Planning Inspectorate

Appeal Decision

Inquiry held in person on 12 to 15 May and virtually on 19 May 2026

Site visits made on 11 May and 13 May 2026

by R Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2026

Appeal Ref: 6002069
Land south and west of Junction 9 of the M42, adjacent to Lichfield Road B76 0BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by Richborough Commercial Limited against North Warwickshire Borough Council.
- The application Ref is PAP/2024/0297.
- The development proposed is described as 'outline planning application, with all matters reserved (except for access) for employment development (Use Class B2/B8 with ancillary E(g)), together with habitat creation, landscaping, parking, service yards, HGV waiting area, footpaths/cycleways, and other associated infrastructure'.

Decision

1. The appeal is allowed and outline planning permission is granted for development described as 'outline planning application, with all matters reserved (except for access) for employment development (Use Class B2/B8 with ancillary E(g)), together with habitat creation, landscaping, parking, service yards, HGV waiting area, footpaths/cycleways, and other associated infrastructure' at land south and west of Junction 9 of the M42, adjacent to Lichfield Road B76 0BA in accordance with the terms of the application Ref PAP/2024/0297, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Richborough Commercial Limited against North Warwickshire Borough Council (NWBC). This application is the subject of a separate Decision.

Procedural and Preliminary Matters

3. The application was submitted in outline, with only access to be considered. An access plan and location plan have been submitted for approval along with a parameter plan[1]. All other matters are reserved for later consideration and other plans are illustrative. I have determined the appeal on this basis.

4. The proposal is EIA development and the application was accompanied by an Environmental Statement (ES). The ES is considered to be satisfactory in terms of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. I have taken account of the ES accordingly.

[1] Drawing Ref: n2053 004 Rev M.

All other environmental information submitted in connection with the appeal including that arising from the Inquiry has also been taken into account as such material contributes to the totality of the environmental information before me.

5. Inspector David Prentis held a virtual Case Management Conference (CMC) on 24 March 2026. It was held to discuss the procedure for the Inquiry and the merits of the appeal were not discussed. IM Properties Development Ltd were granted Rule 6 Party status to the Inquiry submitting written evidence on employment related matters.

6. Had the Council been able to determine the application the officer report to committee confirms putative reasons for refusal relating to location, inappropriate development within the Green Belt, character and appearance effects, loss of agricultural land and employment related matters.

7. Despite a significant amount of evidence put before me; the Council's case is that there is an evidenced, demonstrable and immediate unmet need for employment land and that the resultant economic and social benefits should be given a greater amount of weight in any balance (substantial) than required by Policy LP6 (significant). I therefore sought further clarification on this issue ultimately allowing the appellant's employment witness to present evidence in chief and therefore allow an opportunity for any questions to be asked.

8. The updated Planning Statement of Common Ground (SoCG) is clear that the proposal complies with Policy LP6 of the LP in full and the Council expressly stated that it did not resile from that position at the Inquiry[2]. The Council's position is that were I to find the proposal not to be inappropriate development then planning permission should be granted, in any balance, on the basis of material considerations outweighing any harm in terms of the development plan and/or the Framework's decision making policies.

9. Discussions on a s.106 legal agreement (the agreement) continued before and during the Inquiry, including at a Round Table Discussion (RTD). By the close of the Inquiry signing of the agreement had not been possible so I allowed a period for the agreement to be completed. The agreement was duly submitted within that period and is dated 2 June 2026. There was agreement that the obligations would comply with the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 and a CIL compliance statement was submitted justifying the obligations. I return to the agreement below.

10. The Inquiry sat in person from 12 to 15 May 2026 with closing submissions given virtually on Tuesday 19 May 2026. I carried out a number of unaccompanied site visits, including an unaccompanied visit on 13 May 2026 where I viewed the appeal site from a number of locations in accordance with an itinerary agreed between the parties.

11. The Inquiry was served by a series of Core Documents (CDs) and further Inquiry Documents (IDs) were submitted during the proceedings. The information was all made publicly accessible during the duration of the event and beyond. I gave opportunities for views to be shared and, where appropriate, for interested persons to ask questions of the relevant witnesses and participate. No party has been prejudiced by my consideration of those further documents.

[2] DC in XX and closing submissions.

12. On the 24 August 2026, a revised National Planning Policy Framework (the Framework) was published. In order to establish the significance of this for my determination of the appeal the decision was delayed allowing for comments from the parties and interested persons to be submitted. No request was made to re-open the Inquiry and I have taken the comments into account in my determination of this appeal.

13. I have also been appointed to report to the Secretary of State on two recovered planning appeals nearby, PINS refs: 6005613 and 6005614 commonly known as 'Thrive', a hybrid proposal for a major employment park at land to the west of Junction 9 of the M42 and M6 Toll. A Public Inquiry took place in June 2026 and at the time of this decision a report is being prepared with the Inquiry having closed virtually on 18 September 2026.

14. There is some commonality between the sites and schemes which I summarise as follows:

- Both are in the administrative area of NWBC (albeit a small area of Thrive lies within Birmingham City Council) and share the same policy context (which is said to be materially inconsistent with the Framework in the appeals).
- Both proposals are for mixed employment and could accommodate Big Box and Mid Box floorspace.
- Both are said to meet an immediate strategic need for such floorspace;
- The sites are in physical proximity (less than 1km apart).
- The primary access for both would be via Junction 9 (a highly accessible location which gives ready access to the M42 and the M6 Toll).
- Both are in Green Belt and both appellants make the case that their respective sites are Grey Belt.
- Both appellants accept that their schemes involve loss of BMV agricultural land and there would be acknowledged character and appearance harm, albeit subject to different degrees and judgements based on different professional assessments, views and evidence.

15. There are also some clear differences:

- Separated from the southern parcel by the M6 Toll and M42 Motorways and Kingsbury Road the Thrive appeal site is to the west of the M6/M42 (closer to Birmingham) and the appeal site before me is to the east. The Thrive site is also considerably larger than the site before me in this appeal.
- The Thrive proposal is also considerably larger with plans indicating 292,000 sqm of floorspace compared with 65,000 sqm in this appeal.
- My observations having visited both sites and the area is that they do have a different, context, setting, character and appearance and although in proximity consideration of Green Belt purposes and site and landscape character and appearance effects are capable of being materially different between the sites.

16. Whilst some policies, general principle and issues are the same across the appeals no two sites are ultimately the same, and in these appeals there are differences in how the evidence was presented and examined and different judgements need to be made and this appeal has not been recovered by the SoS. My mind has remained open to the different evidence presented and examined and I have determined the appeals accordingly.

17. The Council is working towards a new local plan (ELP) but it has not reached Regulation 19 stage, partly due to the need to consider the potential implications of these employment land related appeals. Whilst it is the Council's intention to consult before formal submission to the Secretary of State (SoS) by December 2026 the Thrive appeals have been recovered for determination so that is ultimately a matter for the Council and the SoS. For the purposes of this decision and in accordance with the requirements of Policy DM4 of the Framework the ELP carries some limited weight in this appeal and I return to any relevant matters as necessary below.

18. I understand that a Draft Neighbourhood Plan (May 2022) for Curdworth has been prepared, albeit this plan has not been subject to a referendum and has not been made so it carries little weight in this particular appeal.

19. My attention has been drawn to a number of planning applications and appeals, including a recently dismissed appeal on an adjacent site and as set out in the Planning SoCG and other IDs[3]. I have had regard to them so far as necessary whilst also noting that the facts and matters in this case turn on materially different considerations, for example either by location, main issues, type of appeal and the evidence presented. I have also held a Public Inquiry and it is an accepted premise that each case is to be determined on its own merits and circumstances and it is a matter for the decision maker to undertake the necessary planning balance(s). As such, I do not consider they are directly comparable but return to any matters of relevance or significance as necessary below.

Main Issues

20. In accordance with the CMC and the above, the main issues in this appeal are:

- Whether the proposal would be inappropriate development in the Green Belt.
- The effect of the proposal on the openness and purposes of the Green Belt (*if necessary subject to issue 1).*
- The effect of the proposal on the character and appearance of the appeal site and surrounding area.
- The nature and extent of any economic, social, and environmental benefits.
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal *(if necessary subject to issue 1).*

[3] ID4 – Representation from HPG Developments.

