



## Appeal Decisions

Inquiry opened on 19 October 2021

Site visit carried out on 21 October 2021

**by Mrs J A Vyse DipTP DipPBM MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 November 2021**

**Appeal A: APP/K2420/W/21/3274706**

**Appeal B: APP/K2420/W/21/3279939**

**Land north of Stanton Lane, Stanton under Bardon**

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- Both appeals are made by Wood Farm Holdings against the decisions of Hinckley and Bosworth Borough Council.
- The application the subject of Appeal A, No 20/00407/HYB, dated 1 May 2020, was refused by a notice dated 11 November 2020.
- The application the subject of Appeal B, No 21/00531/HYB, dated 21 April 2021, was refused by a notice dated 21 July 2021.
- In both cases, the development proposed comprises a *Hybrid application seeking outline permission for the erection of buildings for storage and distribution uses (Class B8) and general industry (Class B2) and associated infrastructure including the formation of a new access (all matters reserved except for access) and the demolition of existing farmstead, and full planning permission for the erection of two replacement farm managers' dwellings and associated agriculture buildings and structures.*

**Documents handed up to the Inquiry are listed at Annex B below and are prefixed with 'Doc'. Core Documents are prefixed with 'CD' and can be accessed via the electronic library [https://www.hinckley-bosworth.gov.uk/info/200074/planning\\_and\\_building\\_control/1772/public\\_inquiry\\_wood\\_farm\\_stanton\\_lane\\_ellistown](https://www.hinckley-bosworth.gov.uk/info/200074/planning_and_building_control/1772/public_inquiry_wood_farm_stanton_lane_ellistown)**

### Decisions

#### **Appeal A**

1. For the reasons that follow, the appeal is dismissed.

#### **Appeal B**

2. For the reasons that follow, the appeal is allowed and planning permission is granted for a hybrid application seeking outline permission for the erection of buildings for storage and distribution uses (Class B8) and general industry (Class B2) and associated infrastructure including the formation of a new access (all matters reserved except for access) and the demolition of existing farmstead, and full planning permission for the erection of two replacement farm managers' dwellings and associated agriculture buildings and structures, on land north of Stanton Lane, Stanton under Bardon, in accordance with the terms of the application, No 21/00531/HYB, dated 21 April 2021, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

## **Procedural and Preliminary Matters**

3. There are slight differences in the wording on each of the application forms and in the descriptions of development used on the Council's Decisions Notices. The description of development used in the header above is agreed by the parties.
4. Each appeal was accompanied by a schedule of planning obligations in the form of a draft deed of agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended). The provisions secured are a material consideration and are dealt with in more detail later on in this Decision.
5. Preparation of the emerging 2020-2039 Local Plan is still at an early stage. Whilst Regulation 18 consultation was undertaken earlier this year, consultation on a Regulation 19 version of the plan, that responds to the comments received during the Regulation 18 stage, has not yet been undertaken. Consequently, a full draft plan has not been published, meaning that there has not been an opportunity to consult on draft policies. That early stage means that the emerging plan carries little, if any, meaningful weight in my determination of this appeal.
6. Whilst the parishes of Stanton under Bardon and Bagworth and Thornton are working together to prepare a Neighbourhood Plan, preparation is still at an early stage. A Regulation 14 (pre-submission) consultation took place in Spring this year, with the Council's subsequent response raising a range of comments and queries, including the need for further changes and modifications to secure required conformity. Its early stage means that the emerging Neighbourhood Plan policies can be afforded little, if any, meaningful weight in my determination of this appeal.
7. In relation to the outline element of the schemes proposed, all matters other than access are reserved for future consideration. In addition to the site location plan and access details, the appeals are also determined on the basis of the respective Development Parameters Plans.<sup>1</sup>
8. The appeal site is the same for both schemes, as are the access arrangements and the proposals for the replacement farmstead. The main differences relate to a reduction in the developable B2 and B8 use class floor space on the main site from 144,200 sqm in Appeal A to 89,200 sqm in Appeal B, leading to a reduction in developable area (reduced from 21.8ha in Appeal A to 16.5ha in Appeal B) together with increased landscaping and bunding and slightly reduced development plateau heights.
9. The plans indicate diversion of an existing public footpath (R9) that cuts across the southeastern corner of the proposed farm site. Were the appeals to succeed, the footpath could not be diverted unless and until a successful application for diversion had been made. That said, should such an application be unsuccessful, there would be no implications for implementation of the replacement farmstead, since it allows for the route to be retained on the definitive alignment, as shown on the Illustrative Landscape Strategy Plan.<sup>2</sup> The current route of the footpath therefore has no bearing on the outcome of these appeals.

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<sup>1</sup> No 30865-PL-202La for Appeal A; No 30865-PL-202W for Appeal B.

<sup>2</sup> No 6756-L-10B in the appellant's respective Landscape and Visual Appraisals (LVAs)

## **Main Issue**

10. The Council's objections to both schemes relate solely to the employment development proposed, with no objections raised to the proposed relocated farmstead. It was agreed in this regard, that the main issue in this case relates to the effect of the employment development, including associated infrastructure, on the character and appearance of the area, including the National and Charnwood Forests.

## **Reasons for the Decisions**

11. The site is not allocated for development in the current development plan and is located outwith any defined settlement/development boundary. Consequently, it lies in open countryside for the purposes of planning policy. One of the most important policies in this regard is policy DM4 of the Hinckley and Bosworth Local Plan Site Allocations and Development Management Policies DPD (adopted in 2016).
12. The policy seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside by protecting it from unsustainable development. It sets out that development in the countryside is considered sustainable where, among other things, it significantly contributes to economic growth, job creation and/or diversification of rural businesses. It was a matter of common ground in this regard, that both schemes would generate significant benefits in terms of economic growth and job creation. However, in order to be considered sustainable in the terms of the policy, development must also meet a further five criteria. Of particular relevance to these appeals is criterion i), which requires that development should not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

## **Site and Surroundings**

13. Although the address given for both developments is Stanton Lane, the site for the relocated farm is on Ellistown Lane, which is a continuation of Stanton Lane as it heads towards Stanton under Bardon.
14. In addition to the existing farm buildings and managers' dwellings, the main (employment) site comprises almost 33 hectares of gently undulating medium sized agricultural fields on a roughly north/south alignment, defined by field hedgerows and hedgerow trees. The site is traversed by a series of overhead power lines, supported on a range of pylons, originating from an electricity substation located just beyond the eastern site boundary, fronting onto Stanton Lane.
15. The western boundary of the proposed employment site is defined by the B585 (West Lane/Victoria Road). A number of mature trees and tree groups are located along this boundary, the southern end of which is covered by a Tree Preservation Order. The southern boundary of the site is defined by Stanton Lane. That length of the site frontage between the roundabout junction with West Lane and the existing farm buildings is well treed. The boundary beyond the farm buildings comprises hedgerow and some isolated mature oak trees.
16. Ground levels across the main site rise up from Stanton Lane to a ridge, beyond which is New Cliffe Hill Quarry and its associated rail spur. There is a general rise of around 17-20 metres across the site from south to north. The

top of the ridge slope, beyond the appeals site, rises more steeply than the fields and comprises a continuous strip of relatively young woodland. The northern boundary of the appeals site extends up to, but does not include that woodland. A public footpath (R114) runs from West Lane through the appeals site, along the edge of the elevated woodland here, towards Stanton Under Bardon.

17. A large part of the main appeals site consists of 'made ground', the site having been used to accommodate material associated with development of the adjacent quarry. The depth of that material above the original ground profile varies from roughly 1.00 – 3.5 metres, with pockets of deeper fill, including an area up to some 19 metres in depth at the highest point of the site.<sup>3</sup> Together with the creation of new field boundaries, those works changed the historic character and topography of much of the site, albeit still agricultural in use and character.
18. In addition to the quarry, the immediate context of the site includes extensive and ongoing warehouse/distribution development to the west (on the opposite side of West Lane) and to the northwest (within the wider Bardon/Interlink employment area), a solar farm to the southwest on the opposite side of Stanton Lane (approved in 2015),<sup>4</sup> with areas of farmland and pockets of woodland extending away to the south and southeast.
19. Strawhall Farm lies on the south side of Stanton Lane, opposite the main appeals site. The farmhouse and farm buildings are accessed via a long drive off the lane. There is a small group of houses further to the east on the southern side of the lane, with another farm further along, also on the southern side, opposite the proposed farm site. The village of Stanton under Bardon lies approximately 1 kilometre (km) to the east of the main site, some 300m to the east of the farm site, with the village of Bagworth lying approximately 1.3 – 2.3km to the south.

### ***Employment Proposals***

20. For Appeal A, the Development Parameters Plan indicates a core development zone split into three areas providing a maximum 114,200 square metres of B2 and B8 floorspace,<sup>5</sup> including ancillary offices, surrounded by landscaping, including existing retained trees. For Appeal B, the Parameters Plan shows a single core development zone providing a maximum 89,200 square metres of B2/B8 floorspace<sup>6</sup> surrounded by landscaping.
21. It was confirmed that whilst the maximum development heights extend across the whole of the core development zone on both plans, in practice, the buildings would be set back from the edges of those areas to accommodate parking, servicing, loading/unloading and lorry manoeuvring space etc around them. In this regard, whilst some of the photomontages show development at the maximum parameter height right up to the edge of the core development zone,<sup>7</sup> it was confirmed that that would not happen in practice because of the

<sup>3</sup> Doc 13

<sup>4</sup> Doc 8

<sup>5</sup> Development area 1: finished floor level 176.655-177.655m AOD, max height 21 metres; Development area 2: finished floor level 176.9-177.9m AOD, max height 21 metres; Development area 3: finished floor level 172.00-173.00m AOD, max height 18 metres

<sup>6</sup> Within the core development zone, the finished floor level is shown as 177.00-177.50m AOD with a maximum building height of 21 metres

<sup>7</sup> Figures 8(d)A, 8(e)A, 8(i)A, 8(j)A, 8(n)A, 8(o)A, 8(s)A, 8(t)A in the appellant's respective LVAs (CD 1.7 and 1.8)

servicing requirements etc referred to, as shown on the Illustrative Landscape Strategy plans.<sup>8</sup> I am content in this regard, that whilst the employment element of the appeal schemes is in outline only, the other photomontages showing the developments proposed in relation to the baseline position on completion, and at year 15, are based on a realistic indication of the likely location of the proposed buildings at the maximum parameter height.

