early review.
39. Since adoption of the Core Strategy various studies concerning employment land have been published, both regionally and locally. Some of the most up-to-date include the *West Midlands Strategic Employment Sites Study* (WMSESS, September 2015) and the *Addendum to the 2013 Employment Land Review* (ELR Addendum, April 2016). Evidence relating to the scale of unmet housing and employment needs from neighbouring authorities has also emerged. Prompted by this change in circumstances the Council has committed to an early review of the Core Strategy and produced a new draft Local Plan reflecting the higher housing and employment land requirements.
40. The Council has not stood back and by committing to the preparation of a new local plan has clearly 'grasped the nettle' when it comes to positively planning for growth. It is accepted that there is a need for additional employment land and this is what the emerging Local Plan seeks to achieve⁵. A considerable amount of Inquiry time was therefore spent assessing the draft allocations in the emerging Local Plan against the requirement to provide up to 97ha of employment land. In summary, the Council identifies a supply of between roughly 88.38ha and 111.98ha, whereas the appellant suggests that around 63.58ha is more accurate⁶.

⁵ ID29

⁶ ID8

41. However, assessing proposed allocations in the emerging Local Plan is not a matter for me. With the exception of a letter⁷ received on the final day of the Inquiry from Hodgetts Estates the submitted evidence has been predominantly provided by the two main parties. Testing whether or not the allocation of particular sites is justified, effective and consistent with national policy is for the examination process to consider when all of the relevant factors, including representations from all relevant parties, can be taken into account.
42. Instead, paragraph 216 of the Framework advocates that the weight decision-takers should give to relevant policies in emerging plans depends on their stage of preparation and the extent to which there are unresolved objections. In this case the emerging Local Plan is only at draft stage and the consultation period is on-going. The plan may be subject to change, and assessment of the appeal scheme has already identified an increase in employment land arising from discrepancies in the methodology used. The weight which can be attributed to potential employment allocations is therefore only limited.
43. In reaching this view I have taken into account that the proposed allocations include land at Centurion Park (which has planning permission) and Birch Coppice (which is an established business park). Such sites have a greater degree of certainty than others given their existing/permitted uses. The Council has also identified an additional 24.8ha in reserve at 'MIRA'.
44. Nonetheless, some of the other proposed allocations include sites which are within the Green Belt, have not been considered before and involve the relocation of allotments. Although the Council supports the release of Green Belt land at Hams Hall, permission has not yet been granted. Discussions with allotment holders in respect of land adjacent to the A5 are also at a relatively early stage. There are also other factors which need to be resolved through the consultation and examination processes. For example, the figures in ID8 include roughly 8.5ha of land allocated at Centurion Park, yet this has been considered in the supply as an extant planning permission.

Tamworth's Needs

45. In addition to the Council's needs it is also necessary to consider the requirements for additional employment land arising from Tamworth. In January 2015 the Head of Planning and Regeneration confirmed that only roughly 18ha of employment land was available, leaving a shortfall of some 14ha to be met elsewhere. Representations confirmed that;
"...To date there has been no progression on preparing any joint work between the three local authorities, specifically with consideration of meeting the 14ha of unmet employment need arising from Tamworth. As there has been no wider, strategic work which considers a range of potential sites in North Warwickshire or Lichfield, this site currently presents the only option of meeting this need."
46. The position has moved-on since January 2015 and a draft Memorandum of Understanding (MoU)⁸ has been provided between Tamworth Borough Council, Lichfield District Council and North Warwickshire Borough Council. It confirms that North Warwickshire has identified 8.5ha to the south-west of Junction 10 (at Centurion Park) to deliver part of the 14ha which cannot be accommodated

⁷ ID24

⁸ ID12

in Tamworth. Correspondence from Lichfield District Council⁹ also states that it will 'investigate' providing the remaining 6.5ha¹⁰ through its local plan process.

47. However, whilst this confirms that the three Councils have been actively working together on a cooperative basis, the MoU has not been signed. Furthermore, a Statement of Common Ground between the appellant and Tamworth Borough Council was produced for the Examination of the *Tamworth Local Plan*. This was dated May 2015, after planning permission was granted at Centurion Park, and confirmed that:

"The planning permission for 8.5 hectares gross (5.3 hectares net) has been allocated by North Warwickshire Borough Council in its draft Site Allocations Plan (DOR24) and forms part of the employment supply to meet its own local employment needs, as justified by NWBC in its report of the application to Planning Committee."

48. There also remains approximately a further 5.5ha to find with no concrete commitment from Lichfield to provide this anytime soon. Given the appeal site's proximity to Tamworth, the proposal would therefore be ideally placed to satisfy this requirement.

