

**Leicestershire County Council (A511 Growth Corridor) (Side Roads) Order 2023**

**Leicestershire County Council (A511 Growth Corridor) Compulsory Purchase Order 2023**

PINS Ref: NATTRAN/EM/HAO/299

**Supplemental Proof of Evidence of Ann Carruthers**

**by way of rebuttal to further representations by Wilson Enterprises Limited (OBJ5) and [REDACTED] Connors (OBJ7)**

**On behalf of the Promoting Authority**

**dated 6 June 2024**

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1        **Introduction**

1.1      **Qualifications and experience**

1.2      I, Ann Carruthers, am the Director of Environment and Transport for Leicestershire County Council (the **Council**).

1.3      I have provided a Proof of Evidence dated 20 May 2024 (Document LCC1 in the List of Documents). That Proof of Evidence sets out my qualifications, experience and involvement in the Scheme (as defined in my Proof of Evidence) which I do not repeat here.

1.4      This Supplemental Proof of Evidence is made for three reasons. Firstly, to assist with preparation for the Inquiry, to provide an update in respect of the various objections received to the Leicestershire County Council (A511 Growth Corridor) (Side Roads) Order 2023 (the **SRO**) and the Leicestershire County Council (A511 Growth Corridor) Compulsory Purchase Order 2023 (the **CPO**) (together, the **Orders**) in connection with the Leicestershire County Council A511 Growth Corridor (the **Scheme**). Secondly, to ensure that the position in respect of the proposed modifications is clear, given that the Council intends to promote two changes. Thirdly, and this will be addressed first in this evidence, to set out the Council's rebuttal to the further representations in objections made to the Orders.

1.5      This Supplemental Proof of Evidence has been compiled as a single document although it covers a number of different factors. It is therefore presented as a rebuttal under my name but the contents have been produced in agreement with a number of people. The facts and matters set out in this Supplemental Proof of Evidence are within my own knowledge. The facts set out below are true to the best of my knowledge and belief. Where reference is made to facts which are outside my knowledge, I set out the source of my information and I believe such information to be true. In respect of the response to the further representations from Wilson Enterprises Limited (**WEL**) and [REDACTED] Connors it has been necessary to carry out specific and targeted further investigations. The planning history of the land at number [REDACTED] has been investigated by [REDACTED] and in respect of legal matters I have been advised by Trowers & Hamlin LLP.

## 2 **Scope of Evidence**

- 2.1 This report is a Supplemental Proof of Evidence that has been prepared by way of rebuttal in response to the supplemental grounds of objection submitted by:
- 2.1.1 Wilson Enterprises Limited (OBJ5) in the form of a proof of evidence dated 31 May 2024 prepared by [REDACTED] of Fisher German LLP (the **OBJ5 Proof**); and
  - 2.1.2 [REDACTED] (OBJ7) in the form of a letter (undated but received by the Council on 31 May 2024) from [REDACTED] Connors (the **OBJ7 Letter**).
- 2.2 Copies of the OBJ5 Proof and the OBJ7 Letter are found in the List of Documents as Document OP1 and OP2 respectively.
- 2.3 This Rebuttal covers land and property matters relating to the objections.

### 3        **Rebuttal to the Wilson Enterprises Limited (OBJ5) Proof**

3.1        In responding to the OBJ 5 Proof I have taken advice from the Council's advisers, notably in respect of the design and engineering requirements of the scheme, as well as on legal issues.

#### 3.2        **WEL object to the permanent acquisition of Plot 038**

3.3        The OBJ5 Proof states WEL object to the permanent acquisition of Plot 038 which would sever the internal road network and result in the loss of a main turning head as well as the inability to construct 13 dwellings on the WEL retained land subject to Approved Outline 16/01187/VCIM and Reserved matters 22/00098/REMM permissions for 228 dwellings.

3.4        My Proof of Evidence, along with the Proof of Evidence of [REDACTED] deal with the Council's response on this issue but I summarise the position as follows:

3.4.1        The various plots of land referred to in the CPO identified all the land required to enable the Scheme to be carried out. Plot 038 is required for construction access and working area for the Bardon Link Road and balancing pond as well as associated drainage works.