22. Both schemes involve cutting/filling a large proportion of the undulating site to create level development platforms. The submitted plans show that towards the higher, northern part of the site, the ground could be lowered by up to 10-15 metres, with land towards the south and east of the site, potentially raised by up to around 7 metres. In both appeals, that platform would be higher than Stanton Lane.<sup>9</sup> The illustrative landscape strategy plans for both schemes, on which the landscape and visual evidence was based, also include the formation of substantial planted bunds.<sup>10</sup>
23. In the **Appeal A** scheme, the Illustrative Masterplan<sup>11</sup> shows two large units lying perpendicular to the lane within the larger, western portion of the site, with a third smaller unit lying parallel to the lane within the narrower eastern part of the site, set back towards the northern site boundary. A drainage attenuation pond is shown between that unit and the eastern site boundary. As shown on the Illustrative Landscape Strategy,<sup>12</sup> starting at the eastern end of the site frontage, the proposed bund would wend alongside the lane, between the lane and units 2 and 3. Whilst its height would vary, it would be roughly 9-11 metres higher than the lane, approximately 6-10 metres higher than the existing ground profile within that part of the site on which it would be constructed.<sup>13</sup> The top and upper parts of the bund would be densely treed. In addition, an off-site tree belt to the east of the main appeals site, along the line of an existing north/south field hedge is proposed.<sup>14</sup>
24. The **Appeal B** scheme is shown as comprising two units in much the same position and of similar size as units 1 and 2 in scheme A, with the same height above ground level although on a slightly lower development platform. However, the eastern part of the site is entirely given over to landscaping, intended to provide what was described at the Inquiry as community woodland. Footpath links are shown as traversing that area.
25. The proposed bund is much more substantial than that in Appeal A. The Illustrative Landscape Strategy<sup>15</sup> shows it curving around unit 2, between the building and the lane, before turning northeast through the site alongside unit 2, tying into the higher land on the northern site boundary. Whilst the height of the main bund would vary, it would be approximately 14 metres higher than the lane, approximately 12 metres above the existing ground profile within the site.<sup>16</sup> The community woodland area, shown as including two attenuation ponds as well as retention of an existing pond, would also be mounded.

<sup>8</sup> Plan No 6756-L-07E for Appeal A, No 6756-L-18A for Appeal B in the appellant's respective LVAs

<sup>9</sup> Eg Illustrative cross sections Plan Nos 6756-L-11 and 6756-L-08C in the Appeal A LVA and Plan Nos 6756-L-11C and 6756-L-19 in the Appeal B LVA

<sup>10</sup> Plan No 6756-L-07E (Appeal A LVA) and 6756-L-18A (Appeal B LVA)

<sup>11</sup> Plan No 30865-PL-203Ba (CD1.26)

<sup>12</sup> Plan No 6756-L-07E (Appeal A LVA)

<sup>13</sup> Illustrative cross sections A-A and B-B on Plan No 6756-L-11 and D-D on Plan No 6756-L-08 C (Appeal A LVA)

<sup>14</sup> Plan No 6756-L-09C (Appeal A LVA)

<sup>15</sup> Plan No 6756-L-18A (Appeal B LVA)

<sup>16</sup> Illustrative cross section A-A' Plan No 6756-L-11C (Appeal B LVA)

26. The access arrangements, which are the same for both schemes, comprise a new roundabout junction on the B585 (West Lane) located towards the northern corner of the site, and a car/motorcycle only access onto Stanton Lane, near to its junction with West Lane.

### ***Character and Appearance***

27. Landscape effects are generally defined as the effects of a proposal on the landscape as a shared public resource, with the quality and value of a landscape determining its capacity to absorb change. Visual effects relate to how people would be affected by changes to views and visual amenity at different locations.

### ***Landscape Context***

28. The appeals site and its surroundings do not lie within any national or local landscape designations and the main parties are agreed that it does not form part of a valued landscape for the purposes of paragraph 174 of the National Planning Policy Framework (the Framework). That is not to say however, that it has no value. Indeed, its current open, undeveloped character and appearance is clearly valued by the community.
29. Located within the National Forest, on the western fringe of Charnwood Forest and at the interface of a number of landscape character areas,<sup>17</sup> the site is in an area of transition. Key landscape characteristics relevant to the site drawn from the range of Landscape Character Assessments include: a gently undulating landform with localised steep slopes around rocky outcrops; although a predominantly rural landscape there are urban fringe influences including poles/pylons, solar farms and effects of past and present coal and clay working; small to medium fields and a developing woodland character; contrast between areas which are visually open and enclosed depending on the elevation of the landscape; diverse land uses; several public rights of way, including the Ivanhoe Way, with large scale expansive views from higher levels.
30. The appeals site itself is predominantly shaped by its undulating topography with ground levels generally rising from south to north, medium-scale farmland, woodland, trees, hedgerows and the power lines that cross it. Whilst its topography is in no small part the product of operations associated with the adjacent quarry, it now forms a well-established part of the wider undulating landscape. These characteristics reflect some of the key characteristics identified in the various LCAs.
31. In terms of its context, whilst there are urban influences, I agree with the Council that other than the power lines crossing the site, these are limited in

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<sup>17</sup> Eg Mr Wheeler's Figure WW\_02 and Figures 3, 4 and 5 in the appellant's LVAs. At national level, it is located on the eastern edge of National Character Area (NCA) 71: Leicestershire and South Derbyshire Coalfield and adjoins NCA 73: Charnwood. Within the East Midlands Regional Landscape Character Assessment (2010) the site is located in Landscape Character Type (LCT) 10d: Forested Ancient Hills. At county level, the site is within The Coalfield LCT as defined by the Leicester, Leicestershire and Rutland Landscape and Woodland Strategy. At a more local level, the site forms part of Landscape Character Area (LCA) A: Charnwood Forest Settled Forest Hills, as defined in the Hinckley and Bosworth Landscape Character Assessment document (2017) adjoining LCA B: Charnwood Fringe Settled Forest Hills. The boundary between those two LCAs runs along Stanton Lane/Ellistown Lane at this point. In the later Charnwood Forest Landscape Character Assessment (2019) the site is shown as lying within LCA 6: Thringstone/ Markfield Quarries and Settlement, adjacent to LCA 11: Thornton Plantation Farmlands. The boundary between these LCAs runs along Stanton Lane for the most part, other than at the western end where the boundary dips south, such that the solar farm on the southwestern side of the lane is included in LCA 6.



terms of their visual impact. For instance, there is no discernible visual perception of the quarry from the appeals site or the surrounding countryside, with the combination of topography and vegetation meaning that the adjacent industrial development to the north/west (including the Bardon 2 scheme on the opposite side of West Lane (B585) generates only a limited influence on the character of the site itself. In essence, the generally agricultural appearance of the site provides a marked contrast to that built form of development.

32. I appreciate that on plan, the solar farm to the south, and the Pall-Ex building beyond, have effectively 'jumped' the apparent dividing line created by the B585, as has the quarry to the north of the site. On the ground however, they do not read in that way. The solar farm is on lower ground than the appeals site and is well screened in most views by existing boundary vegetation around that site. The Pall-Ex building lies further to the southwest, beyond the solar farm, again on lower ground and does not impose itself on the appeals site. When seen in context, their presence affects the landscape of the appeals site only to a very limited degree.
33. The landscape value of the site is described by the appellant as medium, with the Council agreeing, albeit maintaining that it is towards the higher end of the range of that as a consequence of the views from higher elevations ie from public footpath R114 as it traverses along the undulating northern site boundary.<sup>18</sup> From my own observations on the site visit, I tend towards the Council's view on this. In terms of sensitivity to development, I recognise that at county level, landscape character area B Charnwood Forest<sup>19</sup> referred to by the Council is identified as having a moderate-high sensitivity to change, but the appeal site lies within area is separated from that by the quarry. In relation to the more local LCAs, it seems to me that in general, the landscape can be described as having a generally medium overall sensitivity to change.

### *Visual Context*

34. In places, the appeal site is well contained by mature vegetation and the undulating landform. That is particularly true for the western corner of the site. However, the generally rising landform means that the site is visible over a wider area than would otherwise be the case. There are publicly available views into and across the site including from West Lane at the northern end of the site, and from Stanton Lane; from public footpath R114, with views being from an elevated position here, including not only the appeal site but which also encompass impressive longer range panoramic views to the south/southeast; from footpath R31 which connects R114 to Stanton Lane, adjacent to the electricity substation and which forms part of a circular National Forest route (Grange Walk); and from the northern ends of footpaths R33 and Q99 on the opposite side of the lane. There are also views from the private drive that leads to Strawhall Farm, although the house itself is generally orientated to face east/southeast, away from the appeal site.<sup>20</sup>
35. There are also longer range views of the appeals site, including from properties on the southwest edge of Stanton under Bardon and the adjacent stretch of the Ivanhoe Way footpath, and more distantly from properties on the eastern side of Bagworth, as well as from various other public rights of way.<sup>21</sup>

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<sup>18</sup> Eg photoviewpoints 6 and 6 in the appellant's LVAs

<sup>19</sup> Identified in the Leicester, Leicestershire and Rutland Landscape and Woodland Strategy

<sup>20</sup> See eg photoviewpoints 1, 4, 5, 6 and 7 in the appellant's LVAs

<sup>21</sup> See eg photoviewpoints 9, 10, 15 and 16 in the appellant's LVAs.