Wider than Local Needs for Large Sites

49. Paragraph 7.48 of the emerging Local Plan confirms that since the preparation of the Core Strategy studies have identified a wider than local need for large sites. Despite this, because such sites coming forward elsewhere it is not an issue that the Local Plan seeks to address. The Council adopted a similar argument at the Inquiry, namely, that the emergence of Peddimore, Magna Park and the East Midlands Gateway, combined with extensions to Birch Coppice and the 20ha of land proposed at Hams Hall point to a healthy supply of strategic sites.
50. It is appreciated that there are other large sites across the region which *could* contribute to the need cited in paragraph 7.48 of the draft Plan. Nevertheless, no site specific assessment has been undertaken to consider where this need should be met, and the Council confirms that this work has not yet been commissioned.
51. On the other hand the WMSESS identifies 'functional market areas' throughout the West Midlands based on factors such as proximity to motorways and the workforce. When considering past annual take-up against immediately available floorspace it confirms that along the M42 corridor the supply of large sites is the tightest, amounting to only roughly 3.7 years. One of the reasons for this is due to the length of time sites such as Peddimore are likely to take coming forward.
52. It is appreciated that there is no policy requirement to provide 5 years' worth of employment land. This is reflected in the appeal decisions referred to by the Council¹¹. The assessment in the WMSESS is also based on annual take-up and "immediately" available supply, which is different to Footnote 11 of the Framework which the parties referred to throughout the Inquiry.

⁹ ID20

¹⁰ Inspector's Note: Notwithstanding 14ha – 8.5ha in North Warwickshire leaves only 5.5ha to find in Lichfield

¹¹ Appeal Refs APP/U2235/A/14/2224036 and APP/U2235/A/14/2229271

53. Nevertheless, the WMSESS represents one of the most up-to-date studies available and points to a demonstrable need for additional strategic sites in the area. I am also mindful that the Coventry and Warwickshire Chamber of Commerce advise¹² that a fundamental barrier to business expansion and growth in the sub-region is the shortage of premises for offices, industry and warehousing. Although the Chamber of Commerce has not assessed the different type of land requirements in the same way as the main parties, the current situation is described as *"...particularly acute and, if not addressed in the very near future, will mean that plans for growth, change and investment by SMEs and major employers will be severely hampered."*
54. Furthermore, the lack of available strategic sites was identified as one of the material considerations in the Council's decision to support the principle of development in the Green Belt at Hams Hall (Ref PAP/2016/0399). Whilst it was put to me that the 20ha proposed for allocation at Hams Hall would satisfy this requirement, the draft Local Plan makes it clear that it does not consider regional needs for large sites (paragraph 7.48).

Summary

55. New evidence has emerged which points to the need for additional employment land in North Warwickshire over and above the adopted Core Strategy. The Council's November 2016 Board Report concerning proposed development in the Green Belt at Hams Hall describes this evidence as up-to-date, relevant and carries 'significant weight'. Although the Council has sought to argue that this need would be met by allocations in the emerging Local Plan, this is only at a draft stage and may be subject to change. I also find no persuasive evidence that either Tamworth's requirements, or the need for strategic sites has been adequately met (or if it has, that additional land has been identified). In this context the contribution that the scheme would make towards the provision of employment land weighs heavily in its favour.

Other Material Planning Considerations

Heritage Assets

56. Situated approximately 40-150m to the south-west of the appeal site are four Grade II listed buildings and structures. They include Freasley Hall, the garden walls and gate piers south of Freasley Hall, Sycamore Cottage and Yew House. In considering the proposal I have therefore had special regard to the desirability of preserving their setting.
57. The gardens and private curtilages of the properties are important attributes which form part of their setting. So does the wider settlement of Freasley and its surrounding fields and woodland, which contribute positively to their significance as designated heritage assets.
58. Although the proposal would result in the loss of agricultural land around Freasley, the indicative layout illustrates significant areas of parkland to the south-west corner of the site. Landscaped buffers measuring a minimum of 6m deep are also shown around the southern edge of the site, whilst wildflower grassland would retain the views of open fields from Freasley Hall. Combined with the degree of separation that would be maintained between Freasley and the nearest built development, I agree with the main parties that the setting of

¹² ID1

Freasley Hall, the garden walls and gate piers south of Freasley Hall, Sycamore Cottage and Yew House would be preserved.