Reasons

The appeal site, its surroundings and context

21. The appeal site comprises two parcels of land a 'southern' parcel and a 'western' parcel. The southern parcel extends to approximately 19.51 hectares in size, comprises agricultural land and is bound on three sides by highways infrastructure. This includes Lichfield Road (A446) to the east/north, Junction 9 of the M42 to the immediate north, and the M42/M6 (Toll) to the west.

22. The topography of the southern parcel comprises a valley running east-west through the southern central part of the parcel with a low point at the eastern boundary. The land rises from here to the south reaching a high point at the southern boundary. The land also rises to the north with its highest point at the north-eastern boundary. It contains mature landscaping in the form of trees and hedgerows to its boundaries.

23. There are no existing buildings within the boundary of the southern parcel but it does contain overhead power lines crossing the northern section. These overhead power lines are supported on pylons, two of which are located within the parcel itself. The parcel is also bisected by a below ground gas pipeline that runs on a broadly north-south alignment. A roughly triangular area of land with a frontage to Lichfield Road (along the northeastern boundary) is excluded from the parcel as it does not form part of the land ownership and is farmed under a separate tenancy.

24. To the south, the parcel is bound by an agricultural field, which was subject to a recent planning application and a subsequently dismissed appeal[4] for a Truck Stop development. The southern boundary of that land is formed by Marsh Lane, which connects the A446 to Curdworth village. The appeal site is approximately 2 kilometres from the Hams Hall Rail Freight Terminal and approximately 8 kilometres from Birmingham International Airport.

25. The western parcel is on the opposite side of the motorway and extends to just under 3 hectares in size comprising an arable grassland field with a dense belt of woodland extending continuously along the northern and eastern boundaries. It also contains mature individual trees and established groups to the south, along with well-established hedgerows along the western boundary. There is currently no public access to this land.

26. Since the appeal site's designation as Green Belt in the 1970's it is clear that significant physical infrastructure and other significant development has intruded into this arable landscape and become established features. This includes the Hams Hall Distribution Park (HHDP) to the east (which was removed from the Green Belt and allocated as employment land) and I observed significant agricultural built form at Mullensgrove Farm to the northeast, a plant hire operation at J9 and a waste processing facility on the opposite side of Lichfield Road.

27. High Speed Rail (HS2) infrastructure is currently under construction close by and I observed at its closest point, its raised line will pass the southern parcel approximately 250 metres to the east once fully constructed. This section of the line forms part of the Phase 1 route (London to the West Midlands section), which extends beyond Birmingham to the north of Lichfield, splitting into two lines

[4] Appeal Ref APP/R3705/W/23/3327296.

finishing in Handsacre and southwest of Kings Bromley. To the east of the appeal Site, beyond Lichfield Road, is a safeguarded area for the construction of HS2. That rail line will be set on a high aqueduct and will therefore be a highly visible and dominant physical and urbanising feature in its surroundings.

Green Belt – Preliminary matters

28. Policy LP3 of the North Warwickshire Local Plan 2021 (the LP) seeks to protect the Green Belt. In stating that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, Policy LP3 is not materially inconsistent with the Framework and is clear that it should be interpreted in a manner consistent with that policy.

29. Policy S5 of the Framework requires development in the Green Belt to be determined in accordance with Policies GB7 and/or GB8. The Framework is clear that if it would not amount to inappropriate development proposals should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision making policies and applying paragraph 2. The parties agree there are no other policies that indicate refusal, previously agreed and termed as no strong reasons for refusal under Footnote 7 of the previous version of the Framework. I deal with the relevant national decision making policies in the balance below.

30. In this appeal the dispute principally requires a determination as to whether the development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Grey Belt land is defined in the Glossary at Annex B of the Framework as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes a, b, or d in Policy GB2.

31. It is agreed that the southern parcel is not previously developed land but it should be noted that Grey Belt land does not have to be previously developed land. It is also agreed that, in assessing the site against Green Belt Purpose (d), Coleshill is the only historic town that needs to be considered. It is agreed that the appeal site does not form part of the historic town's setting. It is further agreed that the site does not contribute strongly to purpose d and would not fundamentally undermine purpose e.

32. For the purposes of Policy GB7 paragraph 1. g it is also agreed that there is demonstrable and evidenced unmet need for strategic and local employment land so GB7 g. ii. of the Framework is complied with. Further, that the proposal would be in a sustainable location, would accord with Policy TR3, subject to the provision of active travel improvements to bus services which are secured in the agreement. There is no evidence or representations that indicates otherwise.

33. The western parcel would not be developed but would be utilised for habitat creation to contribute to the proposed development’s Biodiversity Net Gain (BNG) objectives with public access and include ecological and landscape mitigation, a community orchard and other associated infrastructure. The parties agree this would not amount to inappropriate development, I agree.

34. Significant time was taken up by additional evidence in relation to the Council's submission of the Stage 1 LUC Green Belt Study, a site-specific letter relating to Stage 2 dated 9 February 2026 and what was referred to as the 'Dear Andrew Letter'[5]. The Council confirmed that the Stage 1 Study was due to go before Full Council on 17 June 2026 as part of the evidence base for the ELP and was therefore relied upon. Such a study is clearly helpful to officers of a Local Planning Authority in forming a view but the study does not (and did not intend to) provide a site specific assessment of this site. The study and letters have limited significance for a decision maker who is tasked with matters of judgement, as regularly repeated to me during the Inquiry. It is simply background evidence setting out one professional view that the Council had regard, I have had regard to it but it is not determinative.

35. Turning to the Truck stop appeal on land immediately to the south and adjoining the appeal site, I note that the Inspector's decision but that was based on the specific evidence presented at the Hearing at that time. In that appeal it was found the proposal would be inappropriate development but that purpose a and b contributions would be moderate. The decision is also dated February 2024 and other exceptions were being considered. The considerations and judgements required therefore are not directly comparable but I have taken account of that decision as a material consideration where necessary below.

Whether inappropriate development?

Purpose a – to check the unrestricted sprawl of large built up areas

36. In reaching any judgment on this purpose, the Framework at Annexe E sets out there are illustrative features to assess a contribution as being either being strong, moderate, weak or having no contribution. Any assessment is not a mechanical exercise, and there may be some overlap between categories, such that it is not always clear cut. It is fair to say there were concessions by the Council but the appellant's own assessment also failed to consider certain factors referred to in the PPG and ultimately, whilst not fully addressed it was recognised the PPG had been applied by the Council[6] and informed the delegated officer report. Ultimately, assessment of purposes is not a tick box exercise and require judgement.

37. Villages should not be considered large built-up areas when assessing sites against purpose a. This purpose relates to the sprawl of large built up areas and it is agreed that, in assessing the site against this purpose the only towns and cities that need to be considered are Coleshill and Sutton Coldfield (as part of Birmingham). It is agreed that Water Orton and Curdworth are not towns.

38. The appellant's case for this purpose altered from a contribution of weak or none to moderate, including from an earlier position that the assessment area was not adjacent to near to a large built up area. Despite concessions in evidence relating to it not being urban sprawl associated with Birmingham or Coleshill, for purpose b I regard the area as sufficiently near to both Coleshill and the eastern edge of Birmingham.

39. The site is recorded in the Planning SoCG as *'bound on three sides by significant highways infrastructure, including Lichfield Road (A446) to the east/north, Junction*

[5] Letter to Mr Andrew Collinson of NWBC.
[6] Mr Berry in XX.

9 of the M42 to the immediate north and the M42/M6 toll to the west'[7]*.* My observations were of the M6 Toll and M42, 12 lanes of motorway to the immediate west, a roundabout and slip lane to the north and dual carriageway of the A446 with its central reservation and mature trees contained within. In the Truck Stop appeal the Inspector refers to *'the significant and permanent boundaries formed by the highway infrastructure'*.

40. Further to the east of the southbound carriageway and contained by maturely landscaped bunds is the Dunton Recycling works which comprises a landfill, aggregate recycling and Concrete batching plant. The overhead power lines and pylons of the dominating major physical infrastructure of HS2 run 250 metres to the east. The southern boundary is to an open field and then Marsh Lane, a rural but busy road. However, immediately to the south the merging of the motorways combines to further contain the area reaching a point by the River Tame.

41. All of these are within reasonable proximity of the southern parcel or put another way, the immediate environs of the site and are physical features that have the effect of restricting and containing and weakening its contribution.

