



## Appeal Decisions

Inquiry held on 2 – 5 July and 9 – 10 July 2024

Site visit made on 8 July 2024

**by Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 4<sup>th</sup> October 2024**

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### **Appeal A Ref: APP/K3415/W/24/3340089**

#### **Land North of Browns Lane, Tamworth, Staffordshire B79 8UT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Summix BLT Developments Limited against the decision of Lichfield District Council.
  - The application Ref is 18/00840/OUTMEI.
  - The development proposed is an outline application for up to 210 dwellings, public open space, landscaping, sustainable urban drainage, and associated infrastructure. All matters reserved except access.
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### **Appeal B Ref: APP/Z3445/W/24/3340094**

#### **Land North of Browns Lane, Tamworth, Staffordshire B79 8UT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Summix BLT Developments Limited against the decision of Tamworth Borough Council.
  - The application Ref is 0241/2018.
  - The development proposed is an outline application for up to 210 dwellings, public open space, landscaping, sustainable urban drainage and associated infrastructure (all matters reserved except access).
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### **Decision**

1. Appeals A and B are allowed, and outline planning permission is granted for up to 210 dwellings, public open space, landscaping, sustainable urban drainage, and associated infrastructure (all matters reserved except access) at land north of Browns Lane, Tamworth, Staffordshire B79 8UT in accordance with the terms of the applications, Refs 18/00840/OUTMEI and 0241/2018, subject to the conditions in the attached schedule.

### **Preliminary Matters**

2. Appeals A and B relate to the same site to the north of Browns Lane. Most of the site lies within the administrative area of Lichfield District Council (LDC), with the initial part of the site access lying within the administrative area of Tamworth Borough Council (TBC). Both appeals raise common issues and I have considered the merits of both appeals on that basis unless specified.
3. The applications subject of Appeals A and B were submitted in outline form, with all matters reserved for future consideration, except for access details. However, the access details submitted only relate to the initial section of the proposed access from Browns Lane (Appeal B). Those details do not extend across the whole of the appeal site (Appeal A). My consideration of access matters is therefore limited to those submitted.

4. A proposed development parameter plan, and site access arrangements plan have been submitted for consideration alongside the site location plan. In addition, an illustrative sketch layout and indicative masterplan have been submitted. They are potential ways that the site could be developed. I have considered the appeal based on the site location plan, proposed development parameter plan, and site access arrangements plan.
5. Further plans were submitted in relation to off-site highway works proposed along the Gungate Corridor to the south of the appeal site. These works would be secured through a s278 agreement (Highways Act 1980 (as amended)). I have had regard to these insofar as they relate to highway matters raised.
6. Shortly after the Inquiry closed, the appellant submitted a signed and dated s106 agreement (s106 agreement). An updated CIL Compliance Statement was also submitted. The main parties agree that the s106 agreement secures the provision of affordable housing, education, healthcare, public open space (POS), off-site highway works and travel plan monitoring. I will consider the s106 agreement later in my decision.
7. After the planning applications were submitted to LDC and TBC, both Council's issued screening letters to the appellant stating that an Environmental Statement (ES) was necessary as the proposed development fell within Schedule 2, Part 10 (b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the Regulations). As such, the proposal was an Environmental Impact Assessment (EIA) application. After submitting and receiving responses from each Council to a scoping response, the appellant submitted an ES, dated April 2018. Three updated chapters covering air quality, transport and access, and ecology later replaced those in the ES and formed an addendum to the ES which was submitted in 2022. Planning permission was then refused by LDC and TBC for reasons unrelated to the ES.
8. However, during the appeal it was considered that the ES was not satisfactory in terms of Schedule 4 of the Regulations. A Regulation 25 request for further information was issued and responded to with an ES Addendum. A further Regulation 25 request was issued as further confirmation was required to validate the baseline data for transport and access chapter. A technical note provided in response has now addressed that point.
9. The ES was produced in accordance with the 2017 EIA Regulations. A range of consultation bodies, including statutory consultation bodies have had, and taken, the opportunity to comment on the ES and the proposed development's environmental effects. I have had regard to these, the responses provided to the Regulation 25 requests, and the overall body of evidence submitted in writing and heard orally at the Inquiry. Following receipt of the further information, the ES is now considered satisfactory.

### **Main Issues**

10. The main issues in Appeal A are:
  - whether the proposal would accord with the spatial strategy in the development plan, with regard to its location and the proposed quantum of housing;
  - the effect of the proposed development on the character and appearance of the area, with regards to spatial and visual separation of Wigginton,

and the Wigginton Conservation Area (WCA);

- the need for, and provision of affordable housing in Lichfield and Tamworth, including the mix and tenure; and
- whether the proposal would make adequate provision for affordable housing, education, healthcare, public open space, off-site highway works and travel plan monitoring.

11. The main issues in Appeal B are:

- the effect of the proposed access on the character and appearance of the area, having regard to the development subject of Appeal A; and
- whether the proposal would make adequate provision for affordable housing and off-site highway works.

12. Although I have set out the main issues for each appeal, I have considered them jointly under the headings 'character and appearance' and 'planning obligations' given the commonality of the topics considered.

## **Reasons**

### *The appeal site*

13. The appeal site comprises two medium-sized agricultural fields of a broadly regular shape and land that lies between 60 and 68 Browns Lane. Two storey residential development lines Browns Lane, and backs onto the appeal site. The administrative boundaries of LDC and TBC extend along the rear boundaries of those houses. These dwellings and the recently built housing development between Browns Lane and the railway line (Browns Lane) form the established northern edge of Tamworth.
14. Ground levels vary across the site, though gently fall away towards the site's north-eastern corner. Hedgerow and trees provide a vegetated boundary between the two fields. Further hedgerows line the site's northern and eastern boundaries, together with its boundary with Main Road to the west. The appeal site's red line boundary abuts the linear residential development on the eastern side of Main Road in the village of Wigginton. The WCA designation includes most, but not all, the village. Three grade II Listed Buildings lie within the WCA. Fields extend between the site's northern boundary and Syerscote Lane and the eastern flank of Wigginton and the railway line, which is set within a landscaped embankment extending in a north-south direction beyond the site's eastern boundary.
15. Public Right of Way (PRoW) 'Wigginton and Hopwas No.1' extends from Browns Lane, across the western field of the appeal site, and into the fields to the north of the appeal site and to the east of Wigginton. The PRoW then meets Syerscote Lane and continues northwards and provides onward connections to other parts of the PRoW network.
16. Beyond the railway line to the east is the Arkall Farm development currently being built out. Outline planning permission was granted here for 1,000 dwellings, among other things, and reserved matters have been granted for around a third of these units. Subsequent reserved matters approvals are needed for the remainder of the development. Nonetheless, when the Arkall Farm development is fully built out, it would extend across land to the north and east of the appeal site.

### *Spatial strategy*

17. LPS Core Policy 1 sets out that LDC will contribute to the achievement of sustainable development to deliver a minimum of 10,030 dwellings between 2008 and 2029 within the most sustainable settlements, making best use of and improving existing infrastructure. It goes on to say that growth will be located at the most accessible and sustainable locations in accordance with the settlement hierarchy and key diagram. The policy explains where the majority of future development will be directed and will seek to deliver infrastructure and facilities required to support this growth.
18. To deliver the minimum quantum of housing envisaged by LPS Core Policy 1, housing development will be focused upon key urban and rural settlements listed in LPS Core Policy 6. One such place is adjacent to the neighbouring town of Tamworth, though the policy recognises the need to identify new locations adjacent to existing settlement boundaries to accommodate the balance of dwellings that cannot be built within the existing built-up areas of the settlements identified above.
19. This fits with Core Policy 1's aim to direct future development to the North of Tamworth Broad Development Location (BDL). Development here will assist in delivering further homes, in part to meet the needs arising from within Tamworth's local housing market. The LPS glossary confirms that the BDL was a broad area of search, within which allocations for development will be considered through the Local Plan Allocations 2008 – 2029 (LPA). Key diagram 4.1 roughly positions the BDL (Map 15.1 provides more detail), and Table 4.1 identifies that approximately 10% of housing will be focused within a BDL near Tamworth. In numeric terms, LPS Core Policy 6 confirms that the 10% equates to 1,000 homes, 500 of which are to meet the needs arising from TBC.
20. The 10% or 1,000 home distribution of new residential development north of Tamworth is also reflected in LPS Table 8.1. LPS Policy: North of Tamworth follows through on the quantum of development expected within the BDL and seeks a sustainable, safe, well-designed mixed-use development to be delivered by 2029. Among other things, a range of housing is expected in line with Policies H1 and H2 of the LPS. Map 15.1 illustrates the spatial relationship of the BDL to Tamworth and its broad extent. The supporting text to LPS Policy: North of Tamworth outlines that development in the BDL within LDC will be reliant on a range of infrastructure delivered within Tamworth.
21. The second part of the Local Plan, the LPA, explains in paragraph 1.2 that both the 'Strategy' and 'Allocations' should be read in conjunction. The LPA deals with land allocations associated with meeting the growth requirements in the LPS and determines the remaining housing land requirements to deliver the overall 10,030 dwellings to 2029 in line with the LPS, including allocations of sites within the BDL north of Tamworth. In effect, the LPA seeks to implement the LPS. Therefore, the LPS and LPA need to be read together insofar as the BDL, the extent of it, and the number of homes that are to be delivered there. That is clearly how the two plans have been drafted, examined, and adopted. The glossary to the LPS confirms this.
22. LPA Appendix B confirms that LPS Tables 4.1 and 8.1 were replaced by LPA Tables 5.1 and 4.1. However, only Table 5.1, which replaced LPS Table 4.1, can be found in the LPA. This table increased the net supply of dwellings by approximately 15% from the minimum housing requirement in LPS Core Policy