Traffic Generation and Highway Safety

59. On the final day of the Inquiry it was put to me that the data contained in the Highways Statement of Common Ground was flawed. It was also claimed that the data had not been made available, and that the scheme would significantly increase traffic on Trinity Road, the roundabout at Junction 10 and on the A5. At the planning application stage local residents identified similar issues with traffic volumes, congestion and highway safety on Trinity Road in particular.
60. In terms of the reliability and availability of data the planning application was accompanied by a Transport Assessment and Framework Travel Plan which formed part of the appellant's submission. In response to this the County Council Highways Officer and Highways England concluded that the scheme would be acceptable subject to certain mitigation measures. This is reflected in the submitted Highways Statement of Common Ground.
61. Whilst I empathise with local residents and appreciate the difficulties in assimilating large technical documents, no contradictory evidence or objective analysis has been submitted to suggest that these conclusions are incorrect. Consequently, there is no robust information before me to reach a different view. Although traffic would undoubtedly increase on Trinity Road, the A5 and around Junction 10, the parties agree that that this would not be hazardous to road safety, or significantly undermine network capacity.
62. Concerns have also been raised that the lay-by on the west-bound side of the A5 would become used as a drop-off point for potential future employees causing traffic to back-up to the detriment of safety, that the footpath on this stretch of the A5 is too narrow, and that there is no bus stop.
63. In terms of the lay-by and its relationship to the site entrance and/or public right of way this would be a matter for the final detailed design to consider. Given the space available I am satisfied that the internal layout and landscaping could be configured in a way that would prevent the lay-by becoming used as a popular drop-off area for employees. Aside from the upgrades to the A5 proposed as part of the scheme there is also no request from the relevant Highways Authority to make any further changes to the footpath on the A5. Based on the evidence provided and observations at my site visit I find no reasons to disagree.
64. With regard to public transport provision there is currently a bus-stop on the east-bound side of the A5. As set out in the Highways Statement of Common Ground, it has been agreed that the appellant would either provide a new bus-stop on the southern, west-bound side of the road, or, fund the diversion of a service into the site with a suitable bus-stop and turning area in the design. Both options are included in the signed Section 106 Agreement and would negate the need for potential future employees to cross the A5 in order to access public transport provision.
65. In summary therefore, I find no conflict with the Framework which advocates that development should only be refused on transport grounds where the residual cumulative impacts are severe.

Character and Appearance of Freasley

66. Freasley is a small hamlet accessed from Trinity Road to the south-west of the appeal site. Given the scale of development proposed the approach to the hamlet from the M42 would change. Upon leaving the roundabout at Junction 10 and travelling south-west residents would be faced with new industrial development on either side of Trinity Road, rather than open fields.
67. However, this would only be for a relatively short distance. The indicative layout illustrates new parkland adjacent to Trinity Road around the south-west corner of the site providing a landscaped buffer to the hamlet. Generous separation between built development and Freasley would therefore remain.
68. Furthermore, there is no vehicular access through Freasley to the appeal site or Birch Coppice. As such, it has a materially different character to Trinity Road. When driving through the hamlet the combination of traditional buildings, mature trees and open spaces create an attractive, rural feel to the area. Due to the degree of separation from the appeal site and the indicative use of landscaping proposed this would be unaffected. The distinction between the character and appearance of Freasley and the industrial and commercial development around Junction 10 would be maintained.
69. Although some local residents fear that allowing the appeal would set a precedent for more development around Freasley, which in turn would affect its character and setting, each proposal must be considered on its own merits. Further development to the south of the site would require planning permission, and the cumulative effects would therefore be considered as part of any potential future planning application process.

Living Conditions of Neighbouring Resident

70. Nos. 17 and 18 Watling Street are situated to the north-east of the appeal site. Despite being the nearest residential properties to the proposal they would be separated from the nearest development by the landscaped buffer along the eastern boundary and the easement for the gas pipeline. An even larger area of open space would separate the nearest houses in Freasley. Subject to an appropriate lighting strategy, consideration of the site layout and controls over finished floor levels, the intervening landscaped areas would ensure that no unacceptable harm would occur to residents' outlook, privacy or levels of available sunlight. For the same reasons no harmful disturbance would occur from the headlights of HGVs within the site. Bearing in mind the amount of traffic already using the A5 and the change in vehicle numbers that would be perceptible to residents, headlights from additional vehicles on the highway network would not give rise to a noticeable, harmful level of disturbance either.
71. With regard to noise and vibration the appellant has conducted surveys at various locations across the site, including to the north-east corner nearest the A5 and the south-west corner closest to houses in Freasley. In summary the report found that the predicted noise levels from activities on the site would be below a level likely to cause sleep disturbance. It also concluded that the effects on nearby properties from plant noise would be negligible, and that traffic increases would generate "*barely perceptible changes in noise level on the surrounding network...*" As this is the only site specific assessment that has been carried out, I find no reasons to reach a different conclusion.