42. The immediate area is one that has grown and changed over the years given its close proximity to Birmingham and Coleshill and the country's major motorway and distribution network. It is located within a Golden Triangle, an area of land in the West and East Midlands which encompasses approximately 289 square miles of land dedicated to logistical and supply chain operations and spanning the space between the M1, M6 and M42 motorways around Birmingham and as far north as Nottingham. There is no dispute this location would be highly accessible and opportunities could be taken to make it more so.

43. The Council's witness conceded that the proposal would not result in an '*extended finger of development'* and that B8 logistics operations are '*characteristic of motorway junctions'*. The Council also accepted that such strategic units should not form part of the existing settlement pattern or be located in settlement due to their nature and operation.

44. Nonetheless, the appeal site could reasonably be described as being in the shape of the top part of a finger or thumb, however the National Grid substation, waste facility and other development all lie to the immediate east of the motorway and development also extends northwards from Coleshill towards Marston in proximity to its eastern edge. A mechanical and engineering plant hire facility is also located between the M6 Toll and the A446 just northwest of Junction 9. In combination with Lichfield Road and Marsh Lane, albeit not immediately adjacent to the site, and other infrastructure there is sufficient development that exists and partially encloses such that new development would not be viewed as incongruous in terms of the immediate and wider pattern of development in the locality and area.

45. Turning back to the feature of 'development', even if a site does not contain existing development, that is not determinative of itself as one should not assume that a site which makes a moderate contribution to purpose must necessarily contain existing development. It is merely one factor in making an assessment and the illustrative feature bullet points include 'and/or'. The site is also subject to other urbanising influences as described above, including large directional road and other highway signs, pylons and lighting columns.

[7] Planning SoCG.

46. Importantly, the Framework does not require all the listed illustrative features to be present but for the reasons given above and in my overall assessment it should be regarded as making a moderate contribution to this purpose.

Purpose b – To prevent neighbouring towns from merging into one another

47. This purpose relates to the merging of towns, not villages and should be established on the basis of the available evidence. The Council are only concerned with The Royal Town of Sutton Coldfield (SC) as part of Birmingham and the town of Coleshill. The appellant's case is that the southern parcel makes no contribution to purpose b.

48. Considerable time was taken up at the Inquiry on the issue of whether HHDP should be regarded as being part of the town of Coleshill. Understandably this was put to me as being relevant to my consideration of the extent to which the town might merge with Birmingham. As is often the case before an Inspector there are a number of factors which point in favour of the arguments of both parties but not all arguments end up being determinative to an issue in dispute and become unnecessarily and unduly complicated.

49. In simple spatial terms I disagree with the appellant that it is a matter of '*unanswerable geographical fact'* that the site does not lie between Coleshill and Birmingham[8]. Having considered the policy/map desk based evidence approach along with my own observations, and even in taking the adopted settlement boundary as the edge of the town excluding HHDP, it is geographical fact to my mind that the parcels are located in a spatial gap between the northern periphery of the town of Coleshill and the northeastern and eastern periphery of SC. Rightly or wrongly this is ultimately an academic point because whilst part of the gap, it does not form a substantial part of a gap between the towns, being a small part of it.

50. Further, the Council conceded that the site could be developed without the loss of visual separation between the towns due to the presence and close proximity of the physical infrastructure, natural landscape elements and topography set out above which combine to ensure visual separation would be preserved. My own observations accord with that view and the character and identity of the towns would be retained due to no resultant merging of neighbouring towns into one another. I note the Inspector in the Truck Stop appeal reached a similar conclusion on visual separation, albeit for the site to the immediate south:

    'The truck stop would not physically merge with, nor would it be viewed directly in conjunction with, the built up areas of Curdworth nor Water Orton to the south due to the separation distances between them and the intervening topography. Due to the separation distance and the location of the intervening Hams Hall roundabout, a degree of visual separation between the proposed development and the Distribution Park would be retained'.

51. For these reasons and in accordance with the Framework, such illustrative features do weaken the contribution to this purpose to the extent I find it should be regarded as moderate.

[8] Paragraph 145 of appellant's closing submissions.

Whether development on Grey Belt land would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan?

52. This assessment is not confined to the effect of development on the appeal site or its immediate surroundings, nor to a single Green Belt purpose in isolation, but requires an evaluative judgment of whether the development would affect the ability of the remaining Green Belt across the plan area to serve all five Green Belt purposes in a meaningful way. I take this to mean an assessment of the proposal against all five purposes of the Green Belt. Purposes a, b and d have already been considered above. It is common ground that the contribution to purpose e - assisting in urban regeneration would not be fundamentally undermined. That leaves purpose c - assisting in safeguarding the countryside from encroachment.

53. The development of the site would result in some countryside encroachment. However, the site's location, size, its enclosure and containment and presence of other development, urbanising influences, physical features and uses means that any perception or appreciation of encroachment would be localised and limited.

54. The site does not appear to have a strategic role in the functioning of the Green Belt in this particular area meaning its development would not undermine any strategic role and the vast majority of Green Belt in the area would be unaffected. As a matter of judgement purposes would not be fundamentally undermined and there is nothing to demonstrate otherwise or that the proposal would affect the ability of the remaining area to serve the purposes of the Green Belt in a meaningful way.

Green Belt - conclusions

55. Changes to national policy seek to give greater reliance on Green Belt land to meet evidenced needs for certain development. On the evidence before me and in the judgements required I have found the contribution made to purposes a and b should be regarded as moderate. As set out above all other relevant considerations of GB7 are satisfied. National policy, which the LP requires adherence to for Green Belt matters indicates the site should therefore be regarded as 'Grey Belt' land and it would not amount to inappropriate development within the Green Belt. The proposal would therefore comply with Policy LP3 of the LP.

56. Policy GB7 paragraph 1. of the Framework refers to where development is found to be not inappropriate they should not be regarded as being harmful it the Green Belt or be required to demonstrate very special circumstances. This is confirmed by established case law.

57. Accordingly, although identified in the main issues above it is not necessary for me to consider the effects on openness or purposes any further. The effect on the open character and appearance of the site is however also relevant to character and appearance effects to which I now turn.

Character and appearance

58. The putative RfR concludes the proposal would cause moderate landscape and visual harm and refers to Policy LP2 given its location in the countryside. The site is not subject to any landscape designations and does not sit in a protected landscape. The site lies within the Middleton to Curdworth-Tame Valley Farmlands

Landscape Character Area 12 (LCA), which is characterised by large arable fields enclosed by low gappy hedgerows with a few hedgerow trees.

59. The overall management aim in managing change is to improve and reinforce landscape features. Reference is also made to reducing the visual impact of adjacent built areas. My observations accord with the conclusion that this is an area of gently undulating east facing slopes cut by small watercourses that drain towards the River Tame.

60. Although the landscape is predominantly agricultural, the LCA acknowledges that at the southern end there are busy transport corridors, connecting to nearby industrial areas to the south around HHDP. I was able to observe these characteristics at my visit and notwithstanding the lack of any formal designation, I consider that the appeal site is a somewhat attractive parcel of countryside which is consistent with, and contributes to, the some of the key characteristics of the LCA of which it forms a part.

61. The relevant SoCG includes tables of both the landscape and visual effects which set out a range of agreed levels of effects from Years 1 to 15. This includes a number of minor beneficial effects. There is agreement that the sensitivity of the site itself is low, the level of effect on the western parcel would be minor beneficial, on the southern parcel at Year 1 would be moderate adverse and overall that the level of effect on the LCA would be minor adverse.

62. While there will be some views of the proposed development from LCA10 Cole Valley, these will be from the edge of the LCA and the proposed development will not have a significant impact on the fundamental characteristics of that LCA.

63. By the close of the Inquiry there remained three points of disagreement which can be summarised as:

- The sensitivity of the wider landscape of LCA12.
- The level of effect on the character of the southern parcel of the site arising at year 15.
- The level of effect on users of PRoW Footpath 165/M21/1 (PVP 15).

Landscape character effects

64. Due to its topography and lack of vegetation cover, when approaching along the A446 from the south, the northern field forms a largely undeveloped agricultural backdrop. It is not viewed directly in conjunction with urbanising features of roads and the large scale buildings at HHDP but there are significant mature trees and landscaping, highways, lighting and signage.