### *Landscape and Visual Effects*

36. Whilst I have been guided by the formal assessments undertaken by both parties, my views on both this matter and the visual effects, are also informed by what I observed during my extensive site visit.
37. It is unavoidable that the built development and major earthworks proposed would have a dramatically adverse impact on the landscape character of the site itself. The farmland would be replaced by built development, together with extensive areas of cut and fill to create level development platforms within the site, substantial bunding, and access arrangements including a new roundabout on the B585. Those alterations would be readily apparent, particularly during construction and on completion, in views from the adjacent farmstead (Strawhall Farm) the local public rights of way network across and around the site, from Stanton Lane/Ellistown Lane and the B585, and in longer range views from the wider countryside. As confirmed by the photomontages in the appellant's respective Landscape and Visual Appraisals (LVAs) those impacts, particularly in terms of built form, would be much greater in terms of Appeal A than Appeal B.
38. After 15 years, as the screening effects of the proposed planting, combined with the bunding, start to have a meaningful effect, the effects reduce to varying degrees. In the **Appeal A** scheme, whilst the planting and bunding would reduce the impact in views from Stanton Lane, the buildings would, even after 15 years, still be seen to have a significant adverse effect on the landscape. In views from the southwestern edge of Stanton Under Bardon and from the adjacent stretch of the Ivanhoe Way, whilst the buildings would breach the skyline, that would not be to any material degree. Moreover, the skyline in that view is already punctuated by electricity pylons. Combined with the distances involved, I am content that the off-site planting belt referred to earlier, along an existing hedged field boundary, would sufficiently mitigate that impact in those views. In longer range views from the southeast however, the planting/bunding would have little effect. The buildings proposed would breach the skyline over a significant distance of the horizon, with a consequential significant effect on the landscape, especially given the agricultural context of those views. From more distant vantage points to the south on the southeastern edge of Bagworth, the buildings would also be clearly discernible, spreading across a significant extent of the horizon. I recognise that the existing brickworks and Bardon 2 buildings can be seen those views but even so, the introduction of the substantial buildings proposed spreading across a much more of the horizon would have what I consider to be a significant adverse impact in those views.
39. There are no photomontages of future views across the appeal site from that part of footpath No R114 which traverses the length of the northern site boundary. As can be seen on cross-section D-D,<sup>22</sup> together with the Illustrative Landscape Strategy, whilst some planting is proposed between the footpath and the top of the area to be excavated, the top of the units proposed, even on their excavated platform, would be higher than the level of the footpath, with users of the footpath looking down into the development site for some considerable distance. Moreover, not only would the introduction of planting

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<sup>22</sup> Plan No 6756-L-08C in the Appeal A LVA



here also screen the impressive long, wide-ranging views to the south/southeast that are currently to be had, but any increase in planting to screen views into the site and of the buildings would further impede any remaining longer range views. Whilst it was maintained that there would be views between proposed units 2 and 3, those would be constrained by the buildings to either side and would be across parking and access roads etc. I am in absolutely no doubt that in views from the footpath as it passes through the appeal site, and in views when approaching from the east on the footpath (once past the tree planting belt referred to earlier) the impact of the proposal would be substantial and adverse. The combination of adverse effects identified cannot, in my view be considered as anything other than resulting in significant harm to the intrinsic value, beauty, open character and landscape character of the countryside.

40. In the **Appeal B** scheme, the amount of built development is reduced, the development platform is very slightly lower and the extent and height of the proposed bunding is increased, as is the amount of planting. Dealing firstly with the buildings proposed, after 15 years, as is demonstrated by the photomontages, the development would be well screened in views from the lane, from the edge of Stanton Under Bardon, in longer range views from the southeast and from the more distant vantage points on the southeastern edge of Bagworth. The proposed bunding and planting would, in my view, largely mitigate the impact of the development on the landscape in those views.
41. Based on cross-section D-D,<sup>23</sup> together with the Illustrative Landscape Strategy, the impact in relation to units 1 and 2 would be virtually identical to that described for the Appeal A scheme in terms of views from that part of footpath R114 adjacent to the site. Absent unit 3 however, those adverse impacts would affect a shorter length of the footpath than would be the case in the Appeal A scheme. Similarly, on approach along the footpath from the east, the bunding and extensive planting would screen views of the buildings until the viewer was much closer to them. That said, I am in absolutely no doubt that in views from the footpath as it passes by the appeal site, the adverse impact of the proposal would, nevertheless, be substantial.
42. Moving on to the bunding, the Council maintained that its size and form mean that it would be seen as oppressive for those travelling along Stanton Lane. I do not agree. This is an undulating rural landscape with generally open views across falling land to the south/southeast of the lane. Views to the north from the lane, across the appeal site, are already of rising land. The bund would not run alongside the entire length to the site frontage. Rather it would lie between the lane and the corner of proposed unit 2 (opposite the drive to Strawhall Farm) before heading into the site alongside unit 2, to tie in with the higher land to the north.
43. As can be seen in the cross sections within the LVA,<sup>24</sup> the foot of the bund would be set back from the edge of carriageway by approximately 6 metres, behind the conserved roadside trees and hedging, with the maximum height of the bund not reached until some 45 metres or so back from the carriageway edge. The top and upper slopes of the bund would be densely treed. Whilst those using the lane would no doubt be aware of the rising land on the appeal

<sup>23</sup> Plan No 6756-L-19 in the Appeal B LVA

<sup>24</sup> Eg cross-section A-A1 on Plan No 6756-L-11C and section D-D on Plan No 6756-L-19

site, I see no reason as to why this would necessarily be seen as oppressive, especially given the open land on the other side of the lane, in much the same way as the steeply rising treed crest of the ridge, adjacent to footpath R114 as it traverses the northern boundary of the appeal site, is not experienced in anyway as oppressive.

44. In terms of the form of the bund, I am mindful that even though fill material currently on the site is up to 19 metres in depth, it has still been formed in such way as to reflect the undulating nature of the area. I note, in this regard, that the bund is shown on the illustrative landscape strategy as having a sinuous form, with differing widths along its length and with the top and upper parts densely planted, as would be the mounding shown within the community forest within the eastern part of the site.
45. The proposed bund is clearly a very substantial feature of itself and it would undoubtedly change the contours and appearance of the appeal site. However, change does not necessarily equate to harm. Indeed, the final contours would be subject to detailed design at a later stage, a matter over which the Council would have a degree of control were the appeal to succeed. I am also mindful that key characteristics of the landscape character areas here include localised steep slopes around rocky outcrops, and a developing woodland character with contrast between areas which are visually open and enclosed depending on the elevation of the landscape. Moreover, key opportunities include the provision of new woodland cover, as well as ensuring that, in this open landscape, the design of urban fringe developments, including warehousing and light industrial units, mitigates the visual impact on the landscape by, for example, planting shelterbelts or constructing bunds where appropriate and compatible with the landscape. In that context, the bunding, especially once the planting becomes established, would not of itself necessarily be seen in my view, as a significant detractor in the landscape. That said, I consider that whilst most impacts could be mitigated such that any harm to the intrinsic value, beauty, open character and landscape character of the countryside could be considered as minor/moderate adverse, the effects in terms of the impact on the site itself and the experience of users of R114 would so substantial that the overall effect falls to be considered as significant.

#### *Conclusions on Character and Appearance*

46. Whilst Mr Wheeler (for the Council) sought to argue that the appeal site is unsuitable in principle for the type of development proposed, I do not agree. Policy DM4 clearly accepts the principle of new development where, among other things, it significantly contributes to economic growth and job creation. As set out at the start, there is no argument that the appeal scheme would make a significant contribution in this regard. Thus, there can be no objection in principle. Rather it is the specific impacts of the schemes that needs to be assessed.
47. In relation to both schemes, I have found the harm to the character and appearance of the countryside that would be a consequence of the developments proposed to be significant, even at year 15 when the proposed mitigation planting might be expected to have a meaningful effect. I find the harm in relation to Appeal A to be materially greater than in Appeal B. Nevertheless, in both appeals, that brings the development into conflict with policy DM4, one of, if not the most important policy in this case.

## **Benefits of the scheme**

48. Market evidence in the September 2021 CBRE Report,<sup>25</sup> updates key points in earlier reports regarding the shortage of employment land supply, and the significant increase in demand for large scale sites and buildings. The Report confirms that demand has increased notably through the pandemic, where the trend towards increasing use of online 'e-retail' for a range of goods and products accelerated. This, coupled with Brexit and associated structural changes to supply chains and the movement of goods, is reported to be driving demand for more storage and distribution space (and generally larger buildings) across the Midlands and other key locations in the UK distribution sector within the M1 corridor, including the appeals site.
49. Demonstrating the severity of the imbalance between the supply of land and buildings and demand, the CBRE identifies an existing supply equivalent to around three months' demand in the Midlands and UK, compared with a healthy, sustainable level which would normally be around 12-15 months' supply space. I am in no doubt in this regard, that the appeal schemes, which build on the successes of previous phases at the adjacent Mountpark Bardon site, would help meet a number of large-scale local requirements that are currently looking in the Bardon area, but which remain unsatisfied due to a shortage of existing warehouse space and land availability. This is a consideration that attracts significant weight, particularly so given the prime location of the site within what is termed by the market as the Golden Triangle, at the core of the UK logistics market, with excellent access to the strategic road network at the M1 (Junction 22) via the A511 growth corridor, and having regard to paragraph 83 of the Framework, which confirms that planning decisions should recognise and address the specific locational requirements of different sectors, including making provision for storage and distribution operations at a variety of scales and in suitably accessible locations.
50. Local residents drew attention to the supporting text to DPD policy DM20, relating to the provision of employment sites,<sup>26</sup> in particular the reference to sufficient employment land being available in the Borough to support the identified growth over the Plan period. However, the DPD was adopted in 2016 and would have been based on an older evidence base. The independent CBRE report draws on much more up to date figures and its findings were not challenged with any substantiated evidence. I am content, in this regard, that there is a demonstrated need for the development proposed.
51. In addition to helping meet the pressing needs of logistics operators, the appellant's Socio-Economic Statements predict, in relation to Appeal A, that with an indicative construction cost in the region of £80 million, the scheme would support around 575 construction jobs each year over an estimated 24 month construction period, with the development itself, once completed, having the potential to support around 1,500 FTE jobs (calculated on B8 logistics and distribution uses) more if B2 manufacturing is included. Whilst it is difficult to define precisely the nature of the job roles that would be supported on site, I was advised that these would, contrary to the views of

<sup>25</sup> Appendix 1 to the proof of Mr Harley. This report post-dates

<sup>26</sup> The policy, identified by the main parties as one of the most important policies in this case, allows for the development of new employment sites outside settlement boundaries on greenfield sites where, among other things, there are no suitable alternative sites identified sequentially in a range of locations, one of which relates to land adjacent to existing employment areas. It is a matter of agreement that there is no conflict with this policy.

some local residents, range across a number of occupations, both higher and lower-skilled. It is also estimated that around 800 jobs (out of the 1,500 jobs supported on site) would be likely to be staffed by residents from within a 10km radius, including areas that exhibit relatively higher deprivation such as Bagworth and Thornton, Groby and Coalville. The higher median salaries for jobs in logistics are also expected to support a further 430 FTE jobs within the supply chain and as a result of induced spending in the area generally. Wider fiscal benefits would also be created for the Council, primarily through an increase of some £1.7 million in business rates revenue.