Human Rights

72. Representations at the planning application stage claim that the rights of the occupiers of Hall End Cottages, under the Human Rights Act 1998 (Article 8), would be violated should planning permission be granted. The claims are made on the grounds that occupiers would be affected by disturbed coal seams, from radon and argon gases, air pollution and illumination from security lights, vehicles and street lighting.
73. For the reasons given above I have already concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring residential properties having regard to their outlook, privacy, available levels of sunlight, or from illumination, noise and vibration. Thus, the degree of interference would be insufficient to give rise to a violation of rights under Article 8.
74. With regard to coal seams the appellant has provided a Preliminary Geo-environmental Interpretative Report which confirms that the site is in a zone of influence from 6 seams at depths of between 170m and 320m, last worked in 1973. However, reference is made to confirmation from the Coal Authority that any ground movement from coal mining should have stopped, and that there is no record of gas emissions requiring action on site. The report also deals specifically with radon and confirms that protective measures are not considered necessary as the site is located in a lower-intermediate probability radon area. In addition, no evidence has been provided to indicate a harmful presence of argon, and given the degree of separation between the nearest buildings and residential properties, there is nothing to suggest that any structural damage would occur as a result of building works.
75. The potential for air pollution and dust has also been considered by the appellant. The submitted assessment establishes that air quality in the area is currently acceptable based on objectives in *The Air Quality Strategy for England, Scotland, Wales and Northern Ireland* (DEFRA, 2007). Against this baseline consideration has been given to pollutants associated with traffic (nitrogen dioxide and fine particulate matter) and the construction process. In summary the report concludes that air quality at existing properties nearby would be affected, but that the changes would represent imperceptible increases in the concentrations of nitrogen dioxide and fine particulate matter. The impacts would therefore be negligible.
76. The Environmental Statement submitted with the planning application also recognises that construction works would have the potential to create dust. The local community may therefore experience occasional, short-term adverse impacts. Nevertheless, this could be mitigated by adhering to a management plan which would limit the short-term effects of construction. Such measures could be controlled and enforced through the use of a suitably worded planning condition.
77. Based on the information provided I therefore find no evidence to suggest that there would be any significant harm caused from structural damage, the presence of coal seams, gases or from air pollution. Consequently, the Human Rights of the occupiers of 15 and 17 Hall End Cottages would not be violated.

Biodiversity and Protected Species

78. The appeal site does not contain any statutory designated sites of nature conservation interest. The nearest is the Kettle Brook Local Nature Reserve (LNR), approximately 0.3km away.
79. As the LNR is on the opposite side of the motorway the proposal would have no direct impact on its wetland habitat, wild flower meadows and woodland. The use of measures to stop any petrochemical contamination of surface water from machinery or stored fuels could also be controlled and enforced by a suitably worded planning condition. This would prevent contaminated surface water discharging into Kettle Brook and reaching the LNR.
80. With regard to protected species the appellant's surveys found no evidence of bats or great crested newts (GCN) on the site. Although a GCN breeding pond was identified approximately 200m to the south-west it would be unaffected by the development. Based on the illustrative plans the nearest built development would also be roughly 550m from the pond, and the arable habitat of the site is only of very limited value to GCN in their terrestrial phase. Thus, no offence would be likely to occur.
81. In terms of other species three badger setts were recorded within the site boundary. Despite seeking to retain the setts, the Environmental Statement found that it would be necessary to temporarily close Sett 3 given its proximity to new buildings. Whilst the report does not suggest that such practices would be inappropriate, I am mindful that the application was submitted in outline. Given the size of the site there are no reasons to indicate that development could not come forward without damaging the sett. Subject to an appropriate landscaping scheme the proposal would provide enhanced foraging resources for Badgers and result in a net gain to their habitat.

Use of Agricultural Land

82. The appeal site comprises Grades 2 and 3a agricultural land, defined as 'the best and most versatile'. I have therefore borne in mind paragraph 112 of the Framework. It states that consideration must be given to the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, decision-makers should seek to use areas of poorer quality land in preference to that of a higher quality.
83. In reaching a balanced view this harm must be considered in the context of local area and the other benefits that the scheme would deliver. In this case the Council acknowledges that there is a need for additional employment, and the draft allocations in the emerging Local Plan include the use of agricultural, and even some Green Belt land. A substantial swathe of agricultural land would also be retained to the north of the site providing a meaningful gap between Dordon and Tamworth. Furthermore, no evidence has been provided to suggest that the scheme would have any adverse impact on the wider availability of the best and most versatile agricultural land in the area. The loss of the appeal site to agricultural uses must therefore be considered in this context, and the wider socio-economic benefits that it would provide.

Public Right of Way Network and Other Considerations

84. Public footpaths AE55 and AE52 cross the appeal site. Although the Indicative layout shows the diversion of AE55, the County Council's Rights of Way Officer has not objected to the scheme. Based on the evidence provided I agree that an adequate route could be maintained through the appeal site which would not prejudice users of the local public right of way network.
85. Finally, I have also taken into account concerns that the proposal would devalue properties and lead to vandallism, crime and anti-social behaviour. However, no evidence has been provided to substantiate these comments. As a result, I have not given them any significant weight in reaching my decision.