1. It also changed the percentage of housing growth to be delivered in several settlements and in the rural areas, but not Tamworth (BDL).
23. The appeal site geographically lies to the north of Tamworth and directly abuts the existing settlement, though it lies outside of its established extent. Part of the appeal site may have broadly been within the BDL as expressed on LPS Map 15.1, but this map was a conceptual expression of where the BDL may be in respect of delivering approximately 1,000 new homes to the North of Tamworth. The detailed work to define where the BDL was and how the expected growth that would be delivered here was done as part of the LPA.
24. LPA Policy NT1 defines the sites within the BDL that are allocated for residential development. NT1 relates to land at Arkall Farm (approximate 1,000 dwellings). NT2 concerns land north of Browns Lane (approximate 165 dwellings). Policy NT1 explains that the development of these sites should comply with LPS Policy: North of Tamworth. The precise extent of NT1 and NT2 are identified in the LPA, thus clearly articulating the location and extent of the BDL compared to the broad area of search established by the LPS. Both NT1 and NT2 have benefitted from planning permissions and are/have been built out for their intended purpose and the number of homes envisaged by the LPA. That number was of course revised upwards from the figure in the LPS<sup>1</sup>, without changing the 10% share of the overall housing growth in LDC.
25. LPA Policy NT1 does not refer to any other sites or enable other sites to be considered to deliver the expected housing in the BDL in accordance with LPS Policy: North of Tamworth. That LPS policy does not also assist the proposal, either, given its location outside of the allocated BDL, as it says, "within the BDL...approximately 1,000 dwellings will be delivered by 2029."
26. In policy terms, the appeal site lies outside of Tamworth, Wigginton, the BDL, or any of the Key Rural Settlements and it is not a Strategic Development Allocation when the LPS and LPA are read together. As such, the site is not within one of the most sustainable settlements detailed within the settlement hierarchy. Therefore, based on its location in policy terms, even if it is an unallocated site, it lies within the rural area. It is also not a brownfield site, which is to be encouraged.
27. Here, specific forms of residential development are permitted by LPS Core Policies 1, 6, H2, and Policy Rural 1: Rural Areas. The proposal does not accord with any of those listed forms of development due to its size, location next to the town of Tamworth, and the absence of a site-specific allocation in the LPA. Furthermore, while the Council cite conflict with LPA Policy NT1, this is a policy specific to the development of named sites in the BDL. Given the site's location outside of the BDL, this policy is not applicable, though I have set out its relevance in explaining my view about the site's location to the BDL. By extension, LPS Policy: North of Tamworth is also not directly relevant to the proposal, as the distribution for the North of Tamworth is linked to the housing delivered through the BDL allocations in the LPA, nothing else.
28. Though the prism of a plan-led system, the proposal would conflict with the spatial strategy for LDC in terms of its location. However, LPS Core Policy 1 is based on delivering a minimum number of dwellings. To do differently would be inconsistent with the Framework's aim to significantly boost the supply of

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<sup>1</sup> LPA Table 5.1 confirms 1,165 gross number of dwellings to be delivered in the BDL

homes. The spatial strategy therefore helps to deliver that minimum number of homes, and that number is pulled through to other parts of the LPS and subsequently the LPA as approximate splits of where that minimum number is to be delivered.

29. In that context, even if every one of the 10,030 homes were delivered in the plan period, that would not, on its own, be a reason not to accept further residential development. That point remains despite the uplift set out by the LPA to the supply of homes in LDC and the indication that those homes will be delivered by 2029. Purely in terms of numbers, the proposal would not conflict with LPS Core Policies 1 and 6.
30. However, the purpose of the spatial strategy is to set out the broad parameters for where and how change will be managed...and specifically how housing growth will occur. The key to the development distribution principles in the spatial strategy is explained in LPS paragraph 4.5. Despite the policy position, there is no getting away from the site's geographic location next to Tamworth, which is identified as a key urban settlement by LPS Core Policy 6.
31. Unlike LPS Table 4.1, the individual references to 'approximate' were not carried forward in LPA Table 5.1, save for reference to 'approx total' at the end of the table. Approximate is perhaps best described as something that is close to a stated figure, but there may be some movement either side of that i.e. a minimum and a maximum. It is not a hard and fast figure. Hence, even if there is a healthy understanding of the future supply<sup>2</sup>, circumstances can change<sup>3</sup>, and it is reasonable to consider the distribution in a broader sense.
32. According to the unchallenged figures presented by the appellant, Tamworth (through the BDL) is to receive roughly 10.26% of the gross housing provision (committed) in LDC. The other main settlements receiving housing are Lichfield, Burntwood, Rugeley, and Fradley, with other rural areas also accounting for 12.53% of the provision. The proposal would increase the distribution of gross housing within LDC at Tamworth by 1.63%, taking its proportionate contribution to 11.89%. As a result, all the other settlements would receive a lower split, with the greatest shift noted in Lichfield (0.64%).
33. However, the growth in Tamworth is based on the new homes coming forward in the BDL alone and nothing else, given that when the LPS and LPA are read together, it is understood that reference to Tamworth really means the BDL. The expected growth in the BDL will come forward, whether that is all within this plan period or slightly beyond. The 'when' is unclear, and neither party could say for certain when those units will be delivered. Even so, when they are, the LPS and LPA will have achieved what they set out to do in terms of delivering all the new homes envisaged in the BDL. The proposal would only add to the number of homes in the BDL if it were considered part of it.
34. I am aware that local plan reviews are being carried out by LDC and TBC and that these are both at an early stage. The review by LDC follows the withdrawal of an earlier review of the plan. Neither plan review is at a stage whereby draft policies have been published, consulted upon, or submitted for examination in public. Nor has the spatial strategy for LDC and TBC. I do not also know the extent of any unresolved objections.

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<sup>2</sup> around 9.5 years

<sup>3</sup> For e.g. the potential direction of travel in respect of Housing Need, Post Inquiry Submission Document 5

35. While the Coton Lane site may be being promoted by a large housebuilder, it is unclear whether the site will be taken forward by LDC or TBC. It is not for me to determine whether that site is suitable for residential development, even if part of it lies within the Planning Urban Area of TBC. My role is to consider the development proposal before me. In any event, there is no indication that developing the Coton Lane site would be directly comparable in terms of the provision of affordable housing. It is also unclear that there is a reasonable prospect of that site being brought forward for residential development given its larger size, inconsistency with the current spatial strategy, and the early stage both local plan reviews are at. There is also no substantive evidence to support the assertion that allowing this appeal would provide an in-principal acceptability across the entire northern edge of Tamworth or that there would be cumulative harm if both sites were developed.
36. Despite this, I have explained that in locational policy terms, the proposal would not add to the growth in the BDL as the site lies outside of it. Instead, the proposed dwellings would add to the growth of homes in the rural area.
37. The development distribution principles are not just number-orientated. They are centred on achieving sustainable development, which is a multi-faceted objective and found in LPS Core Policy 3. I have covered some of these already or will go on to do so, but the appeal site is an accessible and sustainable location, and the proposal would make best use of existing infrastructure, whilst mitigating its effect on that. In practical terms, the proposal's location would reduce the need for future occupants to travel and provide opportunities for travel by public transport compared to a location away from an urban area.
38. The proposed homes would be built to Building Regulations and include measures to reduce carbon emissions, which would ensure the homes are adapted to mitigate the effects of climate change. There is also no substantive evidence that the future occupants of the proposed new dwellings would not share or feel part of the existing sense of place, ownership, and community pride in the area. Although most of the dwellings would be rented, ownership is not just about owning a property or land; it can be about responsibility and a moral obligation to a place. There is no suggestion of a need to improve the local community's values in terms of place, ownership, and community pride.
39. The proposed development would cause a locational policy conflict with LPS Core Policies 1, 6, H2, and Policy Rural 1. This is despite the appeal site not being a rural location afar from anywhere and next to Tamworth in an accessible and sustainable location near existing facilities and services. However, the proposal would not conflict with the minimum numeric housing objective of LPS Core Policies 1 and 6 for housing in the District, even with the LPA uplift and a supply of housing being brought forward as envisaged by the Local Plan. Nor would the proposal adversely skew the expected housing growth distribution in LDC, however one looks at it. Moreover, I conclude that the appeal scheme would not conflict with LPS Core Policy 3 in terms of the creation and maintenance of sustainable communities.
40. I have looked at the underlying principles of the spatial strategy, and taking matters in the round, the material harm arising from the proposal's locational conflict with LPS Core Policies 1, 6, H2, and Policy Rural 1 would be moderate.
41. I have also found that LPS Policy: North of Tamworth and LPA Policy NT1 are not relevant to the proposal given the site's location outside of the BDL.