52. Corresponding figures for the Appeal B scheme suggest an indicative construction cost in the region of £63 million, supporting around 450 construction jobs each year over a two year construction period, with the development itself, once completed, having the potential to support around 1,200 FTE B8 logistics and distribution jobs, more if B2 manufacturing is included, which jobs are likely to range across higher and lower-skilled occupations. It is also estimated that around 650 jobs of those jobs would be likely to be staffed by residents from within a 10km radius, including local areas that exhibit relatively higher deprivation. The higher median salaries for jobs in logistics are also expected to support a further 350 FTE jobs within the supply chain and as a result of induced spending in the area generally, with wider fiscal benefits for the Council in the form of some £1.3 million in additional business rates revenue.
53. Although unquantified, additional employment benefits relating to both schemes include the apprenticeships and works experience and skills related training opportunities which are included in the planning obligations.
54. There was no dispute between the parties that the weight that can be afforded to the combination of `all these employment and economic benefits is significant. I have no reason to disagree.
55. To differing degrees, both schemes include the creation of additional public footpath links in the area. The Illustrative Landscape Strategy for Appeal A shows a footpath running along the eastern and southern site boundaries, linking the existing footpath R114 along the northern boundary of the site to the northern end of footpath Q99 (adjacent to the junction of the Strawhall Farm access with Stanton Lane). That could benefit local walkers and is a consideration to which I afford some, albeit limited weight, especially since footpath R114 already links to Stanton Lane just a short distance to the east, via footpath R31.
56. I afford slightly more weight in this regard to the Appeal B scheme, which includes a network of paths criss-crossing the proposed community woodland linking Stanton Lane to footpath R114. It also includes a footpath running alongside Stanton Lane but contained within the site, providing an alternative to that part of Grange Walk which currently runs along the lane requiring users to walk on the carriageway. That internal path also extends further along the site frontage, facilitating off-road pedestrian access to the two units proposed. I recognise that the lane is not heavily trafficked at present, but in my experience, it is not only safer but is generally more pleasant to walk along an off-road route where possible.
57. Whilst the secured contributions towards local bus service improvements and off-site footpath improvements are required as mitigation for the development

- proposed, there would also be some potential benefits for existing users. I afford these benefits limited weight.
58. The appellant refers to the buildings in both schemes meeting a BREEAM rating of 'excellent' as a benefit. Whilst policy 24 of the Core Strategy requires that from 2016 onwards, schools, hospitals and offices should meet this standard as a minimum, there is no reference to B8 or B2 uses. I see no reason, however, as to why the same standards should not apply. Nevertheless, since what is proposed goes above what is currently required by policy, and were it to be secured by condition, I consider that it would be a benefit but one that would attract only limited weight in the circumstances.
59. The appeals site lies within the National Forest. The Appeal A scheme is unable to meet the requirement in the National Forest Strategy for at least 30% of the total site area to comprise Forest green infrastructure. To address that, an additional off-site tree belt is proposed (as referred to earlier) secured via the planning obligation. I am not persuaded, however, that compliance with the guidelines is anything more than an absence of harm in this regard. If it attracts any positive weight at all, that weight would be limited in my view, particularly as hedgerows and hedgerow trees would be lost to the development proposed.
60. The Appeal B scheme includes much more substantial planting, including a community woodland. Whilst that is provided as mitigation in the main, to reduce the landscape and visual impacts of the development proposed, it exceeds the minimum 30% requirement, with some 47% of the total site area being dedicated to landscaping, green infrastructure and habitat related works, including the planting of some 10,000 trees. This is a benefit that attracts moderate weight in this case.
61. Whilst it could not be confirmed that there would be a biodiversity net gain in relation to the Appeal A scheme, it was agreed that the Appeal B scheme could achieve a biodiversity net gain. That is a benefit that attracts some positive weight, albeit tempered by the fact that it is unquantifiable at this outline stage. On that basis, I afford that benefit limited weight.

### ***Planning Obligations***

62. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 57 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.
63. The planning obligations are supported by a CIL Compliance Statement prepared by the Council, which sets out its reasons for concluding that the various obligations would accord with Regulation 122 of the CIL Regulations. I allowed a period after the close of the Inquiry for the submission of signed versions.<sup>27</sup>
64. With one exception, both the planning obligations make the same provisions subject to the usual contingencies. Those provisions can be summarised as:
- a financial contribution towards specific elements of the Coalville Transportation Infrastructure Strategy;

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<sup>27</sup> Docs 20 and 21



- a financial contribution towards monitoring of the sustainable travel accreditation and recognition scheme;
  - a County Council monitoring contribution.
  - submission of a scheme providing opportunities during construction of the development for apprenticeships and works experience and skills related training;
  - submission of an ongoing management and maintenance plan for the open space within the site;
  - carrying out specified footpath improvements in the vicinity of the site or, in the alternative, paying a footpath contribution to allow the County Council to carry out the specified works;
  - provision of employee travel packs and submission of a sample travel pack to the County Council together with an administration fee or, in the alternative, payment of a travel pack contribution to allow the County Council to provide travel packs;
  - provision of employee travel passes or, in the alternative, payment of a travel pass contribution to allow the County Council to provide travel passes;
  - appointment of a Travel Plan Coordinator for period of no less than five years from first occupation of the final unit to be occupied.
65. As noted earlier, the Appeal A scheme would not provide the required on-site woodland planting in accordance with the National Forest Strategy. To that end, the related S106 Agreement also secures implementation of the off-site area of native woodland planting, pursuant to policy 21 of the Core Strategy, as shown on Plan No 6756-L-09C.
66. The various obligations and the Compliance Statement were the subject of detailed discussion at the Inquiry. Among other things, I was concerned to ensure that the various monitoring fees were properly justified. In light of that discussion, I am satisfied that all the contributions and obligations referred to above are consistent with relevant planning policies, objectives and guidance. They are directly related to the development schemes and are fairly and reasonably related in scale and kind to them, mitigating potential harmful effects on the environment, as well as securing some of the benefits promoted by the schemes. I am content, therefore, that the obligations comply with the requirements set out in the Regulations and the Framework and can be taken in to consideration.

### **Other Matters**

#### *Replacement Farmstead*

67. Delivery of the employment element of the appeal scheme necessitates the relocation of the existing farmstead. Full planning permission is sought in relation to this aspect of the scheme. The details the subject of the full application are the same in both appeals.
68. The proposals include two x two-storey replacement farm managers' dwellings with extensive curtilages, a farm workshop and four agricultural buildings (two

cattlesheds, a grain store and a bullpen/calving units building) plus a covered cattle handling area. The two dwellings would be located one to each side of the proposed farm access drive off Ellistown Lane. The drive would extend beyond the existing hedgerow into the rear of the site where the farm buildings would be located. The workshop building would be located within the curtilage to House No One. Additional planting within the site is proposed, plus a balancing pond in the southeastern corner.

69. Whilst the Council takes no issue with this element of the proposals, local residents had some concerns. Farm workers' dwellings are an appropriate form of development in the countryside and in this case would be closely related to the proposed farm buildings. The agricultural buildings would be typically functional in appearance, appropriate for modern farm buildings. The dwellings would be of brick and tile and would include features such as chimneys and projecting gables to enliven the frontages. Whilst some local residents queried the size of the replacement dwellings compared with the existing dwellings on the holding, it is clear from the plans before me that they are roughly commensurate in terms of floor area. I am content therefore, that should there be a need to replace the existing farmstead such that this element of the appeal schemes is acceptable in principle, then the scheme proposed would not have a materially harmful impact on the character and appearance of the area.
70. Other concerns referred to light pollution and also to odour, given that the farm enterprise involves livestock rearing. Whilst the farm buildings would be closer to existing residential properties than is currently the case, the distance separation and landform, combined with conditions requiring an odour management plan and control over external lighting were the appeals to succeed, would be sufficient in my view to ensure that there was no material harm to the living conditions of existing residents. The distance separation combined with orientation of existing dwellings and intervening vegetation and landform also mean that there are no issues, as asserted by some, in relation to overlooking or material loss of outlook.
71. Highways: Although not a reason for refusal, there was considerable concern in relation to the amount of traffic that would be generated by the appeal schemes. Given those concerns, the appellant fielded a witness, at my request, to present highways evidence to the Inquiry.
72. In relation to concerns about traffic routing through Stanton under Bardon, the journey time analyses in the evidence of Mr Cummins clearly demonstrate that it would generally be much quicker, as well as easier, for HGVs leaving the site to drive along the B585 to get to the A511, whichever direction the vehicles then take (either east to the M1, or west). I was also advised that once planned works to the Flying Horse roundabout are completed, as part of the package of improvements planned for the A511 Growth Corridor, it will not be possible to turn right out of Stanton Lane, making a route via the village even longer. The same goes for cars, where routes to nearly all destinations via the B585 will be quicker and easier, although I recognise that cars drivers are generally less restricted in their route choice. To place some control on car routing, the proposed car park access onto Stanton Lane would be designed to prevent right in/left out movements. Whilst drivers could U-turn at the existing roundabout on the B585 and travel back along the lane, that is unlikely to be attractive in terms of travel time for anyone other perhaps, than those, for instance, whose destination is Stanton under Bardon, or possibly Thornton.