Planning Obligations

86. The submitted Section 106 Agreement includes a commitment to either provide a new bus-stop on the A5, or, include a stop within the site and contribute to the diversion of the 766/767 services as required. A training and skills contribution of £60,000 is also included. Alongside this is a Unilateral Undertaking which makes provision for landscaping works to the east of the site, a commitment to comply with the Considerate Constructors Scheme, and to promote training for employees in the construction phase.
87. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind.
88. Policy TPT3 of the *North Warwickshire Local Plan* states that development will not be permitted unless it maximises practicable opportunities for the use of sustainable modes of transport, including travel by bus. One of the Framework's Core Planning Principles also advocates that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. The provision of an additional bus stop on the A5, or contributions to divert existing services to a new stop within the site are therefore necessary to make the development acceptable in planning terms, and are directly related. They are also fairly and reasonably related in scale and kind to the size and scale of development proposed.
89. Core Strategy Policy NW22 also states that planning obligations will be used to secure four key priorities, one of which is the provision of training and up-skilling opportunities. The inclusion of a contribution in the Section 106 Agreement towards a programme of careers advice and engagement aimed at people not in education, employment or training is therefore necessary to make the development acceptable in planning terms. It is also directly related to the development proposed and is fairly and reasonably related in scale and kind.
90. In terms of the Unilateral Undertaking landscaping to the east is necessary to make the development acceptable in planning terms by maintaining separation to Birch Coppice. The promotion of localised training opportunities is also necessary in accordance with Core Strategy Policy NW22, and to mitigate the effects of building work on local residents' living conditions adhering to a considerate constructors' scheme is required. Moreover, all the provisions are directly related, and fairly and reasonably related in scale and kind.

91. In summary therefore, the provisions in both the Section 106 Agreement and Unilateral Undertaking meet the requirements of the CIL Regulations, and I have taken them into account in reaching my decision.

Conclusion and Balancing Exercise

92. The proposal conflicts with Core Strategy Policy NW2 which limits development outside Category 1-4 settlements. It is also contrary to Core Strategy Policy NW9 which directs employment uses to settlements appropriate to their size and position in the hierarchy, and would result in the loss of an area of best and most versatile agricultural land.
93. However, the Framework confirms that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case there are several material considerations which justify departing from Core Strategy Policies NW2 and NW19.
94. Firstly, new evidence has emerged since adoption of the Core Strategy which points to a need for additional employment land. Although it is suggested that there are other, more suitable sites available to meet this need, consultation on the draft allocations is still on-going. Moreover, the emerging plan does not intend to meet wider than local needs for large sites, and neighbouring Tamworth has a requirement of 14ha which it cannot provide. This was identified after planning permission was granted at Centurion Park and the MoU has not been signed, with Lichfield District Council only committing to investigate providing their 'share'.
95. In resolving to support the approval of planning permission for new development in the Green Belt at Hams Hall the Council described the latest evidence concerning employment land as up-to-date, relevant and carrying significant weight. This need exists now and is described by the local Chamber of Commerce as 'particularly acute'. Situated close to Tamworth and the Birmingham Intermodal Freight Terminal (BIFT) the appeal scheme would be ideally placed to make a significant contribution to meeting this need, and the indicative mix of building sizes would offer employment space for a range of local and regional operators.
96. Secondly, the principal reason why the appeal site has not been included as an option to help meet this need is due to its location within a strategic gap separating Polesworth and Dordon from Tamworth. However, in response to the Council's concerns the appellant has provided a qualitative and quantitative assessment on the effect of development within this gap, in addition to a LVIA submitted as part of an Environmental Statement.
97. Based on the evidence provided I agree that the retention of the farmland to the north of the A5 is critical, and by reason of its topography and open character this area of land would continue to provide a meaningful gap between Polesworth and Dordon and Tamworth. Because Dordon is a town characterised by twentieth century housing and is located on higher land predominantly to the north of the A5, subject to an appropriate design at the reserved matters stage its separate identity would also be respected. As a result, there is no conflict with Core Strategy Policy NW19, which is the only adopted development plan policy relating to the 'gap'.

98. Thirdly, paragraphs 18 and 19 of the Framework confirm that the Government is committed to securing economic growth in order to create jobs and prosperity, and ensuring that the planning system does everything it can to support sustainable economic growth. With this in mind the proposal would generate between roughly 1,170 and approximately 1,550 FTE jobs, with around 290 temporary roles provided in the construction process. These jobs would be created in an area where within 5km of the appeal site 9 Lower Super Output Areas are ranked in the lowest 20% nationally against the Index of Multiple Deprivation. Additional jobs would also be created as a result of the positive knock-on effect from the proposal, estimated to peak at around 1,650. In total the net impact on the local economy would be in the region of £70m-£90m, and the socio-economic benefits of the scheme would be substantial.
99. When considered against the Framework taken as a whole the proposal would therefore resonate with the principles of sustainable development. It would contribute towards building a strong, responsive and competitive economy whilst supporting growth and innovation in an area where demand is high. Although there would be some loss of countryside that separates Polesworth and Dordon from Tamworth, the evidence provided demonstrates how the scheme has taken account of the different roles and character of the different areas, and would maintain a meaningful gap between the two towns. In environmental terms it would also be consistent with one of the Framework's Core Planning Principles which seeks to ensure that planning actively manages patterns of growth to make the fullest possible use of public transport, walking and cycling, and focuses significant development in locations which are or can be made sustainable.
100. When taking all these factors into account I consider that the other material considerations are of such significance that they warrant a decision not in accordance with Core Strategy Policies NW2 and NW9. The proposal would represent a sustainable form of development as defined by the Framework, and combined the benefits of allowing the appeal would be substantial. Based on the evidence provided in this particular case these factors justify granting planning permission.