*Character and Appearance, including Wigginton Conservation Area*

42. Tamworth has a strong northern edge that generally extends across the rear of properties on Gilway Lane, Browns Lane, and the Chestnut Walk development. Beyond those homes and Wigginton are undeveloped fields.
43. The WCA designation relates to the historic part of Wigginton, not the modern development to the south along Main Road and Warland Close. The WCA is to the north of the appeal site, and its significance derives from the village being set on a low ridge, with a strong linear form, running north to south along Main Road. The village is known to have been present by the early medieval period, being recorded as extant in the Domesday survey of 1086. The village's linear form and the surrounding agricultural land point to the village being on a trade route and/or an agricultural function. There is a strong relationship between the village and the surrounding irregular field pattern and ridge and furrow earthworks that indicate an informal enclosure of the previous open field system. Legible areas of extant ridge and furrow earthworks lie in the vicinity of the WCA. Owing to the village's position on a ridge, there are important views of the WCA from the surrounding rural land, including from the PRow network, and views of the village's setting from Wigginton itself.
44. The Wigginton Conservation Area Appraisal and Management Plan identifies a mix of panoramic, specific, and glimpsed key views. There are panoramic key views down Main Road looking out of the WCA towards the appeal site and the northern edge of Tamworth, to the east to the rear of The Old Crown public house, and a specific view along Syerscote Lane that shows the transition from village to open countryside.
45. The appeal site is used as grassland/rough grazing and in regular use for walking. Users enjoy its open character, with those views also gained when looking southwards from Syerscote Lane. Although the Council suggests that there is ridge and furrow in the centre of the eastern part of the appeal site that is not understood on the ground, unlike the ridge and furrow between the site's northern boundary and Syerscote Lane. The western portion of the site is part of a channelled view along Main Road that also takes in existing housing development. That is not the experience on approach to the WCA from Tamworth due to established landscaping along the Main Road boundary.
46. Given the above, the agricultural land around the WCA has historic illustrative interest, which is aided by the topographic relationship between the land and the WCA and its open character interspersed by hedgerows. That setting positively contributes to the significance of the WCA and is experienced in views to/from the WCA as well as from dynamic views within the landscape. The appeal site plays a positive role in that interest and setting owing to its open agricultural character, and function. The site also acts as a buffer between Tamworth and Wigginton.

*Spatial and visual separation*

47. Policy WHC1 of the Wigginton Hopwas and Comberford Neighbourhood Plan 2015-2029 (NP) states that "there shall be no coalescence with Tamworth." This is so that the existing rural environs are maintained and there is a clear distinction between Wigginton (and others) and Tamworth. The explanatory text outlines the importance of preserving "the character of... Wigginton as villages; new development does not cause coalescing." The text goes on to say that the situation for Wigginton "is more precarious due to the pressure for

development to the north of Tamworth.” It also acknowledges that despite the LPS Policy: North of Tamworth saying that there shall be no coalescence with Wigginton by any new development, that is not clearly defined.

48. I understand coalescence to mean the coming together to form a mass or a whole object. However, that could also include something being perceived as coming together. It is a matter of judgement, though to establish coalescence the settlements of Tamworth and Wigginton do not need to touch.
49. The proposed development would physically reduce the existing gap between the northern edge of Tamworth and Wigginton. However, layout details are not before me, so it is unclear by how much. But, even if the housing were to occupy the eastern part of the site, with the western part as POS, that would still reduce the gap between Tamworth and Wigginton, albeit the distance would vary due to the number of houses proposed and the ability to set a good number of these up against the existing northern edge of Tamworth. This would pull the development back from Wigginton with considerable land with an open landscaped character retained, but in doing so, the development would likely spill northwards alongside the railway line if it were to achieve the maximum number of houses proposed. In spatial terms, houses would then potentially extend as far as or just beyond the modern southern edge of Wigginton in an area where ground levels fall away.
50. Although the western boundary of the site extends along the rear of properties on Main Road in Wigginton and to the side/rear of properties on Main Road/Browns Lane in Tamworth, the proposal would not cause physical coalescence if the western part of the site is used as POS and the housing kept to the eastern part. The site is large enough to accommodate the number of houses proposed while keeping the two settlements legible as separate entities. That said, the undeveloped open agricultural character to the western part of the site would likely change given that the land is not proposed to be left in its current state. Landscape details are, however, a reserved matter, and subsequent details to the illustrative proposals before me, could achieve a sensitive agricultural character or minimise the inevitable change. Even so, the local community would understand that this land is functionally associated with a housing development, or at the very least, perceive that it is, given the probable internal access route and indicative footpath links shown on the POS.
51. Despite the appellant’s indicative proposals and landscaping being a reserved matter, I consider that there would be a spatial, and visual perception of, coalescence. The level of harm is difficult to quantify given the outline nature of the scheme, but there is opportunity to bring forward the POS and the housing in a sensitive manner to retain the distinction between Wigginton and Tamworth as much as possible. That would chime with the aims of Policy WHC1. The retention of existing landscaping and the addition of new planting would respond to Policy W1.

*Proposed access*

52. The proposed access (Appeal B) would be formed between an existing row of houses on Browns Lane. Although that access would involve forming vehicular and pedestrian connections across much of the site’s frontage with Browns Lane, this would not be uncharacteristic given the regular pattern of driveways that lead off Browns Lane, and other roads serving nearby dwellings. There would therefore not be any harm to the setting of the WCA. However, permitting an access without the development subject of Appeal A also being

permitted would not improve the character and quality of the area and the way it functions. Doing so would result in an access road occupying a green wedge that provides recreational access to the site and affords a visual break between an otherwise built-up frontage.

#### Effect on the WCA

53. Even if most of the new homes are confined to the eastern part of the site, there would be a loss of the WCA's agricultural setting. That would be a harmful change given the strong rural surrounds to the WCA on each side, particularly from the PRow heading in a northerly direction from Browns Lane. The effect could be reduced by a suitably designed POS in the western portion of the site so that the land responds to the area's agricultural character and so that the experience of PRow users is not unduly altered. However, those details would not entirely prevent the harm arising, and while the PRow route may not be the most direct, it is a well-used route from which that harm would be experienced.
54. From the PRow extending southwards from Syerscote Lane, the proposed dwellings would be viewed across intervening fields bound by established landscaping that would remain and be bolstered by further planting. The houses would be viewed against the backdrop of residential development along the northern edge of Tamworth and Arkall Farm to the southeast. Although the development would take place within the existing gap, the setting of the WCA would remain given the fields to the north of the site and along the WCA's eastern flank, which extends northwards beyond Syerscote Lane. By virtue of this setting remaining unaffected, the key views along Syerscote Lane and from the rear of the public house would be unharmed.
55. Further, given local topography, landscaping, built form, the siting of the WCA on a low ridge, the open agricultural setting to the north, east, and west of the WCA will not be affected by the proposal. The channelled view to the south out of the WCA along Main Road is influenced by built form, banks, and vegetation alongside the road. By leaving the western portion of the site free from built form and securing suitable treatment of the land, this view would be preserved, as the development would not be a component of that view.
56. The development would be experienced differently depending on where it is viewed from. Given this, I agree with the appellant that reliance on a 500 metre distance<sup>4</sup> is guidance, not a hard and fast rule. To simply apply a rigid measure would not consider local characteristics and the merits of a development proposal. That said, the development would occupy some of the agricultural setting to the WCA and, as I have outlined above, introduce spatial, and visual perception of, coalescence. For those reasons, it would harm the significance of the WCA through a change to its setting. However, using the western part of the site as POS and bringing that forward with suitable details would mean that Wigginton would remain as a separate settlement to the north of Tamworth, albeit the visual legibility of the two would be reduced.
57. The proposal would, in the context of the Framework, result in less than substantial harm to the WCA. Due to my findings on coalescence, I place the degree of harm within that spectrum at the low to moderate end.
58. Despite the identified harm to the WCA, the proposal would not conflict with

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<sup>4</sup> CD3.1.3, Paragraph 5.23

section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) as the harm relates to the setting of the asset. However, that harm is a material consideration having regard to the Framework.