65. I observed a natural physical and definable boundary formed by the Motorway that separates the more developed land to the west and north of the town of Coleshill, as opposed to the more open tracts of countryside to the northwest, north and east beyond Kingsbury Lane. It is not free of urban influences and motorway noise reduces any sense of tranquillity. I also observed the eastern side of the motorway to be quite different to the western side, in particular around the north of Kingsbury Lane and Curdworth Lane towards Over Green and Wishaw which had a notably more rural character and appearance and stronger affinity with the countryside.

66. Dealing with the point on sensitivity, taking the Council's case it would simply mean that the site is one of the lowest sensitivity sites in the LCA and I find it to be of no determinative significance because the level of effect of 'Minor' adverse is ultimately agreed between the parties.

67. There are differences at year 15 between a 'Minor' and 'Moderate' adverse effect due to the changes to the southern parcel with the Council considering a 'High' magnitude of change as opposed to the appellant's 'Medium'. Construction of this scale of built development on a sloping site will likely require significant engineering operation including the likely permanent terracing and introduction of large scale buildings that simply cannot be screened by vegetation even at 15 years.

68. Further, to conserve and strengthen primary hedge lines and manage these more positively as landscape features trees are important to the character and appearance of the area. A significant number of trees would need to be removed. Lengths of hedgerow will be removed as part of the development conflicting with this aim and in such cases, the landscape proposals typically focus on tree planting more than hedgerow strengthening as this is primarily mitigation for the buildings.

69. The harm to the landscape character of the LCA would be localised in effect and the proposed landscaping would soften the appearance of the development in the longer term. For such a development of this type and scale it is challenging to totally comply with the overall aim to improve and reinforce landscape features of this predominantly open arable landscape. Such an impact is not significant in EIA terms and needs to be weighed in the planning balance.

70. The appellant contends that this is no more *'This essentially can be boiled down to the effects from the landscaping scheme in seeking to mitigate the size of the buildings'.* Whilst there will always be an inevitably of impact from such development on agricultural land, in my view it is correct to acknowledge such proposals result in adverse effects on the landscape character of the site itself.

71. The effects would be localised due to some visual containment of the site and the outline scheme design shows how the proposal could respond to the landscape context, sufficiently as it can for such a scheme with significant planting. However, closer there would be significant changes arising from the changes to landform, scale of new buildings, lighting, signage and fences which would be harmful to the defining characteristics of the LCA. The effects on the southern parcel would be more in line with the Council's assessment of Moderate adverse even at Year 15.

Visual effects

72. In visual terms there is agreement that:

- The sensitivity of users of public rights of way is high-medium;
- The proposals in the western parcel would result in non-significant beneficial effects on visual receptors;
- The proposals will result in a negligible effect on users of PRoW Footpath 165/M450/1 (PVP1), Users of Birmingham and Fazeley Canal (PVP 2 and 3), and the majority of Curdworth;

- The proposals will result in a Moderate/Minor adverse (not significant) effect on views from users of the main roads that surround the Site (Lichfield Road A446, A4097 Kingsbury Road, Faraday Avenue, Marsh Lane, M42/M6 Toll, Marsh Lane); and
- The proposals will result in a Moderate/Minor adverse (not significant) effect on views from Farthing Lane and the local community on the edge of Curdworth along this lane (e.g. Highfield Farm/ Hall Farm).

73. The open character of the site can be appreciated in views from Marsh Lane and in some views travelling north on the A446. These are not long distance views, because they are contained by a framework of mature hedgerows and trees around the edges of the site. It is also a dual carriageway with a maturely landscaped central strip and highways infrastructure and signage so views travelling south are limited. Nevertheless, they contribute positively to the character and appearance of the site and area but in this case an area that contains and will contain, further significant energy, road, rail and other infrastructure.

74. There would be significant adverse visual effects for residents living close to the site, in particular for users of PRoW network which I observed are likely to be limited to the immediate vicinity of the site, east of Curdworth and with lower levels of effect elsewhere. The upper parts of the building will be visible because the buildings will be up to 20 metres above ground level and the LVIA assumes planting will be a maximum of 8-13 metres at year 15.

75. Even with mitigation in the form of landscaping such buildings will significantly change the existing skyline profile in some views east and will obscure some of the verdant backdrop to the view, notwithstanding existing pylons. However, I also observed at PVP15 (165/M21/1) was very overgrown, runs around the perimeter of a primary school and was therefore challenging to navigate. As a result it appeared unattractive for regular use other than by a limited number of local residents.

76. In surrounding transport routes and streets, including for users of the A4097, Faraday Avenue and Lichfield Road[9] there would be a range of Minor and Moderate/Minor adverse effects including some minor beneficial from the western parcel. Residents on the eastern edge of Curdworth and PRoW users would ultimately experience Minor to Moderate adverse effects closer to the site, reducing to negligible for those residents further west and north.

77. Use of a graduated colour scheme could minimise and protect the appearance of the building as designed but it would still be highly prominent. Given the location and high level of exposure to vehicle emissions which can alter the appearance of the upper parts over time and result in the eye being unacceptably drawn more towards them a management and maintenance regime should be secured by condition. Overall, I consider the effects would be more ‘Moderate’ adverse at Year 15 in accordance with the Council’s assessment.

78. Turning to Marsh Lane, this somewhat late consideration related to the proposed footway/cycleway improvements along Marsh Lane which were not assessed in

[9] VPs 4, 8-10, 11, 12 and 18.

the LVIA[10]. These changes will inevitably result in some loss of rural character of the road and appearance effects and extend the effect of the development beyond that which is currently assessed in the LVIA. Further, necessary lighting including on the highway would further exacerbate the appreciation of rural character to the south of the site when travelling into Curdworth from the east. The parties agree a Moderate/Minor adverse effect, which seems appropriate and even with landscaping.

Character and appearance - conclusions

79. The putative reason refers to Policies LP1 and LP14 which morphed into consideration of Policies 2, 29 and 30. The relevance of Policy LP2 is in its reference to compliance with other policies in the plan for Category 5 development outside a settlement boundary. The latter two are design policies which, amongst other matters, require development to be of a high standard of design which respects the local context. The appeal scheme would provide some scope for significant further tree planting and the Design and Access Statement has described the evolution of and justification for the design.

80. Full compliance with these policies cannot be achieved at this outline stage, given that appearance, landscaping, layout and scale are reserved matters and it could be said it recognises the character of the countryside in so far as it can for what is a major storage and distribution scheme. The scheme could form the basis for an acceptable standard of design to be brought forward at the reserved matters stage but that does not mean its impacts, even at outline stage cannot be considered as adverse or that there would be no conflicts.

81. Despite mitigation and justification for its design, which is perhaps the minimum required for such schemes, this would not be a development that would totally integrate with its surroundings, even if the reality is that is not entirely possible. Development of this site is not precluded as a principle in local or national protected landscape terms and this is a site where the effects would be reduced by virtue of its location, surrounding land uses, physical features and urbanising influences.

82. In such countryside locations close to major highway routes harm is somewhat inevitable but properly understood, the likely layout, appearance and scale of such buildings is dictated by their function and operational requirements and it is correct to acknowledge an appropriate and realistic level of harm and policy conflict for such large built form in the countryside. The effects are to be expected but should not be underestimated.

83. Drawing everything together, there would be a range of ‘Minor’ to ‘Moderate’ adverse landscape and visual effects which would result in landscape and visual harm. This would conflict with Policies LP1, LP2, LP14, LP29 and LP30 insofar as their requirement that development should look to conserve, enhance and where appropriate, restore landscape character and that new development should, as far as possible retain existing trees, a failure to harmonise with immediate setting, respect and reflect existing character and appearance of setting, enhancement of views into the site and reduction of sky glow and light trespass.

[10] Landscape Visual Impact Assessment.

84. The Framework's design policy is DP3 which if conflict is found, appears to be a policy that indicates refusal. This proposal would not entirely integrate with and enhance its surroundings but given an inevitability any adverse design or character and appearance effects, which are often interrelated, this should be weighed in the balance as opposed to indicating to me in this case that it should be refused solely on any design grounds.

85. Policy N2 of the Framework requires a positive contribution to the natural environment, including use of appropriate landscaping to help create well designed places and integrate the development into its surroundings. It also requires conservation and enhancement of and features of visual historic or nature conservation value, such as established trees and hedgerows.