Overall Conclusion and Conditions

101. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.
102. In order to define the permission, and because the application was submitted in outline it is necessary to list the reserved matters for which approval must be sought, and define any relevant phases. Considering the scale of the development, and the fact that the design of individual plots may progress at different rates, I agree that it is necessary to require submission of the first reserved matters within 2 years, and all reserved matters within 5 years. A condition is also required to ensure that development takes place within 3 years of the approval of the final reserved matters.
103. To ensure that the development is carried out as approved it is necessary to list the relevant plans. However, this is only necessary in relation to the access as the remaining details are indicative. In the interests of highway safety, and because there are other openings along Trinity Road a condition is also required to specify that access for motor vehicle must only be taken from the locations identified on plan Ref 1148-12/H.

104. In the interests of highway safety and the efficient operation of the highway network conditions are necessary to restrict the total amount of floorspace permitted as part of the final design, and the amount of floorspace in Use Classes B1(c) and B2 (industrial processes). To define the permission it is also necessary to refer to the parameters plan for subsequent reserved matters submissions to follow.
105. The interests of preserving any potential archaeological remains necessitate a condition requiring the submission, approval and implementation of a written scheme of investigation (WSI), and any fieldwork as necessary. As discussed at the Inquiry, in order to be precise I have amended the proposed wording to require the WSI to be submitted and approved in writing prior to the commencement of development. To avoid any uncertainty it is also necessary to refer to fieldwork 'as required', and specify that the written report is submitted in accordance with the agreed programme.
106. The same reasons also necessitate a condition requiring the approval of a mitigation strategy as required. Given the nature of buried remains the written scheme of investigation and mitigation strategy would both be required prior to the commencement of development. Ensuring that the investigations and mitigation strategies are adequately completed, along with any post-excavation analysis also necessitates the imposition of condition no.11.
107. Although the parties suggest that a condition is required to restrict work starting until details of landscaping, boundary treatments and drainage along the M42 and A5 frontages are approved, landscaping is a reserved matter. Issues relating to drainage are also addressed by proposed condition no.26.
108. To protect the living conditions of neighbouring residents and in the interests of highway safety a construction management plan is required. However, as discussed at the Inquiry protecting features of 'ecological interest' is unclear and is unnecessary given the need to adhere to mitigation measures referred to in Condition 16. Defining 'extraneous material' is also imprecise and I have therefore reworded the condition to require the construction management plan to include wheel washing facilities. This is more precise and allows the local planning authority to ensure that appropriate practices are still put in place.
109. In the interests of the character and appearance of the site and surrounding area a condition is required relating to the approval of site levels. To be more precise I have reworded the suggested condition by referring to the finished floor levels of the proposed buildings, and not just 'ground levels'. For the same reasons a condition relating to the approval of external lighting is also necessary. Given that site levels and lighting are directly related to the construction of buildings, roads and public areas their approval is required before any development starts on site.
110. The interests of protecting biodiversity and ecology require the approval and implementation of a Habitat Creation, Enhancement and Management Plan and Programme. In order to provide adequate drainage and reduce the risk of flooding the approval of details relating to foul and surface water management are also necessary, along with their implementation. Because both requirements relate to the construction of the development their approval is necessary prior to the commencement of development.

111. For reasons of highway safety and providing adequate access it is necessary to ensure that the proposed signalised junction, Non-Motorised User Link connection, pedestrian and cycle paths, and means of accessing individual plots are provided prior to the occupation of the development. The interests of promoting more sustainable modes of transport also require approval of a travel plan. However, in the absence of any details relating to the current 'Highway Authority specifications' I have reworded proposed condition no.12 to require the details to be first submitted to and approved in writing by the local planning authority. This is more precise and still allows for relevant standards to be met. I have also reworded proposed condition no.20 to remove the ability to amend the proposed link through submission of subsequent designs, which would not have been subject to the same consultation as the details accompanying the appeal scheme.
112. In the interests of the living conditions of neighbouring residents it is necessary to restrict the use of external sound amplification equipment unless the details have been first submitted to and approved in writing by the local planning authority.
113. In the interests of the character and appearance of the site and surrounding area it is necessary to ensure that all landscaped areas are appropriately managed. For the same reasons a condition is required to ensure that any trees or plants which, within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise approved in writing by the local planning authority. This flexibility allows for other suitable alternative species to be used in the event that one fails.
114. Condition no.26 is necessary in the interests preventing the spread of unexpected contamination during construction. In order to be more effective, precise and enforceable I have reworded the suggested condition by requiring the suspension of development on the part of the site affected, and, specifying that remediation and verification schemes are carried out before the development or relevant phase of development is resumed or continued.
115. Finally, in the interests of safety a condition is required to ensure that adequate facilities for fire fighting are made available, although I find no reasons why the details should be provided prior to the commencement of development. I have therefore reworded the suggested condition by requiring water supplies and fire hydrants for fire fighting purposes to be in place for each phase prior to first occupation.