#### Conclusion on this main issue

59. I conclude that the proposed development subject of Appeal A would harm the character and appearance of the area with regards to spatial and visual separation of Wigginton. On this basis, the proposal would conflict with LPS Core Policy 3 and NP Policies W1 and WHC1, however, the material harm arising from that conflict would be limited. This is due to landscaping and layout being reserved matters, and I am of the view that the potential harm can be minimised through suitable detailed design proposals.
60. I also conclude that the proposal (Appeal A) would harm the setting of the WCA and thus conflict with LPS Core Policy 14, Policy BE1, and NP Policy WHC3. Jointly, these policies, among other things, seek development proposals to have a positive impact on the significance of designated heritage assets, including conservation areas and their settings to conserve and enhance them, with those assets given the highest level of protection. I will return to weigh the identified harm against the proposal's public benefits later in my decision.
61. If the development subject of Appeal A were to be permitted, the proposed access would not harm the character and appearance of the area (Appeal B) and the scheme would accord with TLP Policy EN5, which seeks new development to take the opportunities available to improve the character and quality of an area and the way it functions. Conflict with this policy would arise were I to reach a conclusion that Appeal A should be dismissed.

#### *Affordable Housing*

62. The proposed development is for up to 210 dwellings, with every unit an affordable home. Up to 137 units (65%) would be affordable rented, and up to 73 units (35%) would be shared ownership. Most of the dwellings would be two or three bedrooms, though the mix would include one- and four-bedroom units.

#### Policy

63. LPS Policy H1 seeks to deliver a balanced housing market, with new residential developments including an integrated mix of dwelling types, sizes, and tenures based on the latest assessment of local housing need. It also explains that to redress an imbalance of dwelling types within the District, the delivery of smaller properties, including two-bed apartments and two- and three-bed houses, to increase local housing choice and contribute to the development of mixed and sustainable communities will be actively promoted.
64. LPS Policy H2 states that LDC is committed to improving housing affordability in the District. On qualifying sites, LDC will be seeking a target of up to 40% of new dwellings (including conversions) to be provided as affordable housing. This is subject to market conditions, and affordable housing provision is expected to be on site unless in very exceptional circumstances. Units may be in the form of social rent, affordable rent, intermediate or a mix of tenures, with at least 65% of the provision being social rented managed by a registered provider (RP), though the precise proportions will be agreed having regard to local housing needs and the economic viability of a scheme.
65. If the 40% target set by LPS Policy H2 is achieved on all qualifying sites, around 2,000 affordable homes would be delivered in LDC between 2008 and

2029. This is approximately 100 homes per year.
66. Due to the site's location and the proposed nomination rights in the s106 agreement, the planning policy context in Tamworth is also highly relevant. TLP Policy HG4 sets a minimum provision of at least 1,000 affordable housing units over the plan period (2006 - 2031), which is around 40 per annum. Unless it is demonstrated to be unviable, developments with 10 or more dwellings are to provide 20% affordable dwellings on site with a mix of 25% intermediate tenure and 75% rented (split of social rented and affordable rented).
67. Both the LPS and the TLP recognise that Policies H2 and HG4 were realistic practical responses<sup>5</sup> to their fully objectively assessed needs (OAN) as identified in The Southern Staffordshire Districts Housing Needs Study and Strategic Housing Market Assessment Update (2012). This document identified an annual need of between 377 and 702 affordable homes over a five-year period for LDC, with a net affordable housing need of 183 dwellings per year for TBC. Even meeting the lower of those two figures was accepted as challenging given LDC's overall annual housing target.
68. TLP Policy HG4 sets a minimum policy requirement for affordable housing. For LDC, when LPS paragraph 8.16 is read alongside Policy H2 there is a clear relationship between the 40% target and what that means in dwelling numbers. I take the latter to numerically reflect what that 40% target is in response to LDC's affordable housing needs over the plan period.

#### What is the current assessment of need?

69. It is common ground that The Housing and Economic Development Need Assessment – Update (HEDNA) identifies a net need for 220 new affordable rented homes per annum in LDC between 2016 and 2036, and a net need for 170 new affordable rented homes per annum in TBC between 2016 and 2036. Those assessed needs are across the whole of each administrative area.
70. Since the HEDNA, new affordable homes in LDC net of Right to Buy (RtB) have averaged 144 per year. This pace of delivery has resulted in a shortfall of -535 affordable homes since 2016/17 which is around -76 affordable homes per year below the identified need. In respect of TBC, new affordable homes net of RtB have averaged 25 per year. This has created a shortfall against the identified need of -1,017 affordable homes with an annual shortfall of -145 homes.
71. The parties agree that the shortfalls should be dealt with within the next five years. To do so in LDC, the Council need to deliver 327 net affordable homes each year between 2023/24 and 2027/28 (220 + (535/5)). Thereafter the need would reduce and revert to that identified by the HEDNA.
72. To address TBC's shortfall 373 net affordable homes are needed each year between 2023/24 and 2027/28 (170 + (1,017/5)). For the remaining period up to 2036, the annual need would be 170 affordable homes.

#### Delivery and supply

73. LDC has delivered 1,275 gross affordable homes, between the start of the LPS and 2022/23, equivalent to 85 per year over the 15-year period. This is a 21% gross affordable housing delivery. If RtB sales and additions are discounted, LDC has delivered 1,140 affordable dwellings per year, which is 76 per annum

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<sup>5</sup> CD3.1.1 Paragraph 8.15 and CD3.2.1 Paragraph 5.21

over the same 15-year period. This is a total average of 19% of net housing completions. However, it is fair to say that the delivery figures are higher in recent years (since 2018/19 save for one year).

74. Since the start of the TLP plan period and 2022/23, TBC has delivered 666 gross affordable homes (39 per year) over the 17-year period. This equates to 16% gross affordable housing delivery. Net of RtB sales and additions, TBC has delivered 295 affordable dwellings, or 17 per year over the same period, which is 7% of the total average number of net housing completions.
75. For LDC, the future supply of affordable housing is likely to lie between 134 affordable homes per year (671 over the five-year period), which is based on LDC's 21% gross prevailing rate of affordable housing delivery, and 170 affordable homes per year (848 over the five-year period), which is based on LDC's Annual Monitoring Report 2023. In TBC, it is anticipated<sup>6</sup> that 249 gross affordable homes will be delivered in the five-year period. This is 50 homes per year using a gross prevailing rate of 16% of overall housing completions.
76. When the future supply for each authority is taken with existing delivery in LDC and TBC on a gross basis, the evidence indicates that both authorities would see their respective development plan requirements met by the end of their current plan periods. If, as the appellant suggests, the net position is used, then LDC would still exceed the expected number of affordable homes envisaged with a 40% target. For TBC, if net figures are used, then affordable housing delivery would be below the minimum requirement at 744 units.
77. Both LDC and TBC have and are likely to deliver on what the LPS and the TLP expected in terms of affordable housing. Provision has and is therefore being made for affordable housing on an administrative wide basis; an important consideration when looked at through the lens of the plan-led system. In that context, affordable homes are part of the housing delivered/being delivered at NT1 and NT2.
78. Nevertheless, the LPS and TLP were only ever proportionate responses to the OANs in LDC and TBC. Against the OAN, the unmet need in both authorities is significant and growing, irrespective of whether it is considered on a net or gross basis. That need is only likely to be greater than that evidenced given that the housing registers for LDC and TBC only capture one type of need and do not fully reflect everyone who could potentially seek an affordable home. Even so, people on those registers are waiting for anything between 34 days to 572 days depending on the size of home required, with people in TBC broadly waiting longer on average compared to LDC.