73. In relation to farm traffic, which was also mentioned by some, the existing farm is served by three separate driveways. Both proposed schemes would utilise a new, single access (serving both the new dwellings and the farm buildings) at a point further east along Ellistown Lane, designed to comply with the relevant design criteria. There would be no overall increase in associated vehicle movements, with the existing accesses to be closed off. I find no harm in this regard.
74. In relation to wider concerns, in accordance with national guidance, the appellant's evidence on traffic impacts is based on cumulative assessments derived from background traffic levels (ie without the development proposed) determined via traffic counts, which were then 'growthed' to a future assessment year, to which traffic derived from committed developments was then added. Evidence to the Inquiry on this confirmed that the committed developments relied on, included the various schemes referred to by local residents. I am also mindful that adding both general traffic growth and committed developments to current background levels creates a very robust set of traffic forecasts.
75. The results of the assessments demonstrate that in both cases, whilst most of the local junctions would operate within capacity, some key junctions on the A511 would operate overcapacity, even without the proposed developments in place. That is a longstanding problem. Performance would deteriorate further with the development in place, increasing queuing and delays. To address that, the appellant has agreed to the requested contribution towards improvements at eight of the key junctions in the Growth Corridor.
76. I recognise that the A511 improvements would not necessarily be in place by the time the development proposed was operational, but that is because they are part of a suite of improvement works set out in the comprehensive Coalville Transportation Infrastructure Strategy. The scale of the works encompassed by the Strategy is dependent on funding from various developers, plus Government contributions. A bid to the Government's Major Road Network investment programme is currently being pursued. There was no suggestion in this regard, that the works would not be carried out within a meaningful timescale. Moreover, both applications were supported by a suite of related technical evidence supplemented by a series of Technical Notes, the upshot of which was that initial objections by Highways England (now National Highways) and the local Highway Authority (Leicestershire County Council) fell away. In essence, subject to planning conditions and the relevant contributions etc, both bodies are content that neither scheme would result in residual highways harm. In the absence of any substantiated evidence to the contrary, I have no reason to come to a different view.
77. Accessibility: Whilst this was a concern for some, it is clear from the evidence before me that there would be plenty of opportunities to travel to and from the development by sustainable means. The site is readily accessible by bicycle, with a network of cycle routes to the north of the site, along with a significantly increasing population. There are opportunities for bus travel, with bus stops accessible via the footways on the B585, with bus service improvements, in particular to the Coalville to Leicester and the Ibstock to Coalville services, and other improvements such as new stops and diversions to serve the site, secured by the planning obligations. The site is also served by a network of public footpaths, which would be the subject of improvements secured by the

- planning obligations, as well as new footways along the site frontage on the B585, connecting the new Stanton Lane roundabout with the existing footways and bus stops.
78. Whilst the modal share forecast indicates that only some 22% of journeys to work would be by sustainable modes, both applications are accompanied to a Framework Travel Plan setting out the measures aimed at increasing opportunities over time. Measures include the appointment of a Travel Plan Co-ordinator, management and monitoring regimes, enablement of car sharing, electric vehicle charging, cycle parking, showers, and other specific initiatives. The measures also include a travel pack and a free six month bus pass for each employee. I am satisfied, therefore, that appropriate opportunities to promote sustainability transport modes have been taken up and that there would be no conflict with paragraph 110 of the Framework in this regard.
  79. Heritage Assets: The existing farmstead includes a complex of traditional farm buildings arranged around a central courtyard dating back to the 18th and 19th centuries. It is understood that the farmhouse was demolished in the late 20th century and replaced with the current modern, brick-built bungalow of little intrinsic interest. However, the remainder of the courtyard plan and the early farmyard buildings survive as a relatively intact complex and are considered as a non-designated heritage asset. The appeal schemes involve the demolition of all the existing buildings to facilitate redevelopment of the site. There is also the potential for archaeology at the proposed farm site from the post-Medieval period, due to evidence of ridge and furrow on the site. Again, any interest in this regard relates to a non-designated asset.
  80. Although both developments proposed would result in the total loss of heritage significance of the respective assets, there is no substantiated evidence before me to suggest that the assets are of any more than local importance. As such, these assets do not have high significance either in terms of scarcity or heritage value in a wider sense. The Framework makes it clear that the effect of proposals on the significance of non-designated heritage assets should be taken into account in determining the application, with a balanced judgement to be made. That balance is dealt with later in this Decision.
  81. Pollution: Various comments referred to concerns in relation to implications of the employment element of the appeal schemes for air quality and noise and light pollution. All these aspects were the subject of extensive reports that accompanied the respective applications.
  82. In relation to air quality, the appeals site is not situated within an Air Quality Management Area. In relation to both schemes, the technical assessments conclude that with appropriate mitigation measures, which can be secured by conditions were the appeals to succeed, the residual effects of dust and emissions from construction plant/vehicles upon the local area whilst adverse, would be temporary and would not be significant. For the operational phase, the air quality dispersion modelling demonstrates that potential impacts would be negligible, with all modelling locations below the respective annual mean objectives and targets.
  83. The Noise Impact Assessments confirm that appropriate conditions to manage construction works in both schemes would sufficiently mitigate impacts at that stage. The Assessments also confirm that the magnitude of change in both the short and long term with regard to changes in road traffic noise that may occur

as a result of the proposed developments would be negligible, with no adverse effects expected in this regard.

84. For both schemes, in terms of operational sound during the day, the predicted rating level from the proposed development would not exceed the background sound level at any of the modelled locations and therefore no adverse effects are expected. During the night, the predicted rating levels at most of the modelled locations would be below the background noise level, again indicating that no adverse effects would be expected. However, in relation to the Appeal A scheme, the rating level at Strawhall Farm is predicted as exceeding the typical background sound level by 6dB, and on Stanton Lane, close to the proposed site for the relocated farm, the predicted rating level is predicted as exceeding the sensitivity test background sound level by 4 dB, indicating the potential for adverse effects at those locations. However, the Assessment goes on to conclude that the predicted operational sound is unlikely to be intrusive in the context of the absolute levels of sound and existing sources of noise at those locations. On that basis, no adverse effects were considered likely and no additional mitigation was considered necessary, notwithstanding that there would be inherent mitigation in the form of the proposed bunding around the service yard of unit 2, and to a lesser extent unit 3.
85. In relation to the Appeal B scheme, the predicted night time rating level at Strawhall Farm would exceed the typical background noise level by just 1dB. That slight exceedance is unlikely to give rise to any adverse effects. The maximum night time noise levels from operational HGV activities for both schemes were also considered and are predicted to be considerably below the relevant threshold for adverse effects.
86. In relation to light pollution, the relevant technical reports confirm that subject to design principles to be applied to the external lighting, which would limit the spread of light beyond the areas to be illuminated, prevent glare and avoid emission of upward light, no significant effects on the modelled receptors are predicted.
87. No substantiated evidence was presented by objectors to undermine the conclusions of the Noise, Air Quality and Light Assessments. I am mindful, in this regard, that the Council's own environmental officers took no issue with the findings subject to conditions. In the absence of any evidence to the contrary, I have no reason to come to any different view from that set out in the technical reports and assessments.
88. Drainage: Various references were made to localised flooding and drainage problems. The sites lie within flood zone 1 and in flood risk terms there is no objection in principle to the location of the proposals. Both applications were accompanied by Flood Risk Assessment/Drainage Statements which set out that the surface water strategy is to collect the run off from impermeable areas into a drainage system that utilises sustainable drainage features and which restricts the discharge to the equivalent greenfield run-off rates, achieved through the use of attenuation ponds and flow control devices. On the evidence before me, I am satisfied therefore that the developments proposed would not increase the risks of flooding in the wider catchment, subject to conditions.
89. Quarry restoration: There was concern that the developments proposed could jeopardise future restoration of the adjacent quarry. Whilst no-one was able to



provide me with any approved restoration plans for the quarry, I was shown potential restoration plans.<sup>28</sup> Those scheme do not rely on any part of the appeal site for implementation, with neither of the appeal schemes having any impact on the ability to implement those restoration schemes.

90. *Wildlife*: Both appeals were accompanied by extensive ecology reports across both sites, confirming that the improved grassland, which comprises the majority of the existing habitat, is of low ecological value requiring no specific mitigation. Where there are habitats of higher ecological value, mitigation is proposed, including retention of boundary hedgerows, replacement planting including National Forest planting, provision of bat/bird boxes and areas of rough grassland to provide foraging habitat eg for badgers. Details of recommended mitigation are set out in the Lockhart Garratt Ecology Summary Report V4 and could be secured by condition were the appeals to succeed. I am satisfied that there would be no material harm in this regard. Moreover, as set out earlier, whilst there is no guarantees of any biodiversity net gain in relation the Appeal A scheme, it was a matter of agreement that the Appeal B scheme could achieve a net gain in this regard.

### **Overall Planning Balance**

91. I have found that both appeal schemes would result in significant harm to the intrinsic value, beauty, open character and landscape character of the countryside. That brings them into conflict with policy DM4. That conflict also means that the schemes would not accord with other policies, including policy 21: National Forest and policy 22: Charnwood Forest of the Core Strategy, both of which are supportive of development where, among other things, it retains and respects local character and complements the landscape. I am of the view therefore, that the developments proposed would conflict with the development plan considered as a whole. There is no suggestion in this regard that DM4, or indeed any other of the policies deemed to be the most important in this case, are to be considered out of date.<sup>29</sup> Consequently, my decisions are to be made in accordance with the development plan unless material considerations indicate otherwise.
92. In relation to the larger Appeal A scheme, I consider the harm to the character and appearance of the countryside to be at the higher end of the scale of significant. To be added to that is the harm that would be a consequence of the total loss of significance of the non-designated heritage assets. The benefits outlined above whilst considerable are not, in my view, sufficient in this instance to outweigh the combination of those harms such as to merit a decision other than in accordance with the development plan.
93. The Appeal B scheme involves materially less built development than that the subject of Appeal A, with considerably more landscaping and bunding. Whilst the Council felt that the increased bunding was itself a harmful feature in this location, I have found it to be not unacceptable. Nevertheless, I consider the harm to the countryside would be significant, although towards the lower end of the scale. There is also the harm as a consequence of the loss of significance in relation to the non-designated heritage assets. Such harm is to be given considerable importance and weight. I consider that the harms identified mean that the scheme would not comply with the development plan

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<sup>28</sup> Doc 11

<sup>29</sup> CD7.12 Policy Position Statement

as a whole. In the overall planning balance however, I consider that the package of benefits is of such substance, in particular the economic and employment benefits, that it outweighs the harm that I have identified in this case.

### **Conditions**

94. I have considered the suggested conditions in relation to Appeal B in light of the related discussion at the Inquiry and the advice in both the Framework and the Government's Planning Practice Guidance. The conditions and wording set out in the attached schedule reflect that discussion. During the discussion it was agreed that a number of the suggested conditions could be combined, needed re-wording, duplicated others, were otiose or were unnecessary for various reasons. Other conditions were added. The conditions below reflect that discussion.
95. The conditions numbers referred to below reflect those in the attached schedule. Conditions 9-15 and 33-45 are necessarily worded as pre-commencement conditions, as this information, and related compliance with the agreed details, needs to be secured from the outset for the reasons set out below.