86. Although opportunities have been identified for those qualities to be conserved or enhanced I so no reason why conservation could not have a protective element and the reality is that in this appeal the underlying rural character and appearance of the site is an inherent quality that would not be conserved because it would essentially be lost and replaced with large scale storage and distribution buildings. There would be some conflict with Policy N2 1 a. insofar as it seeks to ensure developers consider the environmental qualities of land, including landscape character and the natural beauty of the countryside. The harm and conflicts weigh moderately against the proposal.

The nature and extent of any economic, social, and environmental benefits.

87. North Warwickshire's established role within the logistics Golden Triangle is a key economic strength that helps to address persistent unemployment and pockets of deprivation in the Borough. The area continues to experience socio-economic challenges and faces significant future population growth, requiring increased rates of job creation. North Warwickshire also plays an important function within the wider Coventry and Warwickshire and Birmingham labour markets, enabling employment opportunities to benefit residents from nearby deprived communities.

88. The Council's latest evidence demonstrates a shortfall of 42 hectares of local employment land to 2045, and a shortfall of 50-100 hectares of strategic B8 land in the relevant Area 5[11]. This includes a significant and immediate need for B8 land such as Big Box logistics in this area.

89. The industrial and logistics sector is a major and growing component of the national economy, making significant contributions to GDP, employment, investment, innovation and tax revenues. The sector's growth is driven by long-term structural factors, including the expansion of e-commerce, population growth, reshoring activities and increased defence spending. Productivity and employment growth within the sector are expected to continue exceeding those of many other commercial sectors.

90. Against this background, this proposal would support the implementation of the UK's Modern Industrial Strategy 2025. Further, the Government's 10-year plan to make the UK the best country to invest in anywhere in the world acknowledges that the freight and logistics sector makes a vital contribution to the UK economy and its growth-driving sectors and seeks to ensure that freight and logistics can

[11] WMSESS 2024 Table 12.2.

continue to play its part in growing the economy. The sector is critical to the Government's growth ambitions and the delivery of the Strategy.

91. This is clearly reflected in the recent changes to the Framework which specifically support the delivery of freight and logistics hubs to support such growth. Policy E2 1. a requires substantial weight to be given to the economic benefits of commercial proposals, especially those supporting freight and logistics. Policy E2 2. addresses evidenced unmet need, which would not be conflicted with. Policy E3 deals specifically with freight and logistics development and the proposal would accord with parts a, b and c.

92. Assuming a B8 storage and distribution regional facility, the proposal is forecast to create 845 Full Time Equivalent jobs, higher if an element of B2 General Industrial. The jobs will match the skills in the existing labour market and include upskilling through training, secured through a package of training, education and skills development initiatives in the agreement.

93. The overall employment need combined with the social and economic benefits weigh substantially in favour of the proposal which should be regarded as the highest level of weight. In the single exercise of judgement required there is no need to seek to add 'very' in my view to seek to tip the balance as it is not a mathematical exercise.

94. The proposal would secure improvements to the No. 76 local bus service, to operate every hour from Tamworth (via Kingsbury) and Sutton Coldfield (via Coleshill and Parkway). The improvements will therefore facilitate easier accessibility into the east of Birmingham, North Solihull and Tamworth by more sustainable modes and therefore improve choice. They are secured in the legal agreement and would be a public benefit of moderate weight. I consider that other off-site highway works are essentially mitigation for the transport impacts of the scheme, rather than being an additional benefit but it is possible some minor benefits could occur for a limited number of users of the network.

95. The scheme is intended to provide BNG of 10% for habitats on the western parcel. Whilst these gains/reductions are estimates at this outline stage and given some inherent uncertainty as to delivery of the BNG (see paragraph 95 below) I attach a small amount of positive weight to these benefits. Sustainable construction measures are proposed which would result in policy compliant carbon emission reductions but are essentially mitigation for the proposal.

96. Insofar as the contention that the outline scheme represents good design, high quality design is a requirement of all schemes no matter what the intended function or inevitably of impact to justify a certain proposal's effects. The fact it might be of an appropriate or sufficiently high standard of design for what is being proposed does not weigh positively in favour, I see nothing in the proposed and illustrative design that appears particularly exceptional or innovative and I have found associated harm and conflict.

Other considerations

Best and Most Versatile Agricultural Land

97. The Framework at Policy N2. 1. b refers to taking into account the quality of agricultural land including that classified as Best and Most Versatile Agricultural

Land (BMVL) and if significant development is necessary to use poorer areas of land, where possible, Such BMVAL is land is land of grades 1, 2 and 3a of the Agricultural Land Classification as identified in Annex B: Glossary.

98. The land is a mixture of Grades 2, 3a and 3b, limited by wetness and workability constraints, drought or topsoil stone content. There is an area of scrub in the southwestern corner identified as non-agricultural. The land is used for cereals and combinable break crops, such as oil seed rape but there are no food security or availability concerns before me. The associated farming enterprise yield contributes approximately 0.0002% of the UK's total annual yield for wheat.

99. The accompanying Soils and Agricultural Impact Assessment submitted as part of the ES, as updated within the ES Addendum (October 2025) concludes that there would be a 'major adverse' impact caused which is significant, due to the loss of BMVAL within the southern parcel. However, in total there is 17.7 hectares of agricultural land which indicates to me that the loss of land is not that significant, as it is under the 20 hectare threshold set by Natural England. Approximately 49.8% of land in NWBC is BMVAL quality and all the land peripheral to Junctions 9, 10 and 11 is highly likely to also be BMVAL. Therefore it is very likely that poorer quality land is not available to meet the demonstrable and immediate unmet need for employment land.

100. For these reasons, the proposal would be partly at odds with the provisions of Policies LP1 and LP16 of the LP and Policy N2 b. of the Framework given the permanent loss of such land to the natural environment. I agree with the parties that limited weight should be given to the harm, including given the extent and condition of the land.

The ES

101. The ES concluded that subject to mitigation there would be no likely significant effects in terms of the relevant matters and issues identified. The necessary mitigation which has been considered throughout this decision would be secured by a combination of the conditions and planning obligations.

The s.106 agreement

102. The CIL statement sets out the justification for the obligations in the agreement, which are:

- Bus service improvement contribution of £1,213,200 for a 5 year period.
- Bus shelter contribution of £10,000 for new stops on Faraday Avenue.
- Bus service promotion contribution of £10,000 for fare promotion measures.
- Pedestrian crossing contribution of £150,000 for maintenance of traffic signal controlled crossings.
- Skylark habitat creation and mitigation for a period of 30 years,
- Employment Skills and Training Strategy contribution of £150,000 for promotion to access to skills and training for NWBC residents.
- Monitoring contributions.

103. The provision of an additional 2.99 hectares of land is proposed to address BNG requirements, but there could be a scenario where additional off-site BNG may be required if it all cannot be confirmed on site. In that case, units would be purchased for off-site or Government credits in accordance with the relevant hierarchy. Accordingly, the relevant obligations are necessary to address that possible scenario and ultimately a gain would be secured. Overall, the agreement would secure the necessary infrastructure to support the development and mitigate its effects, meeting the relevant tests and regulations.

The Alternative Sites Assessment

104. The appellant considers there is a lack of alternative sites for employment development outside the Green Belt, as demonstrated by an Alternative Sites Assessment (ASA). The Council do not accept there are no alternative sites, not least as demonstrated by other as yet undetermined planning applications and employment land pipeline, more generally. The North Warwickshire Employment Sites Study provides a significant number of employment sites put forward for the ELP but as set out above that is at an early stage.

105. There is no local or national planning policy requirement for alternative sites. I also have some doubts over the robustness of the appellant's assessment in terms of the reasons why sites were discounted on the basis of what appeared to be issues of ownership, planning status, designation and location. On the evidence I heard and before me it is challenging to be sufficiently conclusive either way.

106. Moreover, this is an argument advanced by the appellant as a positive consideration in the case of very special circumstances to justify development being required and in the absence of a better alternative site. The Council however give substantial weight to the proposal in terms of its benefits. Having found the proposal would not amount to inappropriate development any further consideration of this assessment is therefore not necessary or determinative.

Other Matters

107. In reaching this view I have had regard to the representations made by interested persons, including at the Inquiry objecting to the proposal on the grounds of Green Belt location, highway impacts, food production and security, lack of need, noise and light pollution. I have also had regard to two representations in support of the proposal on the grounds of younger people looking for jobs in the area and the overall job creation benefits.