#### Are these affordable homes really needed?

79. LDC are sceptic about whether the proposed homes are really needed here and question if there are enough people to fill them to avoid the proposed homes standing empty and not being delivered where they are needed. LDC points to a limited number of people on their housing register expressing a locational preference at or near the appeal site, including when the HEDNA sub-areas are considered. A ward breakdown is not available for TBC, and it is reasonable that some people will be on the housing registers for LDC and TBC, and that not everyone on TBC's register will wish to live in Wigginton.
80. While a local need for all the proposed homes may not have been identified as

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<sup>6</sup> CD6.2.2

per NP Policy WHC7, people on the housing registers can bid on any property advertised in any area regardless of locational preferences. There is also no substantive evidence indicating that people will not be prepared to travel to meet their needs, especially to a site next to Tamworth. Further, TBC is a modest administrative area, so locational preferences are unlikely to be as important to people compared to those on LDC's register, even if they are a factor. The s106 agreement would also secure nomination rights for LDC and TBC so that each would receive a 50/50 split of the social rented units. In turn, this would mean the homes are more likely to be occupied. A RP has a conditional contract for the site, which means that the site will not need to be marketed. They can therefore proceed with delivering the homes if planning permission is granted and they have a track record of delivering and managing affordable homes.

81. This is all against the backdrop of an identified need that is only greater than the housing registers and a national affordable housing crisis. Affordability indicators also show that housing is becoming less affordable across LDC and TBC<sup>7</sup>. Therefore, there would be no dis-benefit of providing affordable homes in this location, particularly as an insufficient provision of affordable homes affects people. Being able to live in a good home is a foundation for everyday life. Homes provide stability and offer financial security, help physical and mental health, reduce social mobility and adverse effects on children's education and development. For these reasons, the under-occupancy argument advanced by the Council's was not well supported, particularly as there is no dispute that eligible people will be able to apply for or bid on the proposed dwellings if the development is built out.
82. The proposal would exceed the policy requirements for on-site provision in LDC and TBC by a considerable margin. The proposed tenure mix would accord with LPS Policy H2 and exceed the percentage split of the 20% affordable housing provision sought by TLP Policy HG4 for intermediate tenure. The homes will be designed to look and feel the same as a market home. The detail of those designs would be for any reserved matters application, but the evidence suggests that the development could be well designed and laid out, subject to planning conditions to promote cohesion within the community.

#### Mixed and balanced community

83. Much was made by LDC about the proposal not achieving a mixed and balanced community. This phrase is not found within the Framework's social objective. It is found within Framework paragraph 64, but as the affordable housing provision would be secured on-site parts a) and b) do not apply to this scheme. Nevertheless, LPS Policy H2 seeks developments to incorporate and suitably integrate affordable and market housing...to create mixed and sustainable communities. This reflects the aspiration to create inclusive communities that encourage social inclusion through the PPG<sup>8</sup> and the National Design Guide<sup>9</sup>.
84. The appeal scheme includes a range of unit types and tenures that could be distributed around the site so that there are no distinguishable parts within it. Those units could also be occupied by a range of people on different incomes. That would chime with paragraphs 66 and 69 of the proposed reforms to the Framework and the planning system in terms of the mix of affordable homes

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<sup>7</sup> CD5.7, Section 8

<sup>8</sup> CD3.3.6, Paragraph 003 Reference ID: 53-003-20191101

<sup>9</sup> CD3.3.3, Paragraphs 109, 115 and 119

meeting an identified local need and that mix contributing to a 'mixed tenure site' that can provide a range of benefits.

85. Yet, the lack of market housing proposed means that there would be tension with the mixed and balanced community aim of LPS Policy H2. But both the existing settlement and the development at nearby sites (NT1 and NT2) are adjacent. Although the proposed dwellings would be accessed by a single vehicle access, and it would be more advantageous to have multiple accesses or paths, future occupants of the appeal scheme and those neighbouring it would still consider themselves to be part of the same community in my view. This would be due to their proximity, the range of house types and tenures, the wide spectrum of people who would occupy the homes, the access point onto Browns Lane, the PRoW through the site and the existing recreational use of the land, and the use of existing facilities and services by future occupants.
86. There is no substantive evidence, despite the face value policy tension, to show that the absence of market housing will mean that the development will not in practice lead to a mixed and balanced community that encourages social cohesion and inclusion and reduce inequalities.

#### Conclusion on the main issue

87. The proposal would deliver up to 210 affordable homes with a suitable tenure split and nomination rights for LDC and TBC above the 20% and 40% on site provisions that TLP Policy HG4 and LPS Policy H2 seek. The s106 agreement secures the provision, tenure split, and nomination rights.
88. While both authorities are likely to deliver affordable housing against their development plans, those were a partial response to the true acute and established need against the OANs of LDC and TBC. Those needs are greater than the recent level of delivery (save for 2022 in LDC) even with an uptick in LDC's and TBC's affordable housing stock since 2017/18<sup>10</sup>. The identified need is not just limited to the NP area, though logically the needs arising from that relatively modest area could be met (NP Policy WHC7) by a scheme of this nature and scale.
89. Even if the proposal would not, it would make a considerable contribution to the delivery of affordable homes beyond sources already accounted for in both authorities and help address the needs of both in the next five years given the timeframes for reserved matters submissions can be shortened. Without this, the need in LDC and TBC will not be addressed in the short term, and LDC's longer-term strategy<sup>11</sup> will not be either. That would apply regardless of the parties' dispute about whether RtB units should be included in the Councils supply figures; albeit, if the net RtB figures were used, it would only support a higher level of weight being attached to affordable housing provision.
90. I have outlined why the tension created by the proposed lack of market housing would not, in a wider local context, lead to a community that is not mixed and balanced. That said, I consider the proposal would encourage social cohesion and inclusion and reduce inequalities. It would also give future occupants the opportunity to access employment and a range of services and facilities in Tamworth through a tenure mix that contains a strong level of

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<sup>10</sup> Some years close to HEDNA + shortfall figure in LDC and TBC but below that figure, Ms Hill PoE, Appendix 1

<sup>11</sup> CD6.2.6, Regularly exceed our affordable homes target by 2038 and by 2050 housing inequalities have been challenged and options that meet everyone's needs, for now and the future are available.

social rented units. Thus, the proposal would accord with LPS Core Policy 3.

91. Collectively, for the above reasons, I give the proposed affordable housing provision on the appeal site very substantial positive weight. In reaching this view, I have taken the Council's case at its highest, i.e. the gross affordable housing supply for LDC and TBC.

*Planning obligations*

92. The completed s106 agreement would secure an obligation for off-site highway improvement works at the A513, Gillway Lane, Comberford Road, Coton Lane junction within TBC. The obligation would ensure improvements are made to the junction to mitigate the development's highway capacity effect. The s106 agreement also includes a travel plan monitoring fee to enable the County Council to monitor and review the effectiveness of the travel plan so that the development supports, priorities, and encourages the use of sustainable transport opportunities to reduce the impact of travel on the environment.
93. The affordable housing provision secured by the s106 agreement is substantially above the policy compliant level of affordable housing sought by LPS Policy H2 at 40% or by TLP Policy HG4 at 20%.
94. A mix of on-site public open space is necessary to provide future occupiers with opportunities to support healthy lifestyles, given the lack of such provision within a ten-minute walk. That mix will include LEAP and LAP play equipment for children and amenity space, including parks and gardens. The s106 agreement would secure that mix and a minimum quantity based on the standard sought by the Developer Contributions Supplementary Planning Document (SPD). Further, the s106 agreement would secure the establishment of the public open space and its maintenance and management arrangements.
95. To mitigate the additional demand that future occupiers would place on existing named practices within the Mercian Primary Care Network and the costs of delivering improved facilities to account for the increased demand, a healthcare contribution is secured by the s106 agreement. The contribution would be used to adapt, extend, and refurbish consulting, examination, and treatment rooms at four practices near the appeal site.
96. The development would give rise to an additional demand on primary and secondary school places in the local area. The contribution sought would mitigate the proposal's effect and is based on pupil yields and the number of qualifying dwellings in the appeal scheme. Without mitigation, including projected growth, there would not be enough primary or secondary places to accommodate school-aged children living in the appeal scheme. The primary education monies would be spent on creating an additional half form of entry at Ashcroft Infant School and Flax Hill Junior School. The secondary education monies would be spent on enabling Landau Forte QEMs to increase the published admission number. If those projects are not possible, the monies would be spent on the other primary and secondary schools within the school planning area in which the appeal site lies, and who would take on the collective extra burden created by the proposal.
97. The s106 agreement would secure the County Council's monitoring fee which relates to the ongoing monitoring of the trigger points and administration of the obligations that the County Council is involved in. That fee is based on the amount of officer time involved in carrying out relevant monitoring.