#### *Conditions relating to the outline permission:*

96. Conditions 1, 2 and 3 are required to comply with the requirements of Section 92 (as amended) of the Town and Country Planning Act 1990.
97. Although this is an outline application, it was accompanied by a considerable amount of supporting information which informed the landscape and visual appraisals. It is necessary, therefore, to ensure that the reserved matters applications are in broad accordance with the development parameters plan, the illustrative masterplan and the illustrative landscape strategy (4). Given the size of the scheme, it is necessary to secure of phasing for delivery of the development in order to ensure that the site is developed in a comprehensive manner, minimising disturbance and disruption in the locality (condition 5).
98. To provide certainty, it is necessary to identify the plans to which the decision relates, but only insofar as they relate to access, which is not reserved for subsequent approval (6).
99. Given the undulating nature of the site and the extent of the groundworks proposed, details of finished ground and floor levels are required in the interest of visual amenity (7). Details of any external plant etc are also required in the interest of visual amenity (8).
100. In order to minimise disruption during the construction process for local residents, local businesses and those travelling through the area, and to protect the environment, condition 9 secures a Construction Environment Management Plan, with condition 10 setting out hours during which work can take place on the site.
101. Given the potential for buried archaeology on the site, a programme of archaeological work is necessary to ensure that any heritage assets are properly recorded and dealt with (11).

102. In order to avoid pollution and to prevent increased risk from flooding, it is necessary to secure the recommendations set out in the Flood Risk Assessment Drainage Statement (Complete Design Partnership Ltd Ref:19-7688–FRA\_Main dated 3/3/2020) together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended (12).
103. In the interests of protecting and improving biodiversity, condition 13 secures the submission of a biodiversity management plan. In the interests of both biodiversity and visual amenity, conditions 14 and 29 relate to tree retention and protection.
104. Condition 15, securing the provision of solar panels, is necessary to help mitigate the effects of the development and adapt to climate change, in accordance with Framework paragraph 152.
105. As referenced earlier, the evidence of the appellant is that securing a BREEAM rating of 'excellent' for the buildings should be considered as a benefit. To that end, conditions 16 and 25 are necessary to secure that standard of development in order to ensure that the benefit that I have taken into account in the planning balance is realised.
106. Given the significant amount of excavated material from the adjacent quarry across the site, it is necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly and that any risks from contamination are properly dealt with to protect the health of future occupiers and to prevent pollution of the environment (17 and 18).
107. Conditions 19, 20, 21, 27 and 28 are required in the interest of vehicular and pedestrian safety. Conditions 22 and 23 are necessary in the combined interests of highway safety and in order to promote more sustainable travel choices in accordance with national and local planning policy and guidance.
108. Given the scale and nature of the development proposed and its intended 24 hour operation over seven days a week, it is necessary to ensure that noise levels are constrained to those which informed the supporting Noise Impact Assessment, and that any external lighting is controlled, in order to protect the living conditions of local residents and the amenity and ecology of the area generally (24 and 26).
109. The approved development includes an element of B2 General Industrial floorspace. A condition securing an odour management plan is necessary in this regard in order to protect the living conditions of local residents and the amenity of the area generally (30).

*Conditions relating to the full planning permission:*

110. In addition to the standard time limit on commencement of development (31) it is necessary to identify the plans to which the decision relates as this provides certainty (32).
111. In the interest of visual amenity, conditions relating to external materials, including the covered cattle handling area which is shown on plan but for which there are no elevations, hardsurfacing, boundary treatments, landscaping, tree protection and details of finished ground and floor levels are required (33, 34, 35, 36, 37 and 38).

112. In order to minimise disruption during the construction process for local residents, local businesses and those travelling through the area, and to protect the environment, condition 39 secures a Construction Environment Management Plan, with condition 40 setting out hours during which work can take place on the site.
113. It is necessary to ensure that any risks from contamination are properly dealt with to protect the health of future occupiers and to prevent pollution of the environment (41 and 42).
114. In the interests of protecting and improving biodiversity, condition 43 secures the submission of a biodiversity management plan.
115. In light of the potential for buried archaeology on the site, a programme of archaeological work is necessary to ensure that any heritage assets are properly recorded and dealt with (44).
116. The existing farmstead is to be relocated closer to existing residential properties. Since it includes livestock rearing, a condition securing an odour management plan is necessary in order to protect the living conditions of local residents (45).
117. Conditions 46, 47 and 48 are required in the interest of highway safety.
118. The new dwellings proposed are justified in this instance, because of their integral relationship to the operation of the farmstead. It is necessary therefore, to ensure that they are not occupied until the replacement farm buildings and workshop are completed and ready for occupation, and that occupation of the dwellings is limited thereafter, in order to ensure that they are kept available to meet the identified agricultural need (49 and 51). The existing farmstead would be displaced by the employment element of the development proposed. To avoid unnecessary proliferation of buildings in the countryside, it is necessary to ensure that once the replacement farmstead is ready for occupation, the original farmstead is demolished (52).
119. In order to avoid pollution and to prevent increased risk from flooding, it is necessary to secure the recommendations set out in the Flood Risk Assessment Drainage Statement (Complete Design Partnership Ltd Ref:19-7688-FRA\_FARM dated 23/06/2020) together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended (50).
120. Given the rural location and proximity of residential properties, it is necessary to control external lighting in order to protect the living conditions of local residents and the general amenity of the area (53).
121. The dwellings here are permitted as replacements for those to be demolished, which met an established functional need. It is necessary in this regard, to ensure that the replacements are of a size commensurate with that need given the countryside location. The proposal has been assessed on the basis of the size of the dwellings proposed. It is necessary, therefore, to remove permitted development rights to ensure that the dwellings are no bigger than required to meet that need, and to protect the character and appearance of the countryside within which they would be located (54 and 55).
122. Condition 56 secures retention of trees and hedges in the interest of both visual amenity and biodiversity.

## Conclusions

123. For the reasons given above, I conclude that whilst **Appeal A** should not succeed, **Appeal B** should succeed and that planning permission be granted.
124. An objector at planning application stage made reference to Article 8 of the Human Rights Act 1998, drawing attention to the case of *Britton v SoS*,<sup>30</sup> where protection of the countryside was held to fall within the ambit of a person's right to respect for their private and family life. I have recognised that there would be harm to the countryside in this instance a consequence of both the developments proposed. I have found that the harm in terms of Appeal A would be significant and that the appeal should fail. As such, there would be no violation in this regard.
125. Whilst I have found that Appeal B should succeed notwithstanding that there would be significant harm to the countryside, that is on the basis that the harm is outweighed by other considerations. I am also mindful that not only would existing public rights of way across and around the appeals site be retained, but improvements to them are also secured through the planning obligation, with additional footpaths and links to be provided through the proposed community woodland, opening up a part of the site where currently there is no public access. Furthermore, around 10,000 new trees would be planted on the site, in exceedance of the National Forest strategy. All in all, I am content that any interference that might be caused as a consequence of the appeal scheme would be insufficient to give rise to a violation of rights under Article 8(2).

*Jennifer A Vyse*  
INSPECTOR

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<sup>30</sup> *Britton v SoS for the Environment* [1997] JPL 617



## **ANNEX A APPEARANCES**

### **FOR THE APPELLANT:**

Rupert Warren, of Queen's Counsel	Instructed by Morag Thomson (freelance solicitor)*
He called	
David Cummins BEng(Hons), MSc CEng MCIHT, MCILT	Director, ADC Infrastructure Limited
Timothy Jackson BA(Hons), DipLA, CMLI	Director, FCPR Environment and Design Ltd
Steven Harley BSocSc, MPhil, MRTPI	Associate Director, Oxalis Planning

\* Ms Thompson also assisted the Inquiry on behalf of the appellant during the discussion on possible conditions and the planning obligations.

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ian Ponter, of Counsel	Instructed by Mr Rice (solicitor at the Council)
He called	
William Wheeler MA(Hons), MPhilD, CMLI	Technical Director, The Landscape Partnership
Andrew Boothby MA, MRTPI	Associate Director, Aitchison Raffety

Janna Walker (Leicestershire County Council – Highways) also assisted the Inquiry during the discussion on the planning obligations.

### **INTERESTED PERSONS:**

Councillor Andy Furlong	Ward Councillor
Mary Briggs	Local resident
Janet Russell	Local resident
Latham Russell	Local resident
David Andrew	Local resident
Sallie Andrew	Local resident
Joan Baines	Appeals site owner
Miles Baines	Appeals site owner
Mr Hextall	Local resident
Mr and Mrs Barber	Local residents

## **DOCUMENTS HANDED UP TO THE INQUIRY**

Doc 1	List of appearances for the Council
Doc 2	List of appearances for the Appellant
Doc 3	Appellant's opening submissions
Doc 4	A1 copies of the plans included in the Arboricultural Impact Assessment
Doc 5	Council's opening submissions
Doc 6	Full size colour copies of the Appellant's photomontage series
Doc 7	Plan No 6756-L-20 showing the domestic curtilages to the two proposed farm dwellings
Doc 8	Planning permission No 15/00343/FUL (solar farm)
Doc 9	Email correspondence from Mr Russell (20 October 2021)

- Doc 10 PPG extract (paragraph: 031 Reference ID: 2a-031-20190722 and 032-20190722)
- Doc 11 Proposed quarry restoration masterplans (2007 and 2019)
- Doc 12 Site visit itinerary
- Doc 13 Drg 1 from the Appellant's Ground Investigation Report (November 2019)
- Doc 14 Plan showing PRoW routes and numbers in the vicinity of the appeal site
- Doc 15 Clarifications arising from Highways questions (21 October 2021)
- Doc 16 Email correspondence from Mrs Russell (22 October 2021)
- Doc 17 Email correspondence from Mr Russell (22 October 2021)
- Doc 18 Closing submissions for the Council
- Doc 19 Closing submissions for the appellant
- Doc 20 Engrossed planning obligation Appeal A
- Doc 21 Engrossed planning obligation Appeal B

## **ANNEX B**

### **SCHEDULE OF CONDITIONS**

**Appeal B: APP/K2420/W/21/3279939**

**Land north of Stanton Lane, Stanton under Bardon**

**(Application No 21/00531/HYB)**

#### **Conditions relating to that part of the development the subject of the outline permission (employment development):**

##### **Reserved Matters**

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development hereby permitted shall be carried out in accordance with the approved details.
- 2) Applications for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The reserved matters applications submitted pursuant to conditions 1 and 2 above shall accord with the development parameters plan ( No 30865-PL-202W) and shall be in general accordance with the illustrative masterplan (No 30865-PL-208C) and the illustrative landscape strategy plan (No 6756-L-18A).
- 5) The first of the reserved matters applications to be submitted pursuant to conditions 1 and 2 above shall include details of the intended phasing for the development and a timetable for implementation of each phase. Development shall be carried out in accordance with the approved phasing plan.