108. Matters of principle are considered above but for the avoidance of doubt access is not a Reserved Matter, there are no objections from the relevant highway authorities on the access details, traffic or other safety or highway impacts, subject to mitigation, which is agreed and secured by the suggested conditions and obligations.

109. I see no reason why, with the appropriate scrutiny and consideration at the Reserved Matters stage that the proposal should result in unacceptable impacts on the living conditions of any adjoining or nearby occupiers through noise, air quality impacts or unacceptable light pollution. I was also able to observe a degree of existing illumination in the immediate environs of the appeal site from the M42/M6 corridor, along the A446 and in association with the HHDP roundabout, such that additional lighting should not cause unacceptable light pollution. This

should be entirely achievable given its location and even if the site were to contain General Industrial B2 uses.

110. On the evidence before me, neither individually or cumulatively do these considerations outweigh my findings and decision to allow the appeal.

Conditions

111. Following a RTD at the Inquiry the parties agreed a final list of suggested conditions[12]. I have considered them against the Framework and the advice in the PPG. I have made such amendments as necessary to comply with those documents and in the interests of clarity, precision, and simplicity. The appellant confirmed acceptance of the pre-commencement conditions.

112. I have attached conditions limiting the life of the planning permission and set out the requirements for the submission of reserved matters in accordance with the Act **(1, 2 and 3)**. A condition securing implementation in accordance with the plans submitted for approval at this outline stage is necessary in the interests of certainty **(4)**. To define and clarify the outline permission a condition restricting no more than 65,032 sqm of gross internal general industrial and storage and distribution floorspace (Use Class B2/B8) with ancillary office floorspace (Use Class E(g)) is necessary **(5)**. A Phasing condition is necessary to ensure the co-ordinated implementation of the proposals to ensure the development is implemented as applied for **(6)**.

113. In the interests of the character and appearance of the site and area and given acknowledged adverse impacts agreement of finished levels is necessary **(7)**. A landscape management plan is necessary to ensure the long-term provision of managed landscape and open space around the development **(18)**. Retention of that landscaping and its replacement within a 15 year period is also necessary in the interests of establishment of the landscaping and the longer term character and appearance of the site and area. **(27)**.

114. A condition requiring each subsequent reserved matters application to contain an Arboricultural Impact Assessment and Method Statement in accordance with BS5837:2012 is necessary in the interests of existing landscaping and the character and appearance of the site and area **(29)**. To ensure the recording of items of archaeological interest and their preservation in situ where appropriate a condition requiring an archaeological mitigation strategy is necessary **(8)**. A Construction Method Statement is necessary to be agreed in the interests of transport, air quality and living conditions **(9)**. In addition a Construction Environmental Management Plan is also necessary to protect Biodiversity **(10)**.

115. Conditions securing the access are necessary in interests of highway safety. This includes securing the delivery of necessary highway improvements which have been agreed to mitigate impacts from the development on the M42 motorway, in accordance with Department for Transport Circular 01/2022 (paragraph 40) and national policy in the Framework **(11, 12 and 13)**. A Heavy Goods Vehicle Routing Strategy is necessary to protect living conditions of nearby residential occupiers and to ensure appropriate future use of the highway network by such vehicles **(14)**. A Travel Plan is necessary for the promotion of more sustainable modes of travel and transport **(15)**. Details of an Electric Vehicle Strategy are necessary to

[12] Submitted by email 15 May 2026.

promote more sustainable modes of transport and reduce greenhouse gas emissions **(21)**.

116. To avoid unacceptable adverse impacts on health and quality of life a Noise Assessment by condition has been suggested. I am satisfied on the evidence before me this could be achieved and delivered and there should not be unacceptable noise effects on nearby occupiers that could not be acceptably mitigated and attenuated **(16)**. I have therefore imposed the condition. In the interests of protecting the nature conservation value and rural amenity of the site and the living conditions of nearby occupiers details of all lighting is required to be agreed **(17)**.

117. In the interests of public safety schemes for any necessary water supply to the site and the required fire hydrants are necessary **(19)**. In the interests of climate change and sustainability a condition requiring details of the proposed energy efficiency measures to be employed in the development is to be agreed and implemented **(20)**. An Air Quality Mitigation Strategy is also necessary in the interests of reducing climate change **(22)** and to ensure no unacceptable effects on air quality as identified. Again, there is nothing before me to demonstrate this could not be achieved. A condition requiring the provision of suitable Broadband infrastructure for this particular type of development is also necessary **(23)**.

118. To protect the natural environment from pollution and flooding, conditions are necessary for details of a sustainable surface water drainage scheme to be agreed and an assessment of potential contamination **(24, 25, 26 and 28)**. Given the design intent for a building of this scale which includes a clear intent to seek to mitigate the height and scale effects of the buildings by utilising graduated colour shading in the upper parts of the buildings, details of their repair and maintenance for a 10 year period is necessary to ensure a suitable long term appearance of the external elevations given their proximity to the motorway given likely effects on appearance from vehicle emissions **(30)**.

119. Conditions 7, 8, 9, 10, 16, 17, 18, 19, 20, 21, 22, 23, 24, 28 and 30 could reasonably be interpreted as conditions precedent and I am satisfied that they are fundamental to the development to ensure that the development does not occur until such matters relating to pollution and flooding control, character and appearance, noise and living conditions, air quality and climate change, biodiversity/ecology, broadband infrastructure, archaeological and public safety requirements and details are resolved and implemented to the satisfaction of the Local Planning Authority and other authorities where necessary.

Planning balance and conclusion

120. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

121. The proposal should be regarded as being in conflict with the following policies, or parts of, of the LP:

- LP1 – A failure to integrate appropriately with the natural environment that improves settlement character and appearance and environmental quality of an area.

- LP2 – Location in the countryside outside a settlement boundary (category 5) and with conflict flowing from conflicts with other policies.
- LP14 – Failure to conserve, enhance and where appropriate, restore landscape character.
- LP16 – A loss of BMVAL to the natural environment.
- LP29 – Part 10.- Failure to protect the natural environment and respect of character and appearance of its setting.
- LP30 – Parts a, b and i due to failure to harmonise with immediate setting, respect and reflect existing character and appearance of setting, enhancement of views into the site, reduction of sky glow and light trespass,

122. The proposal would accord with the following policies or parts thereof, having regard to the extent that it can at this outline stage:

- LP3 – The proposal would not be inappropriate development within the Green Belt.
- LP5 and LP39 – Amount of Development – Policy seeks a minimum amount of employment land (100 hectares) and subject to Policy LP6. The policies do not impose any requirement that could be relied upon to refuse permission.
- LP6 – Additional Employment Land. Council narrowly interpret 'otherwise acceptable' to mean in terms of living conditions. The Council give greater weight to the need/economic benefits than the policy requires.
- LP29 – Parts 2, 4, 5, 6, 9 and 11.
- LP30 – Parts f, e and d.

123. The proposal would comply with parts of the LP but the harms and conflicts relate to the spatial strategy, the natural environment and associated character and appearance effects and loss of agricultural land. For the purposes of this appeal the proposal should be regarded as being in conflict with the development plan, as a whole. I now turn to the Framework as a material consideration of critical importance[13].

124. The appellant contends that Policy LP2 operates to resist development simply because it lies outside a defined settlement boundary and does not reflect Policy S5 of the Framework. Further, that Policy LP3 does not include reference to Grey Belt. Policies LP5 and LP39 of the LP (which relate to employment allocations) are regarded as being materially inconsistent with national policy on the basis that Policy E1 of the Framework reinforces the national requirement for development plans to respond to market signals, address barriers to investment, recognise sector-specific locational requirements and allocate sites for identified freight and logistics needs, which the LP does not do. Further, that the whole approach of failing to allocate any strategic sites is now out of date with the WMSESS[14] and HEDNA[15] evidence base.

[13] Paragraph 1 of the Framework and MHCLG Letter to G Stallwood dated 6 October 2026.
[14] West Midlands Strategic Employment Sites Study 2023/2024.
[15] Housing and Economic Development Needs Assessment.

125. On the appellant's updated case local plan policies should also only give very limited weight if their language is not exactly the same as the Framework. There is however a difference between inconsistent and 'materially' inconsistent which to my mind means in an important or noticeable way. Annexe A of the Framework also refers to 'or parts of those polices'. A policy which requires a number of considerations such as an overarching spatial, design or landscape policy, should not automatically be regarded as being materially inconsistent on the basis of language alone. It is essentially a judgement as to how those policies operate compared to the Framework's decision making policies and any reduction in weight is to the conflicts with those policies and not the policies themselves.