98. Although concerns have been raised about the lack of infrastructure to support more homes, the proposal would mitigate its effect in terms of school places, healthcare, and transport. There is no substantive evidence to show further infrastructure mitigation is required.
99. The contributions are secured through the s106 agreement and meet the statutory tests set out in Framework paragraph 57 and in Regulation 122 of the CIL Regulations. As such, they are material considerations in Appeals A and B and the proposals would accord with LPS Core Policies 4, 5, 10, ST1, H2, HSC1 and IP1, TLP Policies HG4, IM1, and SU2, the SPD, the Tamworth Borough Council Planning Obligations Supplementary Planning Document (POSPD), and Framework paragraphs 64, 93, and 102.

### Other points raised

#### Highways

100. Concerns have been raised about the effect of the extra vehicle movements arising from the proposal on the local highway network, particularly given the committed developments at Browns Lane and Arkall Farm. The adequacy of the appellant's highway evidence has also been questioned, together with whether the proposal would prejudice the delivery of the Arkall Farm development and pass on any highway mitigation measures to that developer instead of the appeal scheme bringing them forward.
101. Planning conditions were imposed on the Arkall Farm decision, controlling the number of homes that can be built out at any one time. The delivery of an initial 300 homes was linked to highway works to mitigate the traffic linked to them. Thereafter, planning conditions secured a 'monitor and manage' strategy that requires surveys to be carried out at set points<sup>12</sup> and if mitigation is needed, that is then undertaken so that the remaining homes can be delivered.
102. Traffic arising from the proposed development would use the same local road network as traffic created by the Arkall Farm development. The appellant has submitted a body of transport related evidence. As part of that, capacity assessments of local junctions have been undertaken for a revised future year of 2029, and traffic growthed to 2029 using known and requested committed development in the area. The appellant has approached highway matters based on a 'nil detriment' position considering the fixed known development of 300 homes from the Arkall Farm development and the associated highway works. That work led the Highway Authority to conclude that the development would not have a severe impact on the operation or safety of the highway network and would not prejudice Barwood's approval at Arkall Farm.
103. Criticism is levelled at the appellant's work on the basis that it does not treat the Arkall Farm development as a committed development of 1,000 homes. Instead, interested parties say that it only considers the first 300 homes. However, the first 300 homes and the associated highway works offer a fixed point against which to assess the proposal's impact. This is because the mitigation that could form part of the monitor and manage approach is not an exhaustive list and could include measures not considered as part of the Arkall Farm decision, which provided the Inspector confidence that the full scheme could be delivered without harmful highway safety or capacity impacts.

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<sup>12</sup> Conditions 24, 28 (300-500 dwellings), and 29 (500-1,000 dwellings)

104. However, a s73 application has been submitted to LDC seeking to remove the monitor and manage mitigation strategy and agree highway mitigation measures that would enable the full delivery of the Arkall Farm development. I understand this application relies on the same or similar mitigation as proposed here and is supported by revised survey work in 2021 and parameters such as traffic generation, trip rates, and distributions. I am not aware that the s73 application has been determined. While there are some differences in the modelling undertaken by the appellant and for the s73 application, the appellant has added the traffic from the Arkall Farm development (including future year flows) into their approved and audited model.
105. This sensitivity review indicates that suitable consideration has been given to the cumulative effects from committed development, that there is a suitable mitigation strategy proposed that can be conditioned, that the proposal would not prejudice the delivery of the Arkall Farm development, and even if the s73 application were to be approved, both the appeal scheme and the entirety of the Arkall Farm development can be accommodated on the local highway network safely and in capacity terms. Therefore, the proposal would not have a severe impact on the operation of the highway.
106. Speeding traffic is a concern of residents, and while I recognise the implications of that, it is an existing situation, and there are measures outside the scope of this appeal to ensure drivers adhere to speed limits. The proposed access would provide safe and suitable access for highway users to and from the site, and the existing highway infrastructure in the area is capable of accommodating trips arising from the proposal safely.
107. In the round, despite the concerns raised, I have no reason to disagree with the appellant's assessment or that of the Highway Authority. I also consider that the appellant's evidence takes into account the full extent of committed development at Arkall Farm.

#### Listed buildings

108. Two grade II listed buildings are to be found in Wigginton. They are St Leonards Church, and 104 Main Road. Both are within the historic core of the settlement and are constructed from red brick. Alongside their historic interest, they have both had a functional role within Wigginton and have been added to, converted, or possibly re-built. Owing to the location of each asset and the location of the proposed development, the appeal site does not contribute to the significance of St Leonards Church or 104 Main Road. Hence, no harm would be caused, and their special interest would be preserved.
109. Perrycrofts, a house now converted into flats, is three storeys high, built from brick with flat brick arches above its windows, and is finished with a hipped roof. Previously called Wigginton House, it had designed views eastwards and south, over parkland, facilitated by terrace or ha-ha. Service ranges and/or farm buildings lay to the north and west, but these have now been demolished. Modern development now limits the extent to which the building's architectural interest can be experienced and understood. Due to the intervening housing and road, the appeal site does not contribute to the asset's significance, and the development would not cause harm to it. As such, Perrycroft's special interest would be preserved.

#### Environmental effects

110. The appeal site lies within flood zone 1, which means that the land is at the

lowest risk of flooding. I note the view of the Lead Local Flood Authority and consider that the proposal would not, subject to planning conditions securing drainage details for foul and surface water, cause flood risk concerns.

111. Residents would be able to continue using the PRoW through the appeal site even with the development in place. That route provides onward connections which would continue, and landscape details could be brought forward to minimise the change to the land's character and PRoW user experience.
112. The provision of items such as swift bricks can be considered as part of the detailed designs of the proposed dwellings in any reserved matters application.

#### Other points

113. I understand the point about the proposed dwellings not contributing to the parish or district council precept and the New Homes Bonus. These monies, however, go towards mitigating the extra demand the proposed development would place on those services. It is not for this appeal to reconcile whether precept payments need to be paid by future occupants.
114. Residents have raised concerns about crime and the fear of crime. However, the detailed design of the proposal would enable the consideration of these matters, including any footpath links, to ensure the development includes measures to design out crime. Furthermore, the precise relationship between the proposed dwellings and neighbouring properties would be a matter for any reserved matters application. That would need to consider existing residents' privacy, among other things.

### **Planning Balance**

#### The Development Plan

115. The proposed development would cause harm to LDC's spatial strategy owing to the appeal site's locational policy conflict. The material harm relating to the conflict with LPS Core Policies 1, 6, H2, and Policy Rural 1 is moderate for the reasons outlined. The proposal would not, however, conflict with LPS Core Policy 3, Policy: North of Tamworth, and LPA Policy NT1.
116. I have identified limited material harm to the character and appearance of the area (Appeal A) which results in conflict with LPS Core Policy 3 and NP Policies W1 and WHC1. I have also found conflict with LPS Core Policy 14, Policy BE1, and NP Policy WHC3 due to the proposal's (Appeal A) effect on the setting of the WCA. If Appeal A were to be allowed, there would be no conflict with TLP Policy EN5 in relation to Appeal B, but the reverse would be true if Appeal is to be dismissed. In that event, significant harm would occur from that conflict.
117. Through the s106 agreement, the proposal would accord with LPS Core Policies 4, 5, 10, ST1, H2, HSC1 and IP1, TLP Policies HG4, IM1 and SU2, the SPD, the POSPD, and Framework paragraphs 64, 93, and 102. Some of the obligations would provide the local community with affordable homes and recreation, leisure, and wellbeing benefits that weigh in favour of the appeal scheme. The remaining contributions would mitigate the effect of the development, so they do not weigh in favour or against the proposal.
118. The proposal complies with and conflicts with the development plan, but I conclude as a whole the appeal scheme conflicts with the LPS and TLP.