Matthew Birkinshaw

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Isabella Tafur of Counsel
She called

Dorothy Barratt BA(Hons), DUPI, MRTPI
Forward Planning & Economic Strategy Manager,
North Warwickshire Borough Council

FOR THE APPELLANT:

Paul G Tucker of
Queen's Counsel
He called

Andrew Williams BA(Hons), DipLA, DipUD, CMLI
Director, Define
Peter Leaver BA MRICS
Director, JLL
Robert Barnes MA BA(Hons) MRTPI
Director, Planning Prospects Ltd.

INTERESTED PERSONS:

Mr Pritchard

Local Resident

INQUIRY DOCUMENTS

- ID1 Representation from Coventry and Warwickshire Chamber of Commerce
- ID2 Plan of Manor Park, Coleshill, Warwickshire
- ID3 Representation to planning application PAP/2016/0399 on behalf of St Modwen Developments Ltd
- ID4 Plan Ref CT-06-133 – Proposed HS2 route at Coleshill Manor Office Campus
- ID5 Plan Title – Coleshill Manor Consent – Impact by HS2
- ID6 Plan Title – Additional Area owned by IM and unaffected by HS2
- ID7 GL Hearn's Rebuttal Note to 'Note on GL Hearn Addendum Report to 2013 ELR' by Regeneris, September 2016
- ID8 Statement of Common Ground concerning Figures for Employment Land Need and Supply
- ID9 Opening Submissions on behalf of the Appellant
- ID10 Opening Statement on behalf of North Warwickshire Borough Council
- ID11 Aerial Photographs of the M42 Junction 10 and area around Dordon
- ID12 Unsigned Memorandum of Understanding relating to the delivery of housing and Employment arising from Tamworth Borough Council
- ID13 Unsigned Memorandum of Understanding relating to the delivery of a Proportion of the projected unmet housing need arising from the Greater Birmingham & Black Country Housing Market Area in Birmingham City Council and North Warwickshire Borough Council
- ID14 Letter from Jeff Brown regarding Rush Lane, Dosthill, dated 19 March 2013
- ID15 Undated email from Nick Ireland, GL Hearn
- ID16 Site Visit Itinerary
- ID17 Response to Rebuttal Note, Regeneris

- ID18 Media Release
- ID19 Signed Memorandum of Understanding relating to the delivery of a Proportion of the projected unmet housing need arising from the Greater Birmingham & Black Country Housing Market Area in Birmingham City Council and North Warwickshire Borough Council
- ID20 Email from Patrick Jervis, Lichfield District Council
- ID21 Letter from Brandon Lewis MP, dated 18 March 2015
- ID22 Allotment disposal guidance: Safeguards and alternatives, DCLG, January 2014
- ID23 Meeting Minutes and email correspondence between Tamworth Borough Council, North Warwickshire Borough Council and Lichfield District Council
- ID24 Letter and enclosures on behalf of Hodgetts Estates, dated 21 September 2016
- ID25 Composite plan showing land in IM ownership around Coleshill Manor
- ID26 Email from Peter Leaver to Dorothy Barratt concerning the supply of employment land
- ID27 Signed and dated Section 106 Agreement
- ID28 Signed and dated Unilateral Undertaking
- ID29 Closing Submissions on behalf of North Warwickshire Borough Council
- ID30 List of Abbreviations
- ID31 Closing Submissions on behalf of the Appellant

Conditions Schedule

General Conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) If the development hereby permitted is to be constructed in more than one phase, details of the proposed phases of construction shall be submitted to the local planning authority for approval prior to, or at the same time as the first application for approval of the reserved matters. Development shall be carried out in accordance with the approved phasing details, or such other phasing details as shall subsequently be submitted to and approved in writing by the local planning authority.
- 3) The first application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission. All applications for approval of the reserved matters shall be made to the local planning authority not later than 5 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 3 years from the date of approval of the last of the reserved matters to be approved.
- 5) Insofar as it relates to the access, the development hereby permitted shall be carried out in accordance with the following approved plans: Ref DE128A/007, 1148-12/H and 1148-13/A.
- 6) Access for motor vehicles to the development hereby permitted from the public highway on Trinity Road shall not be made other than at the positions identified on approved drawing Ref 1148-12/H.
- 7) The development hereby permitted shall provide no more than 80,000m² of floorspace (GIA) for use within Use Class B1(c), Use Class B2 or Use Class B8 of the Town and Country Planning (Use Classes) Order (as amended).
- 8) No more than 20,000m² of floorspace (GIA) within the development hereby permitted shall be used for uses falling within Use Class B1 (c) or Use Class B2 of the Town and Country Planning (Use Classes) Order (as amended).
- 9) The reserved matters shall be designed within the parameters contained in plan Ref DE128A_006.

Pre-Commencement Conditions

- 10) No development shall take place until a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work across the site, including phasing where appropriate, has been submitted to and approved in writing by the local planning authority. The programme of archaeological evaluative work and any associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be carried out as required in accordance with a programme specified in the WSI. A written report with details of the

results of the fieldwork undertaken shall also be submitted to the local planning authority in accordance with the agreed programme. The findings from the archaeological evaluative work shall inform each reserved matters submission.