126. The Council maintain that Policies LP5 and LP6 of the LP remain up to date because LP5 sets a minimum level and LP6 establishes a permissive approach to the provision of strategic employment land. Further, that the ELP is moving forward and progress is being made towards submission. The Council accepts there is an immediate shortfall in the supply of employment land to meet needs and give this and the resultant social and economic benefits substantial weight, a greater weight than the policy requires.

127. Whilst there are detailed and forceful arguments to the contrary, for the purposes of this decision it is not necessary for me to reach a definitive conclusion on the correct interpretation of those contested policies or their material inconsistency or otherwise. On the Council's best case, the absence of harm by virtue of being not inappropriate with no harm to openness, and the substantial weight afforded to employment need and economic and social opportunities and benefits offered by the development means permission should be granted, and in any balancing exercise.

128. Even in giving no reduction in weight there would be limited to moderate harms and conflicts with the LP. There would be some associated conflict with the Framework but the benefits of approving the proposal would not be substantially outweighed by any adverse effects, when assessed against the national decision making policies and the application of Policy S5 paragraph 2. As the development would not be inappropriate, in accordance with Policy S5 5. of the Framework, it should therefore be approved.

129. Material considerations, including the Framework indicate to me that a decision should be made other than in accordance with the development plan. There are no other considerations which indicate to me a decision should be made otherwise.

130. For the reasons given above and having regard to all other matters raised the appeal is allowed.

R Aston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Giles Cannock, of Kings Counsel	instructed by Richborough Commercial Limited

He called

Alice Routledge	Asteer Planning
James Berry	Tyler Grange
Alex Roberts	Lambeth Smith Hampton
James Parker	hub Transport Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Killian Garvey, of Counsel	instructed by NWBC

He called

David Carter	Tyler Parkes

Also present for the Council:

Andrew Collinson	Assistant Director – Development Control NWBC
Rebecca Knight	NWBC

(Participated in the RTD on Character and Appearance)

FOR THE RULE 6 PARTY:

Mark Powney	Savills

Provided written evidence to the Inquiry on employment matters.

Professional qualifications of witnesses not recorded.

INTERESTED PERSONS:

Anthony Harding – HPG Developments (Hodgetts Estates)

Terry Wilcox – Curdworth Parish Council

Richard Habgood – Curdworth resident

DOCUMENTS SUBMITTED TO AND AFTER THE INQUIRY

Document Number	Document name	Submitted by
Document 1	Site Visit Itinerary Plan	both
Document 2	Appellant's opening statement	appellant
Document 3	NWBC opening statement	Council
Document 4	HPG representation	HPG
Document 5a	Local Development Framework Sub Committee Report 26 March 2026 Agenda	Council
Document 5b	Draft minutes of LDC held on 26 March 2026	Council
Document 6	*Julian Wood* judgement	both
Document 7	*Wrotham Parish Council* judgement	both
Document 8	*Fraser* judgement	appellant
Document 9	Appellant's costs application	appellant
Document 10	NWBC closing submissions	Council
Document 11	Appellant's closing submissions	appellant
Document 12	Final agreed schedule of planning conditions	Council
Document 13	Signed s.106 agreement	appellant
Document 14	NWBC NPPF response 7 September 2026	Council
Document 15	Richborough NPPF Note 8 September 2026	appellant
Document 16	Amended Planning SoCG and comments	both

SCHEDULE

CONDITIONS

1. Approval of the details of layout (including internal access and circulation routes), scale, landscaping, and appearance (hereafter called ('the Reserved Matters') must be obtained from the Local Planning Authority in writing before development commences and the development must be carried out as approved.

2. Applications for the approval of the reserved matters must be made to the Local Planning Authority not later than the expiration of a period of three years commencing with the date of this permission.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of all reserved matters.

4. The development hereby permitted shall be carried out in accordance with the following plans:

    - Parameter Plan (Drawing no. n2053 004 Rev M)
    - Access Plan (Drawing no. T22578 001 Rev F)
    - Location Plan (Drawing no. n2053 001 Rev D)

5. The development hereby approved shall provide no more than 65,032 sqm of gross internal general industrial and storage and distribution floorspace (Use Class B2/B8) with ancillary office floorspace (Use Class E(g)), of the Town Country Planning (Use Classes) Order (as amended). This floorspace shall be provided within the areas illustrated for employment development on drawing no. n2053 004 Rev M.

6. Prior to submission of the first reserved matters application, a phasing scheme showing the phasing of the entire development shall be submitted to the Local Planning Authority and approved in writing. No development shall take place except in full accordance with the approved phasing scheme or any amendments further agreed in writing by the Local Planning Authority.

7. 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) within that particular phase (which shall be in accordance with Parameter Plan drawing no. n2053 004 Rev M submitted with the outline application, 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 details.

8. No phase of development shall take place until an Archaeological Mitigation Strategy (including a Written Scheme of Investigation for any archaeological fieldwork proposed) for that particular phase has been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the

results of the archaeological evaluation. The development, and any archaeological fieldwork, post-excavation analysis, publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with those documents.

9. No development within any phase shall take place, including any works of demolition, until a Construction Management Plan for that particular phase has been submitted to, and approved in writing by the Local Planning Authority. Each Plan shall provide for:

   i the parking of vehicles of site operatives and visitors;
   ii The routing, access, management and parking of vehicles of HGVs, site operatives and visitors, including temporary traffic management and network provision, active travel continuity and construction workforce travel;
   iii the manoeuvring of vehicles within the site;
   iv loading and unloading of plant and materials used in constructing the development, including topsoil;
   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;
   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 of that particular phase.

10. No development within any individual phase shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP for Biodiversity) for that particular phase has been submitted to, and approved in writing by, the Local Planning Authority. Each CEMP (Biodiversity) shall include the following:

    a) Risk assessment of potentially damaging construction activities.
    b) Identification of “biodiversity protection zones
    c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
    d) The location and timing of sensitive works to avoid harm to biodiversity features.
    e) The times during construction when specialist ecologists need to be on site to oversee works.
    f) Responsible persons and lines of communication.
    g) The role and responsibilities of an Ecological Clerk of Works or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

Each approved CEMP shall be adhered to and implemented throughout the construction period of that particular phase, strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

11. No part of the development shall be occupied until the new vehicular access onto Lichfield Road (A446) has been constructed in accordance with the approved Access Plan (Drawing no. T22578 001 Rev F).

12. No part of the development hereby approved shall be occupied until a scheme of works to improve the highways access that is based upon Hub Transport Planning Drawing No. T22578. 003 'Proposed A446 Signals Improvements' has been agreed and completed. .

13. No part of the development hereby approved shall be occupied until the following highway works have been agreed and completed:

a) Hams Hall Roundabout Improvements (as shown on drawing No T22578. 005 Rev D 'Proposed Hams Hall Roundabout Improvements').
b) A446 Lichfield Road – Northbound Widening on approach to M42 junction 9.
c) Marsh Lane pedestrian and speed management scheme.
d) A446 Lichfield Road – signal controlled pedestrian crossing.
e) Faraday Avenue / Edison Road active travel upgrades.
f) Approved bus stop infrastructure and signal-controlled pedestrian crossing on the A446.

14. No part of the development shall be occupied until a Heavy Goods Vehicle (HGV) Routing Strategy, including the provision of an Automatic Number Plate Recognition monitoring strategy, has been submitted to and approved in writing by the Local Planning Authority. The strategy shall require all HGVs associated with the development to route via the A446 and the Strategic Road Network and prohibit routing through Marsh Lane and Curdworth. The approved strategy shall thereafter be retained as agreed for the lifetime of the development.

15. Prior to the first occupation of each building or phase of the development hereby permitted, the applicant shall submit for the written approval of the Local Planning Authority a Travel Plan, written in accordance with the aims and objectives of the National Planning Policy Framework and based on the Travel Plan prepared by Hub Transport Planning dated 25th June 2024 (ref. T22578), which shall:

(i) Raise awareness and promote sustainable transport modes for accessing the site;
(ii) Reduce the numbers of trips generated by private motor vehicles;
(iii) Improve air quality through the reduction of carbon emissions and other pollutants; and
(iv) Promote healthier and more active lifestyles to residents including appointment of a Travel Plan Co-ordinator.