### The benefits of the appeal scheme

119. Notwithstanding the Councils view, I consider the provision carries very substantial positive weight in this case for the reasons set out.
120. On-site POS and green infrastructure would be delivered through the s106 agreement and planning conditions. This would be considerably above policy requirements (around 58% of the site could be used for POS), and subject to detailed designs could be a betterment on the existing formal and informal recreational use of the site. Access to a mixture of green and blue spaces and other features would serve future occupants and the existing population, given the PRoW through the site, the proximity of existing housing, and the illustrative plans, which show how the site could include other footpath links across the site through the POS and to the equipped play areas. Hence, there would be community-wide benefits to health and wellbeing. This benefit carries significant positive weight due to the size of the provision likely to come forward, its location, and accessibility to existing and future occupants, the former of which currently make use of the land for recreational purposes.
121. Bus stop infrastructure improvements on Browns Lane would help encourage future occupants to use public transport. This would help mitigate the proposal's impact on the local transport network. However, the improvements would also benefit the existing nearby population, and encourage them to use public transport. I give limited positive weight to this benefit.
122. Beneficial improvements may be forthcoming to the PRoW extending through the western parcel of the site, but equally they may change users experience of a route with an agricultural character. Such changes are not automatically beneficial; the key is that they respond to the site and its surroundings while improving the existing situation. I do not have details of the potential improvements before me to know whether they will improve connectivity for all, so this matter carries limited positive weight.
123. The proposal would deliver a minimum biodiversity net gain (BNG) of 20%, subject to planning conditions and the s106 agreement. This provision is above the 10% statutory requirement, though that does not apply here as the planning application was made before this measure came into force. A 'net gain for biodiversity' is sought by LPS Policy NR3. Theoretically, this could be a 1% BNG, but the Biodiversity and Development Supplementary Planning Document (SPD) puts the BNG requirement at 20%. The reason why the appellant says that the SPD is out of date is based on plan-making guidance, not decision-making. Instead, the PPG<sup>13</sup> explains that the SPD may continue to be a material consideration. So, while the proposal may not be required to deliver the statutory requirement, it would accord with the SPD, and thus LPS Policy NR3 on the Council's case when they are taken together. I agree with this approach, as delivering BNG is a fundamental component of the Framework's environment objective to protect and enhance our natural environment. Accordingly, I give the BNG to be delivered neutral weight.
124. However, if I am wrong and the SPD is out of date, there would potentially be a sliding scale of beneficial weight that could apply depending on the amount of positive BNG delivered beyond the baseline. While not applicable, the statutory 10% figure offers a benchmark. Against that, and if the SPD is set to one side, a measurable gain would be achieved. That would attract moderate positive

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<sup>13</sup> CD3.3.2, Paragraph 020 Reference ID: 74-020-20240214

weight, but that does not change my primary finding.

125. Economically, the proposal would lead to direct, indirect, and induced jobs from the construction of the development and its ongoing management. The number of those is not quantified beyond an estimate. Future occupants would also contribute to the local economy. These contributions would be both short-and long-term. Having regard to Framework paragraph 85, the economic benefits carry significant weight due to the scale of the scheme and contributions that flow from that.
126. I recognise that the appellant has provided more design detail than typically submitted at outline stage with only certain access matters up for consideration, but the creation of high quality and sustainable buildings and places is a cornerstone of national and local policy to create better places in which to live and work. Further, so is moving to a low-carbon economy and the use of sustainable drainage systems. Also, designated heritage assets are to be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Through this lens, a major development of energy-efficient houses with a high-quality design compliant with Building Regulations that includes a sustainable drainage system attracts neutral weight.
127. Although Council Tax receipts would be created for LDC, this is not a benefit as they are collected to mitigate the additional requirements that the new homes would bring. Furthermore, the monies secured through the s106 agreement for education and health care mitigate the development's impact. They are not benefits. The same applies to the off-site highway improvements to the Upper Gungate corridor, as they would mitigate the proposal's impact on the highway network on a nil-detriment basis.

#### Heritage Balance

128. The harm to the significance of WCA would be less than substantial, with the harm at a low to moderate level within that spectrum. I give great weight and importance to its conservation as it is an irreplaceable resource. However, having regard to the public benefits set out above, I consider that they would outweigh the harm that would be caused to it.

#### **Conclusion on the Planning Balance**

129. The planning system should be genuinely plan-led. Both LDC and TBC have development plans that direct development to suitable locations to enable growth in accordance with their spatial strategies that have been adopted following an examination of their associated evidence bases. Those plans provide a vision for each area; a framework for providing housing and addressing other economic, social, and environmental priorities; and a platform for local people to shape their surroundings. Both LDC and TBC appear to be delivering against those plans. However, these appeals are still to be considered on their own merits.
130. The proposals would result in benefits, but also cause harm. The harms bring the proposal (Appeal A) into conflict with several LPS and NP policies, and a TLP policy (Appeal B) if Appeal A were allowed. The amount of affordable housing proposed is uncommon, and there is certainty around who and when this could be delivered to address the OAN in LDC and TBC, which is greater than the requirements of the LPS and TLP in respect of affordable housing. I have considered these factors along with the site's location and circumstances.

I have also outlined that the public benefits, including the provision of affordable housing, outweigh the harm that would be caused to the WCA.

131. Nevertheless, the benefits from this scheme are collectively weighty enough to indicate that these decisions should be made otherwise than in accordance with the development plans. As such, I conclude that the appeals should be allowed subject to the conditions set out below.

### **Conditions**

132. As Appeals A and B relate to the same site and development and as all matters are reserved for future consideration save for the initial section of the access, I have imposed the same conditions for both decisions to ensure consistency, certainty, and flexibility on how the development comes forward.
133. I have imposed conditions (1, 2 and 3) in respect of the timing and composition of future reserved matters applications and to control when development must have begun on site. These are necessary in the interests of certainty and due to the affordable housing need and delivery relating to the case. An approved plans condition (4) is necessary in the interests of certainty.
134. In the interests of ensuring suitable movements to, from, and through the appeal site, I have imposed a condition to secure a masterplan (5). So that any future design considers and responds to the local noise environment, including that of the adjacent railway line I have imposed a condition to secure a noise impact assessment (6). I have imposed a pre-commencement condition in respect of materials (7) so that the development harmonises with its surroundings. Further pre-commencement conditions have been imposed (8 and 10) and are necessary in respect of foul and surface water drainage, and to secure appropriate site layout in respect of parking, turning, and servicing and suitable visibility splays. A condition to secure a Construction Environment Management Plan is necessary to ensure that the construction of the development does not unacceptably affect residents living conditions or the wider environment (9). In the interests of highway safety, I have imposed a condition to secure a suitable access to and from the site on Browns Lane (11).
135. To ensure the safe development of the site and the wellbeing of future and existing occupiers, I have imposed a condition to investigate and record any contamination of the site with a subsequent report and any necessary remediation (12). Conditions to secure a Landscape and Ecological Management Plan (13) and a Biodiversity Enhancement Strategy (14) are both necessary in the interests of securing biodiversity improvements on the site and future management, monitoring, and review measures. To secure timely sustainable travel infrastructure provision and future occupants use of that infrastructure, I have imposed a condition for a bus stop on Browns Lane (15). I have imposed a condition to mitigate the proposal's cumulative effect on the highway network, and to secure the off-site highway improvement works to the Upper Gungate corridor (16). To support and encourage the use of bicycles by future occupants, a condition is necessary to secure covered and secured cycle storage facilities (17).
136. In the interests of the character and appearance of the area, residents living conditions, and ecology, a condition is necessary to secure a lighting scheme (18). To ensure a satisfactory phasing of development and to provide certainty, I have imposed a condition (19) to inform when walling and fencing are to be provided for each dwelling. Given the variety of ground levels across the site, I

have imposed a condition so that existing and proposed ground levels, site sections, finished floor levels, and ridge and eaves heights of all proposed dwellings are submitted for approval as part of any reserved matters scheme (20). A condition (21) is necessary to stop work on the site if any unexpected contamination is found during construction to ensure the safe development of the site and to secure its remediation.

**Conclusion**

137. Given my findings above, I conclude that Appeals A and B should be allowed.

*Andrew McGlone*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Hashi Mohamed	Counsel
He called:	
Ben Ward MSc, MRTPI	Planning Director, Marrons
James Stacey BA (Hons), DipTP, MRTPI	Managing Director, Tetlow King Planning
Gail Stoten BA (Hons), MCIFA, FSA	Heritage Executive Director, Pegasus Group
James Atkin BA (Hons), Dip LM, CMLI	Senior Director (Landscape), Pegasus Group
David Frisby BEng (Hons), CEng, FCIHT	Director, Mode Transport Planning
Mike Carr+ BA (Hons), Dip LA UD (Dip)	Director, Pegasus Group
Julie Russell*	Legal Director, Shakespeare Martineau

### FOR THE LOCAL PLANNING AUTHORITY:

Piers Riley-Smith	Counsel
He called:	
Gemma Hill	Senior Policy and Strategy Officer, Lichfield District Council
Simon Roper-Pressdee BA (Hons), IHBC	Conservation Officer, Lichfield District Council
Patrick Daly BA (Hons), MSc, MRTPI	Planning Consultant, Lichfield District Council
Patrick Jervis*	Principal Policy and Strategy Officer, Lichfield District Council
Glen Baker-Adams*	Team Leader – Development Management, Tamworth Borough Council

+ Evidence taken as read only

\* Participated in the Planning Obligation session only.