- 11) Where necessary, and as informed by the archaeological evaluative work undertaken in the WSI, no development shall take place until an Archaeological Mitigation Strategy (AMS) has been submitted to and approved in writing by the local planning authority. This shall detail the strategy devised, including phasing where appropriate, to mitigate the archaeological impact of the proposed development; either through further archaeological fieldwork, for which a further WSI may be required, and/or through the preservation in situ of any archaeological deposits. The AMS shall inform each reserved matters submission.
- 12) No development within any phase shall take place until the fieldwork relevant to that phase detailed in the WSI and AMS has been completed in accordance with the programme(s) specified therein. Any post-excavation analysis, publication of results and archive deposition shall be undertaken in accordance with the approved WSI and AMS.
- 13) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by the local planning authority for the relevant phase. The Plan shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) the routing for vehicles accessing the site associated with the construction of the development and signage to identify the route;
 - iii) the manoeuvring of vehicles within the site;
 - iv) loading and unloading of plant and materials used in constructing the development, including top soil;
 - v) the location of site compounds;
 - vi) storage of plant and materials;
 - vii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii) wheel washing facilities;
 - ix) measures to control the emission of dust and dirt during construction;
 - x) measures to control and mitigate disturbance from noise;
 - xi) a scheme for recycling/disposing of waste resulting from construction works;
 - xii) any on-site lighting as required during construction; and
 - xiii) measures to protect existing trees and hedgerows proposed for retention;
 - xiv) delivery, demolition and construction working hours; and
 - xv) means by which the terms will be monitored, details of a contact person and the procedure for reporting and resolving complaints.

The approved Plan shall be adhered to throughout the construction period of the development.

- 14) No development within any phase shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 15) No development within any phase shall take place until details of all external lighting relevant to that phase has been submitted to and approved in writing by the local planning authority. The lighting shall be installed, operated and maintained in accordance with the approved details.
- 16) No development within any phase shall take place until a Habitat Creation, Enhancement and Management Plan and Programme for that phase has been submitted to and approved in writing by the local planning authority. This should be informed by the mitigation measures set out in Chapter 9 ("Ecology and Nature Conservation") of the Environmental Statement (Ref 23809/A5/ES2014, dated December 2014) submitted with the planning application. The approved Plan shall be implemented in full in accordance with the approved Programme.
- 17) No development within any phase shall take place until drainage plans for the disposal of surface water and foul sewage for that phase have been submitted to and approved in writing by the local planning authority. The plans shall incorporate principles of Sustainable Urban Drainage Systems (SUDS) and include details of surface water run-off attenuation measures and management. The plans shall be implemented as approved before the relevant phase of development is first brought into use.

Pre-Occupation Conditions

- 18) No phase of the development hereby permitted shall be occupied until the proposed signalised junction shown on plan Ref 1148-12/H has been constructed in accordance with details first submitted to and approved in writing by the local planning authority.
- 19) No phase of the development hereby permitted to the east of Trinity Road shall be occupied until the proposed Non-Motorised User Link connection from the site to the A5 trunk road has been constructed in accordance with details first submitted to and approved in writing by the local planning authority in consultation with the highway authority for the strategic road network. The detailed design shall be based on submitted plan Ref 1148-20 Revision C. Thereafter it shall be retained in its approved form.
- 20) No phase of the development hereby permitted shall be occupied until the pedestrian and cycleway works shown on plan Ref 1148-13/A and 1148-12/H have been constructed in accordance with details first submitted to and approved in writing by the local planning authority.
- 21) No phase of the development hereby permitted shall be occupied until the roads serving that phase, including footways, private drives, means of accessing plots, car parking and manoeuvring areas have been laid out and substantially constructed in accordance with details first submitted to and approved in writing by the local planning authority. Areas for the parking and manoeuvring of vehicles shall be retained for their intended use at all times thereafter.

- 22) None of the buildings hereby permitted shall be occupied until a Sustainable Travel Plan (STP) relevant to the occupier of that building has been submitted to and approved in writing by the local planning authority. The STP shall be based on the Framework Travel Plan (Phil Jones Associates, Project Code 1148, dated December 2014). The STP shall then be implemented as approved.
- 23) No external sound amplification equipment shall be installed as part of the development hereby permitted unless in accordance with details first submitted to and approved in writing by the local planning authority.
- 24) No phase of the development hereby permitted shall be occupied until a Landscape and Open Space Management Plan for that phase, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped and open space areas, has been submitted to and approved in writing by the local planning authority. The Plan shall include details of the mechanisms to secure its implementation and shall be carried out as approved.
- 25) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with a programme first submitted to and approved in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise approved in writing by the local planning authority.
- 26) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued.
- 27) No phase of the development hereby permitted shall be occupied until adequate water supplies and fire hydrants necessary for fire fighting purposes relevant to each phase have been provided in accordance with details first submitted to and approved in writing by the local planning authority.