Each building or phase shall not be occupied until the approved Travel Plan has been implemented. Within 6 calendar months of the occupation of the development

hereby permitted, a baseline travel survey shall be carried out and the results submitted to the local planning authority in an updated version of the Travel Plan. Thereafter on an annual basis for a period of 5 years a monitoring travel survey shall be carried out and submitted to the local planning authority in a monitoring report. The survey shall confirm whether or not the objectives of the Travel Plan have been achieved and shall contain, where necessary, recommendations for amendments or improvements to the Travel Plan.

16. No phase of the development shall commence until a scheme of noise mitigation measures relating to that particular phase, based upon the submitted Acoustic Assessment by MEC dated June 2024 (ref. 27888-ENV-0401 Rev C), has been submitted to and approved in writing by the Local Planning Authority. Any approved mitigation measures shall be implemented in full before that particular phase of the development is brought into occupation and shall be retained thereafter.

17. Prior to the commencement of each phase of the development (excluding ground clearance works) details of all external lighting for that particular phase (to include location, height from ground level, lux level contour plan, and hours of operation) shall be submitted to and approved by the Local Planning Authority. External lighting proposed should conform to the protocols set out in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Each phase of the development shall be carried out in full accordance with such approved details and retained thereafter.

18. No phase of the development hereby permitted shall be occupied until a Landscape and Open Space Management Plan for that particular 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. The landscaped and open areas shall thereafter be managed and maintained in accordance with the approved details.

19. No phase of the development hereby permitted shall be occupied until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes, for that particular phase, has been provided in accordance with details first submitted to and approved in writing by the Local Planning Authority.

20. No phase of development above formation of slab shall take place until an Energy Statement for that particular phase of the development which provides at least 10% of the development's energy through low carbon sources, based upon the submitted Energy and Sustainability Statement dated 24 June 2024 by Watt Energy and Consulting Engineers has been submitted to and approved in writing by the Local Planning Authority. The approved measures within each statement shall be carried out before the use or occupation of the relevant phase of the development commences and maintained thereafter.

21. No development above slab level of any phase of development hereby approved shall commence until an 'Electric Vehicle Infrastructure Strategy and Implementation Plan' for that particular phase has been submitted to and approved in writing by the Local Planning Authority. Each scheme shall include details of the

number, location and maintenance of the electric vehicle charging points and future ducting for that particular phase of the development. The electric vehicle charging points shall be implemented in accordance with the approved details and timescales for implementation, with the agreed details maintained in a working manner thereafter. Parking or servicing areas not provided with charging points shall be installed in a manner to allow the future installation of electric charging points associated with the development.

22. No phase of development above slab level shall commence until an Air Quality Mitigation Strategy for that particular phase has been submitted and approving in writing by the Local Planning Authority. The strategy shall accord with the Air Quality mitigation indicated in Tables 3.7 to 3.9 of the Air Quality Assessment by MEC dated June 2024 (Ref: 27888-ENV-0401 REV C). Any approved air quality mitigation measures shall be carried out before the use or occupation of the relevant phase of the development and maintained thereafter for the lifetime of the development.

23. No development of any phase above slab level shall commence until detail in respect of broadband information and communications technologies for that particular phase has been submitted and approved in writing by the Local Planning Authority. No phase shall be occupied until the approved details for that particular phase have been implemented in accordance with the approved details.

24. No phase of development shall take place until a detailed surface water drainage scheme for that particular phase of the development, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. Each scheme to be submitted shall:

    a) Undertake infiltration testing in accordance with the BRE Digest 365 guidance to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site.
    b) Where infiltration is demonstrated to not be feasible, limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rainstorm to the QBar Greenfield runoff rate for each parcel in line with the approved surface water drainage strategy (426942612-WSP-XX-XX-RP-CE-0001)
    c) A CCTV survey has been provided for the existing site drainage which shows a number of defects, early consideration should be given as to how this will be rectified prior to construction.
    d) Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a ‘SuDS management train’ approach to provide additional benefits and resilience within the design.
    e) The LLFA actively promote and encourage the implementation of SuDS on all developments, and requires evidence of the use of sustainable drainage principles and exploration of suitable SuDS to achieve the key principles of SuDS; Quantity Control, Quality Control and Biodiversity & Amenity Value;

• Demonstrate consideration of the surface water discharge hierarchy, including any proposed SuDS features, outfall locations and attenuation volumes.
• Assessment of the nature of SuDS proposed to be used in accordance with 'The SuDS Manual', CIRIA Report C753.
• Features not explicitly designed for a given storm but shaped according to space available and with controls / overflows to pass extreme events onto the main attenuation features may also be implemented. Examples may include rain gardens, permeable paving and tree pits.

f) Provide detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
g) Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include:

i. Suitable representation of the proposed drainage scheme, details of design criteria used (incl. consideration of a surcharged outfall), and justification of such criteria where relevant.
ii. Simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events
iii. Results should demonstrate the performance of the drainage scheme including attenuation storage, flows in line with agreed discharge rates, potential flood volumes and network status. Results should be provided as a summary for each return period.
iv. Evidence should be supported by a suitably labelled plan/schematic (including
contributing areas) to allow suitable cross checking of calculations and the proposals.

h) Provide plans such as external levels plans, supporting the exceedance and overland flow routeing provided to date. Such overland flow routing should:

i. Demonstrate how runoff will be directed through the development without exposing buildings and third party land to flood risk.
ii. Consider property finished floor levels and thresholds in relation to exceedance flows.
The LLFA recommend FFLs are set to a minimum of 150mm above surrounding ground levels.
iii. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

25. No occupation of any phase of the development shall take place until a Verification Report for the installed surface water drainage system for the relevant phase of the development based on the approved Flood Risk Assessment (426942612-WSP-XX-XX-RP-CE-0001) has been undertaken by a suitably qualified independent drainage engineer and has been submitted to and approved in writing by the Local Planning Authority. The details shall include:

a) Demonstration that any departure from the agreed design is in keeping with the

approved principles.
b) Any As-Built Drawings and accompanying photographs
c) Results of any performance testing undertaken as a part of the application process
d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
e) Confirmation that the system is free from defects, damage and foreign objects.

26. No occupation and subsequent use of any phase of the development shall take place until a detailed, Site Maintenance Plan for that particular phase has been submitted to and approved in writing by the Local Planning Authority. Each maintenance plan should:

    a) Provide the name of the party responsible, including contact name, address, email address and phone number.
    b) Include plans showing the locations of features requiring maintenance and how these should be accessed.
    c) Provide details on how each relevant surface water feature shall be maintained and managed for the lifetime of the development. and
    d) Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

27. 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 15 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.

28. Unless otherwise agreed by the Local Planning Authority, the development of each phase, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions (a) to (f) have been complied with in respect of the relevant phase:

    a) A detailed Site Investigation Scheme must be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the Preliminary Risk Assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.

    b) A detailed Site Investigation and Risk Assessment must be undertaken and a written report of the findings produced. This report must be submitted to, and approved in writing by, the Local Planning Authority prior to any development taking place. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.

    c) Where identified as necessary a detailed Remediation Scheme to bring the site to

a condition suitable for the intended use by removing unacceptable risks to identified receptors, must be submitted to, and approved in writing by, Local Planning Authority in advance of undertaking the remediation. The Remediation Scheme must ensure that the site will not qualify as Contaminated Land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

d) The approved Remediation Scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

e) Following the completion of the measures identified in the approved Remediation Scheme a Validation Report that demonstrates the effectiveness of the remediation carried out must be submitted to, and approved in writing by, the Local Planning Authority prior to the occupation of any buildings.

f) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared for each phase, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings within that particular phase.

29. Each subsequent reserved matters application shall include an Arboricultural Impact Assessment and Method Statement in accordance with BS5837:2012.

30. No phase of development above formation of slab shall take place until a detailed schedule of repairs and a maintenance plan for all external cladding for that particular phase has been submitted to and approved in writing by the Local Planning Authority. The maintenance plan shall cover a 10-year period and include annual inspection methods, proposed cleaning and repair techniques, and material specifications. The repair and maintenance of the building(s) shall not be carried out other than in accordance with the approved details.

----- End of Schedule -----