##### **Plans**

- 6) Unless required otherwise by any of the following conditions, development shall be carried out in accordance with the details shown on the following approved plans, but only insofar as they relate to access:
  - Site Location Plan Dwg No 30865-PL-201D
  - Primary and Secondary Access Arrangements ADC1984-DR-006 Rev P5

##### **Levels/External plant etc**

- 7) Any reserved matters application relating to scale, layout and/or appearance shall be accompanied by full details of finished ground and floor levels (above ordnance datum) of the proposed buildings in relation to the existing ground levels. The details to be submitted shall be provided in the form of site plans showing sections across the site at regular intervals. Development shall be carried out in accordance with the approved details.
- 8) Any reserved matters application relating to layout and/or appearance shall include details of any externally sited sprinklers, tanks, pump

houses, bin storage areas, smoking shelters, electricity sub stations or other plant, equipment or structures. Development shall be carried out in accordance with the approved details.

## **PRE-COMMENCEMENT CONDITIONS**

### **Construction**

- 9) No development shall commence, including works of site clearance and preparation, unless and until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved CEMP which shall remain in force for the construction period. The CEMP shall include, but is not confined to:
  - i) site management arrangements, including: on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, staff, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
  - ii) measures to control and monitor the emission of dust, dirt, noise, odour and smoke, including procedures for complaint investigation;
  - iii) a method statement for the prevention of contamination of soil and groundwater, including the storage of fuel and chemicals;
  - iv) measures to control surface water run-off during demolition and construction, including any temporary attenuation and controls and a scheme to treat and remove suspended solids;
  - v) arrangements for controlling the use of site lighting, whether for safe working or for security purposes, and hours of operation;
  - vi) measures to prevent the deposit of mud and debris on the adjacent highway, including wheel washing facilities and sheeting of vehicles transporting loose aggregates or similar materials on or off site;
  - vii) details of any temporary highway works;
  - viii) a construction waste management plan that identifies the main waste materials expected to be generated by the development during demolition and construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use and recycling;
  - ix) location of access/exit points for construction traffic;
  - x) the erection and maintenance of signage at all vehicular exits from the construction site advising drivers of preferred approach and exit routes to the site, including no right turns into the site off Stanton Lane and no left turns out of the site onto Stanton Lane.
- 10) Works of site clearance, and construction, including deliveries to and from the site, shall take place only between the hours of 07.30-18.00 on weekdays and between 08.00-13.00 hours on Saturdays and shall not take place at any time on Sundays and/or on Bank or Public Holidays.

### **Archaeology**

- 11) No development shall commence, including works of demolition and site clearance/ground preparation unless and until a staged programme of archaeological work (to include Historic Building Survey and below-ground investigation, commencing with an initial phase of trial trenching) has been undertaken. Each stage is to be completed in accordance with a written scheme of investigation (WSI) which shall previously have been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include an assessment of significance and research objectives, together with:
- the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works; and,
  - a programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

### **Flooding and Drainage**

- 12) Other than site enabling and clearance works, no development shall take place unless and until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall be implemented and thereafter managed in accordance with the approved details and timetable. The details to be submitted shall:
- i) provide information about the design storm period and intensity, and the method employed to delay and control the surface water discharged from the site, designed for the 100-year event plus 40% climate change allowance, with discharge rates to the existing outfall limited to a Qbar rate of 79.2 l/s for storm events up to and including the 1 in 100 year event, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) provide, a management and maintenance plan for the lifetime of the development, which shall include provision for routine maintenance, remedial actions and monitoring of the separate elements of the system, including procedures that must be implemented in the event of pollution incidents within the development site, as well as the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime; and,
  - iii) include a timetable for implementation for all elements of the approved scheme.

### **Biodiversity**

- 13) No development shall commence, including works of site clearance and preparation, unless and until a Biodiversity Management Plan for the site, including a timetable for implementation, has been submitted to and



approved in writing by the local planning authority that reflects the mitigation measures set out at Table 10 of the Lockhart Garratt Ecology Summary Report (Ref: 19-2105v4). The Plan shall set out a site-wide strategy for protecting and enhancing biodiversity, containing detailed design of the proposed biodiversity enhancements, including a biodiversity net gain assessment using a standard metric and arrangements for their subsequent management once the development is completed, including all retained and created habitats (including SuDS) and bat and bird boxes. Development shall be implemented and thereafter maintained in accordance with the approved Management Plan.

### **Trees**

- 14) Prior to commencement of development, including site works of any description, a Tree Protection Plan (based on the draft Plan No 20-5330v1 which forms part of the Lockhart Garratt Arboricultural Impact Assessment dated March 2021 (Ref:19-2138)) shall be submitted to and approved in writing by the local planning authority. The Plan shall be prepared by a suitably qualified arboriculturist and shall include protective barriers to form a secure construction exclusion zone and root protection area around those trees in accordance with British Standard 5837:2012 Trees in relation to design. Any trenches for services that are required within the fenced-off areas shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. Development is to be carried out in accordance with the approved scheme.

### **Solar Panels**

- 15) Prior to commencement of development in any phase, a scheme for the provision and ongoing maintenance of roof-mounted solar panels on any building within that phase and which maximise on-site renewable electricity generation, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme prior to first occupation of the relevant building and the panels shall be retained and maintained thereafter in accordance with the approved details.

## **EARLY STAGE AND PRE-OCCUPATION CONDITIONS**

### **Sustainable Construction**

- 16) Within three months of work starting on site, a BREEAM New Construction 2018 Design Stage certificate and summary score sheet must be submitted to and approved in writing by the Local Planning Authority to show that an 'Excellent' (minimum score 70%) rating will be achieved for the buildings hereby permitted.

### **Contamination**

- 17) The development hereby permitted shall be carried out in accordance with the recommendations set out in the GIP Ground Investigation Report dated 6 November 2019 (Ref DAP/28384). Any necessary remediation work so approved for any phase shall be completed in accordance with the approved details prior to first use of that part of the site for the intended purpose. If any contamination is found during the course of development on any phase that was not previously identified in the Report, development on the affected part of the site shall be suspended

until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the local planning authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out in accordance with the agreed implementation period before development on that part of the site is resumed or continued.

- 18) Following completion of measures identified in the approved remediation scheme pursuant to condition 17, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority. The verification report submitted shall be in accordance with the latest Environment Agency guidance and industry best practice.

### **Highways/Parking/Travel Plan**

- 19) No part of the development hereby permitted shall be occupied unless and until the primary and secondary access arrangements have been completed in accordance with the details shown on Dwg No ADC 1984-DR-006 Rev P5. The details to be submitted shall include arrangements to ensure that the Stanton Lane access is restricted to left turn in only and right turn out only.
- 20) Within one month of any part of the development first being brought into use, all existing vehicular accesses on West Lane and Stanton Lane that become redundant as a result of the development hereby permitted shall have been closed permanently and reinstated in accordance with details that have previously been submitted to and agreed in writing by the local planning authority.
- 21) No part of the development hereby permitted shall be brought into use until such a time as the pedestrian footways to the northeast and southwest of the proposed roundabout junction, linking the site to the existing footway provisions shown on Dwg No. ADC1984-DR-006 Rev P5 have been completed in accordance with details that have previously been submitted to and approved in writing by the local planning authority.
- 22) No building in any phase shall be brought into use unless and until car and cycle parking for that building has been constructed, surfaced and marked out in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The car parking spaces to be provided shall include an agreed proportion of electric vehicle (EV) charging points. The car and cycle parking spaces provided, and the EV charging points, shall be retained thereafter for their intended purpose.
- 23) No unit within any phase of the development hereby permitted shall be occupied until a full Travel Plan in respect of that unit, setting out actions and measures with quantifiable outputs and outcome targets, together with a timescale for implementation and monitoring and review provisions, based on the measures set out in the Framework Travel Plan (ADC Infrastructure dated 18 March 2021 Ref: ADC1984-RP-J) has been submitted to and agreed in writing by the local planning authority. Thereafter, the approved Travel Plan for that unit shall be implemented as approved.

## **Noise**

- 24) No building in any phase shall be brought into use unless and until a noise assessment for any external plant for that building has been submitted to and approved in writing by the local planning authority. The noise assessment shall confirm the need for and extent of any noise mitigation measures necessary to ensure that noise levels do not exceed those referred to in the Vanguardia Noise Impact Assessment dated 13 April 2021 (Ref: VC-103426-EN-RP-0001). Any necessary measures shall be installed prior to the building being brought into use and shall be retained thereafter.

## **POST-OCCUPANCY CONDITIONS**

### **Sustainability**

- 25) Within six months of first occupation of any building, a BREEAM New Construction 2018 Post-Construction Review certificate for that building, and summary score sheet, must be submitted to and approved in writing by the Local Planning Authority to show that an 'Excellent' (minimum score 70%) rating has been achieved.

### **Lighting**

- 26) No external lighting, including security lighting, shall be used at the site at any time other than in accordance with a lighting scheme that has previously been submitted to and approved in writing by the local planning authority. The scheme to be submitted shall include the following:
- i) a layout plan with beam orientation and a schedule of the proposed equipment, including luminaire type, mounting height, aiming angles and luminaire profiles, lux levels;
  - ii) measures to prevent light spilling on to areas outside the site and measures such as shrouding, to minimise disturbance through glare; and,
  - iii) measures to minimise disturbance to bats from lighting.

### **Highways**

- 27) Once constructed, the visibility splays provided pursuant to condition 19 above shall thereafter be permanently maintained, with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 28) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no gates, barriers, bollards, chains or other such obstructions shall be erected on the access roads into the site within a distance of 60 metres of the highway boundary with West Lane and 20 metres of the highway boundary with Stanton Lane.

### **Retained Trees/Hedgerows**

- 29) No trees or hedgerows shown to be protected pursuant to condition 14, shall be removed without the prior written approval of the local planning authority. The application for approval shall include provision for a replacement tree/hedgerow in the same location, including details of size

and species, a maintenance schedule and a timetable for implementation. The works shall be carried out in accordance with the approved details.