### INTERESTED PARTIES:

David Foster  
Daniel Griffiths

## INQUIRY DOCUMENTS

- INQ1 Appellant Opening Statement and Appearances
- INQ2 Council Opening Statement and Appearances
- INQ3 David Foster Written Submission
- INQ4 Daniel Griffiths Written Submission
- INQ5 Amended Table 4.1, Appendix 1 of Mr Ward's Proof of Evidence
- INQ6 Lichfield District Ward Map and Affordable Housing Provision for Browns Lane and Arkall Farm
- INQ7 Broad Development Location (BDL) Maps
- INQ8 Council Closing Submissions
- INQ9 Appellant Closing Submissions

## CORE DOCUMENTS

Found in the List of Core Documents, dated 5 July 2024.

## POST INQUIRY SUBMISSION DOCUMENTS

- 1 – Updated draft planning conditions
- 2 – Updated CIL Compliance Statement, 3 July 2024
- 3 - Completed s106 agreement including Appendices 1 and 2
- 4 – TBC comments on NPPF consultation and Secretary of State (SoS) written ministerial statement (WMS)
- 5 – Appellant comments on NPPF consultation and SoS WMS
- 6 – LDC comments on NPPF consultation and SoS WMS

## SCHEDULE OF CONDITIONS – Appeals A and B

- 1) An application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this decision.
- 2) No development shall take place until plans and particulars of the details of access (other than shown on plan reference J32-4320-PS-001 dated June 2021), layout, scale and appearance of the buildings to be erected and the landscaping of the site (hereinafter called "the reserved matters") have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last reserved matter(s) to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans and details except insofar as may be otherwise required by other conditions to which this permission is subject: 1:7500 location plan; proposed parameter plan reference DPP.01; and site access arrangements reference J32-4320-PS-001.

### *Prior to or with reserved matters application*

- 5) Prior to or concurrently with the submission of reserved matters application in relation to the proposed development hereby approved, a Masterplan shall be submitted to and approved in writing by the Local Planning Authority. The submitted Masterplan shall include the following:
  - movement framework;
  - connections within the development and to the surrounding area for all modes of transport;
  - connection through the site for all modes;
  - street layout and character including measures to restrain the speeds of vehicles to 20mph;
  - parking strategy including the provision of safe, secure and weatherproof cycle storage facilities for all uses on the site including cycle parking in public open space / play areas;
  - consideration of residential dwellings' distance to bus stops;
  - development phasing.
  - the layout of the public open space, including pathways and benches
  - refuse strategy.

The development shall thereafter be built in accordance with the approved Masterplan.

- 6) Prior to or concurrently with the submission of any reserved matters application in relation to the proposed development hereby permitted, a noise impact assessment in relation to the BS 4142 Standard to include the full implications of the noise levels arising from the adjacent railway relevant to the dwellings proposed as part of that application shall be submitted to and approved in writing by the Local Planning Authority. The approved development shall be carried out in accordance with the approved details alongside any mitigation measures agreed, where relevant.

*Pre-commencement*

- 7) Before the development hereby permitted is commenced for the first dwelling samples and details of all materials to be used externally shall be submitted to and approved by the Local Planning Authority. The samples and details submitted shall include the product name and manufacturer (including details of coursing of brickwork, rendering finish and roof tiles). The development shall be carried out in accordance with the approved details.
- 8) Before the development hereby permitted is commenced, a detailed drainage design for foul and surface water to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The design shall have regard to the requirements of the Staffordshire County Council Sustainable Drainage Systems Handbook. The development shall be completed in accordance with the approved drainage details, which shall be implemented prior to the first occupation of the dwelling or dwellings that it serves.
- 9) Before the development hereby permitted is commenced, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details relating to construction access, the routing of construction vehicles, loading, and unloading of plant and materials, hours of construction, delivery times and the location of the contractor's compounds, cabins, material storage areas and contractors parking and a scheme for the management and suppression of noise, vibration, dust, and mud from construction activities including the provision of a vehicle wheel wash. The development shall be undertaken in accordance with the approved CEMP.
- 10) Before the development hereby permitted is commenced details of the following shall be submitted to and approved in writing by the Local Planning Authority:
  - layout of site including disposition of buildings and provision of adequate parking, turning and servicing within the site curtilage;
  - vehicular visibility splays from the proposed access points and driveways within the development;
  - means of surface water drainage from all areas intended to remain in private ownership;
  - surfacing materials;
  - full road construction including longitudinal sections and a satisfactory means of draining roads to an acceptable drainage outfall.

The details shall thereafter be implemented in accordance with the approved details prior to the occupation of each dwelling which the approved scheme serves.
- 11) The approved site access from Browns Lane shall be completed within the limits of the public highway broadly in accordance with approved Plan J32-4320-PS-001. The visibility splays of 2.4m x 53m shall be kept free of all obstructions to visibility with nothing placed or allowed to remain forward of the visibility splays over a height of 0.6m above the adjacent carriageway level. The access and visibility splays shall be implemented prior to the commencement of the dwellings hereby permitted and shall be retained for the lifetime of the development.
- 12) Before the development hereby approved is commenced, the site shall be subject to

a detailed scheme for the investigation and recording of any contamination of the site and a report shall be submitted to and approved in writing by the Local Planning Authority. The report shall identify any contamination on the site, the subsequent remediation works considered necessary to render the contamination harmless and the methodology used. The approved remediation scheme shall thereafter be completed, and a validation report submitted to and approved in writing by the Local Planning Authority within 1 month of the approved remediation being completed, unless otherwise agreed in writing by the Local Planning Authority.

- 13) Prior to the commencement of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) description and evaluation of the features to be managed;
  - b) ecological trends and constraints on the site that might influence management;
  - c) aims and objectives of management;
  - d) appropriate management options for achieving aims and objectives, including provision for funding;
  - e) prescriptions for management actions;
  - f) preparation of a work schedule;
  - g) details of the body or organisation responsible for implementation of the plan;
  - h) ongoing monitoring and remedial measures; and
  - i) provisions for phasing and implementation.

The approved plan shall be implemented in accordance with the approved details.

- 14) Prior to the commencement of the development hereby approved, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) purpose and conservation objectives for the proposed enhancement measures;
  - b) detailed designs to achieve the stated objectives;
  - c) locations of proposed enhancement measures by appropriate maps and plans;
  - d) timetable for implementation demonstrating that works and protections are aligned with the details of development phasing required in relation to condition 5;
  - e) persons responsible for implementing the enhancement measures;
  - f) details of aftercare and long-term maintenance as well as provisions for ongoing monitoring and remedial measures; and
  - g) details of the appointment of a person to provide ecological expertise during construction.

The identified enhancement measures shall be implemented in accordance with the approved details and timetable to achieve as a minimum a metric of at least 20% biodiversity net gain as set out in the Biodiversity Net Gain Update reports received 11 April 2023.

*Slab level*

- 15) Before any construction above slab level occurs full details of the proposed bus stop infrastructure improvements for the bus stop closest to the site on Browns Lane shall have been submitted to and approved in writing by the Local Planning Authority. The approved bus stop infrastructure improvements shall be

implemented in accordance with the approved details prior to the occupation of any dwelling.

*Before first occupation*

- 16) The development hereby permitted shall not be first occupied until the off-site highway improvements to the Upper Gungate corridor, broadly in accordance with approved Plan Ref: GG-LE-HAD-OF-DR-CE-100 Rev D have been implemented.
- 17) Prior to the first occupation of any of the residential units hereby granted permission a scheme of covered and secured cycle storage facilities to serve each dwelling shall be submitted to and approved in writing by the local planning authority. Each dwelling shall be provided with cycle storage in accordance with the approved details prior to first occupation of each dwelling and they shall be thereafter retained for the life of the development.
- 18) The development hereby permitted shall not be occupied until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include site annotated plans showing lighting positions for the external spaces, facades, building elevations and structures they illuminate, site plans showing horizontal and vertical overspill to include light trespass and source intensity, affecting surrounding residential premises and details of the lighting fittings including: colour, watts and periods of illumination. All lighting works shall be implemented in accordance with the approved details and shall be completed prior to the occupation of any part of the development and thereafter maintained.
- 19) Any scheme of walling and fencing approved as part of the landscaping scheme required by condition 2 above shall be completed prior to the first occupation of the dwelling or dwellings to which it relates to.

*Other*

- 20) The details required under condition 2 above shall include details showing the existing and proposed land levels of the site including site sections and the finished floor levels, ridge and eaves heights of all proposed buildings with reference to the finished floor levels, ridge and eaves heights of neighbouring buildings. The development shall be undertaken in strict accordance with the approved details.
- 21) If during the course of development, contamination not previously identified is found to be present on the site, then no further development (unless otherwise first agreed in writing with the Local Planning Authority) shall be carried out until a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A, and appropriate remediation proposals has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.

END OF SCHEDULE