### **Odour Management**

- 30) No part of the development hereby permitted shall be brought into use for any purpose falling within Class B2 of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that Order with or without modification) unless:
- i) an assessment of any associated odour impact on nearby dwellings and, if demonstrated to be necessary, a scheme of mitigation, has been submitted to and agreed in writing by the local planning authority; and, if applicable,
  - ii) any scheme of mitigation agreed under i) above has been implemented in full in accordance with the approved details and all measures integrated shall be operational as long as the development is operational.

### **Conditions relating to that part of the development the subject of the full permission (farm relocation):**

#### **Commencement of Development**

- 31) The development hereby permitted shall begin before the expiration of three years from the date of this permission.

#### **Plans**

- 32) Unless required otherwise by any of the following conditions, the development shall be carried out in accordance with the details shown on the following approved plans:
- Site Location Plan Dwg No 30865-PL-201D
  - Farm Relocation Site - Site Layout (General Arrangement) Dwg No E19-29-018 RevA
  - Farm Relocation Site Highway Access Dwg No. E19-29-011
  - Bin Store Location Plan
  - Farm Buildings Cattle Shed 1 Dwg No. E19-29-071
  - Farm Buildings Cattle Shed 1 Floorplan Dwg No. E19-29-071.1
  - Farm Buildings Bullpen and Calving Units Building 2 Elevations and Floorplan Dwg No E19-29-073
  - Farm Buildings Cattle Shed Building 3 Elevations and Floorplan Dwg No E19-29-073
  - Farm Buildings Grain Store Building 4 Elevations and Floorplan Dwg No E19-29-074
  - Farm Buildings Farm Workshop Building 5 Elevations and Floorplan Dwg No. E19-29-075 Rev A
  - Proposed Planning Drawing Replacement House Number One Dwg No.19029/01
  - Proposed Planning Drawing Replacement House Number Two Dwg No.19029/11a

- Farm Building Layout and Sections E19-29-014
- Domestic Curtilage Plan No 6756-L-20

## **PRE-COMMENCEMENT CONDITIONS**

### **Materials**

- 33) Prior to the commencement of development, details, including samples, of the external materials for all buildings and structures, including the covered cattle handling area (shown on Plan No 6756-L-10B) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

### **Landscape Works**

- 34) Other than site enabling and clearance works, no development shall take place unless and until details of both hard and soft landscape works in general accordance with the illustrative landscape strategy Plan (No 6756-L-10B) including a timetable for implementation, have been submitted to and approved in writing by the local planning authority.
- 35) The hard landscape works approved pursuant to condition 34, which shall include details of all hardsurfacing and boundary treatments, shall be carried out as approved in accordance with the approved timetable and shall be retained thereafter.
- 36) All planting, seeding or turfing comprised in the approved details of landscaping to be submitted pursuant to condition 34, shall be carried out in accordance with the approved details and timetable. Any trees or plants which within a period of five years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species in accordance with details that shall previously have been approved in writing by the local planning authority.

### **Trees**

- 37) Prior to commencement of development on the site, including site works of any description, a Tree Protection Plan (based on the draft Plan No 387/20/03/19-2000v2 which forms part of the Lockhart Garratt Arboricultural Impact Assessment dated March 2021 (Ref:19-2138)) shall be submitted to and approved in writing by the local planning authority. The Plan shall be prepared by a suitably qualified arboriculturist and shall include protective barriers to form a secure construction exclusion zone and root protection area around those trees in accordance with British Standard 5837:2012 Trees in relation to design. Any trenches for services that are required within the fenced-off areas shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. Development is to be carried out in accordance with the approved scheme.

### **Levels**

- 38) Prior to the commencement of development, including any works of site clearance and preparation, full details of finished ground and floor levels (above ordnance datum) of all the proposed buildings in relation to the

existing ground levels. The details shall be provided in the form of site plans showing sections across the site at regular intervals. Development shall be carried out in accordance with the approved details.

### **Construction**

- 39) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved CEMP which shall remain in force for the construction period. The CEMP shall include, but is not confined to:
- i) site management arrangements including: on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, staff, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
  - ii) measures to control and monitor the emission of dust, dirt, noise, odour and smoke, including procedures for complaint investigation;
  - iii) a method statement for the prevention of contamination of soil and groundwater, including the storage of fuel and chemicals;
  - iv) measures to control surface water run-off during construction, including any temporary attenuation and controls and a scheme to treat and remove suspended solids;
  - i) arrangements for controlling the use of site lighting, whether for safe working or for security purposes, and hours of operation;
  - ii) measures to prevent the deposit of mud and debris on the adjacent highway, including wheel washing facilities; and,
  - iii) a construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use and recycling.
- 40) Works of site clearance, and construction, including deliveries to and from the site, shall take place only between the hours of 07.30-18.00 on weekdays and between 08.00-13.00 hours on Saturdays and shall not take place at any time on Sundays and/or on Bank or Public Holidays.

### **Contamination**

- 41) No development, including any works of site clearance and preparation, shall be carried out unless and until a scheme for the investigation of any potential land contamination, including details of how any contamination is to be dealt with, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme. Any necessary remediation works shall be completed in accordance with the approved details prior to first use of that part of the site for the intended purpose. If any previously unidentified contamination is found during the course of development, development on the affected part of the site shall be suspended until an addendum to the scheme for the investigation of all potential land



contamination is submitted to and approved in writing by the local planning authority, which shall include details of how the unsuspected contamination is to be dealt with. Any remediation works so approved shall be carried out in accordance with the agreed implementation period before development on that part of the site is resumed or continued.

- 42) Following completion of measures identified in the approved remediation scheme pursuant to condition 41, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority. The verification report submitted shall be in accordance with the latest Environment Agency guidance and industry best practice.

### **Biodiversity**

- 43) No development shall commence, including works of site clearance and preparation, unless and until a Biodiversity Management Plan for the site, including a timetable for implementation, has been submitted to and approved in writing by the local planning authority that reflects the mitigation measures set out at Table 10 of the Lockhart Garratt Ecology Summary Report (Ref: 19-2105v4). The Plan shall set out a site-wide strategy for protecting and enhancing biodiversity, containing detailed design of proposed biodiversity enhancements, including a biodiversity net gain assessment using a standard metric, and their subsequent management once the development is completed, including all retained and created habitats (including SuDS) and bat and bird boxes. Development shall be implemented and thereafter maintained in accordance with the approved Management Plan.

### **Archaeology**

- 44) No development shall commence, including works of demolition and site clearance/ground preparation unless and until a staged programme of archaeological work (to include Historic Building Survey and below-ground investigation, commencing with an initial phase of trial trenching) has been undertaken. Each stage is to be completed in accordance with a written scheme of investigation (WSI) which shall previously have been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include an assessment of significance and research objectives, together with:
- the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works; and,
  - a programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

### **Odour Management**

- 45) Development shall not commence until an odour management plan for protecting existing dwellings from odour from the proposed development has been submitted to and approved in writing by the local planning

authority. Development shall be carried out in accordance with the approved odour management plan and all measures integrated shall be operational as long as the development is operational.

## **EARLY STAGE AND PRE-OCCUPATION CONDITIONS**

### **Highways/Parking**

- 46) No part of the development hereby permitted shall be brought into use/occupied until the access arrangements shown on Farm Relocation Site – Highway Access Dwg No. E19-29-011 have been completed in accordance with the approved details and until such time as vehicular visibility splays of 2.4 x 120 metres have been provided at the site access in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The splays shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 47) No part of the farmstead hereby permitted shall be brought into use unless and until the parking and turning facilities have been completed and made and available in accordance with Farm Relocation Site Highway Access drawing number E19-29-011. Those areas shall be retained thereafter for their intended purposes.
- 48) Neither of the farm workers' dwellings hereby permitted shall be occupied unless and until two parking spaces for House No One and three parking spaces for House No Two have been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The parking spaces shall be retained thereafter for their intended purpose.

### **Farm buildings and workshop**

- 49) The dwellings hereby permitted shall not be occupied until the farm buildings and workshop shown on the approved plans have been completed and are ready for occupation for their intended purpose.

### **Drainage and Flooding**

- 50) Other than site enabling and clearance works, no development shall take place unless and until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall be implemented and thereafter managed in accordance with the approved details and timetable. The details to be submitted shall:
  - i) provide information about the design storm period and intensity and the method employed to delay and control the surface water discharged from the site, designed for the 100-year event plus 40% climate change allowance, with discharge rates to the existing outfall limited to 12.8 l/s up to the 100 year event, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) provide, a management and maintenance plan for the lifetime of the development, which shall include provision for routine maintenance, remedial actions and monitoring of the separate elements of the system, including procedures that must be implemented in the event

of pollution incidents within the development site, as well as the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime; and,

- iii) include a timetable for implementation for all elements of the approved scheme.

## **POST-OCCUPANCY CONDITIONS**

### **Agricultural Occupancy**

- 51) Occupation of the dwellings hereby permitted shall be limited to a person or persons solely or mainly working, or last working in the locality in agriculture, as defined in Section 336 (1) of the Town and Country Planning Act 1990 (or any subsequent re-enactment thereof) or a widow or widower of such a person, or surviving civil partner of such a person, and to any resident dependants.

### **Demolition of Existing Farmstead**

- 52) Within six months of first occupation of any part of the development hereby permitted, the existing farmstead, including all associated dwellings and outbuildings, shall be demolished and the land cleared of any associated material.

### **Lighting**

- 53) Other than within residential garden areas as defined on Domestic Curtilages Plan No 6756-L-20, no external lighting (including security lighting) shall be installed at any time other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

### **Removal of Permitted Development Rights**

- 54) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C, D, E, F and G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no enlargement, improvement or other alteration to the dwellings hereby permitted, of the description in these classes, shall be carried out on the site.
- 55) Notwithstanding the provisions of Article 3, Schedule 2, Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no gates, fences, walls or other means of enclosure shall be erected on the site.

### **Retained Trees/Hedgerows**

- 56) No trees or hedgerows shown to be protected pursuant to condition 37, shall be removed without the prior written approval of the local planning authority. The application for approval shall include provision for a replacement tree/hedgerow in the same location, including details of size and species, a maintenance schedule and a timetable for implementation. The works shall be carried out in accordance with the approved details.

-----END OF SCHEDULE-----