3.4.2        The Council does not have legal powers to seek temporary possession of land (given that the provisions of the Neighbourhood Planning Act 2017, which would grant such powers, is not yet in force) and accordingly can only acquire land on a permanent basis or rights over land. Due to the nature of the works as requiring physical alterations to the property and access to be maintained to Plot 038 during the construction period, the acquisition of new rights alone would not be adequate and the permanent acquisition of the land required is the only option available. Accordingly, the only option is to acquire the land as being necessary for the Scheme to proceed.

3.4.3        The Council can however indicate that once construction is complete and subject to ensuring the proper operation of the Scheme itself the Council would intend to ensure that Plot 038 would be offered back to WEL if they wish to take it.

3.4.4        In addition, and as a separate exercise to the pursuit of the CPO the Council are engaging with WEL to seek to find an alternative option to acquisition if that is possible and provided it guarantees that the land will be available to the Council to achieve its aims.

3.4.5        In addition, the Scheme provides a number of connectivity benefits to the WEL's development. WEL's development intentions are to bring forward a phased development and the land within Plot 038 (part of the reserved matters 22/00098/REMM permissions for 228 dwellings) is not part that is to be developed imminently.

3.5        The OBJ5 Proof acknowledges the Council's legal limitation on acquiring land temporarily. It, however, claims the *"ability to acquire land temporarily by way of private treaty has been available to [the Council] for some time"*. The Council has been engaging with WEL for a long time and I am satisfied, on advice from the Council's advisors, that sufficient efforts to acquire the land and rights by agreement have been made in accordance with the requirement of the DLUHC Guidance. I refer to the Proof of Evidence of [REDACTED] in

this regard. It is noteworthy that the Council sought an amendment to the Original Bardon Link Road Planning Permission, resulting in the S73 Bardon Link Road Planning Permission to accommodate changes to the drainage of the Scheme requested by WEL. This caused significant delays to the Scheme progress while this variation was sought but resulted in significant benefits to WEL's development.

- 3.6 The land within Plot 038 is required for the Scheme to enable the balancing pond to be constructed along with the Bardon Link Road and the only way to guarantee that is to acquire the land on a permanent basis. Negotiations on a suitable voluntary agreement with WEL is at an advanced stage. The Council's preference is to reach agreement with WEL but, in the absence of certainty, the CPO is necessary and justified.
- 3.7 **The land required to deliver the Scheme is already agreed under the existing S106 agreement between the parties**
- 3.8 The OBJ5 Proof states that a section 106 agreement dated 8 January 2018 between the Council, North West Leicestershire District Council and WEL (the **S106**) which provides the Council with the right to complete the Scheme without recourse to the CPO.
- 3.9 As a result of the OBJ5 Proof the S106 has been added as Document P39 in the List of Documents.
- 3.10 The Council's legal advice is that all land required for the Scheme must be included within the CPO to ensure the Council can fully implement the Scheme within the required timescales. Whilst the S106 does provide a mechanism to safeguard land required for the Scheme, there is no guarantee that the Council could secure the land under the S106 in a timely manner, without recourse to legal proceedings within the required timescales and the absence of certainty about that would be an impediment to the Scheme progressing. Further obligations in the S106 could be subject to modifications through appeal without the Council's consent.
- 3.11 In addition, the S106 does not allow the Council to acquire or use land temporarily – and the OBJ5 Proof is incorrect in this regard. It provides only for a transfer for land required for the Vehicular Link (see paragraph 9 of the Third Schedule to the S106). Therefore, the S106 does not resolve the element of WEL's objection to the Council's permanent acquisition of Plot 038 (albeit the Council intends to offer back the land as discussed above). The actual words contained within the S106 identify the nature of the difficulty. These are:

*"To transfer the land required for the Vehicular Link to the County Council within two months of the County Council serving notice on the Owner so to do for a nominal consideration of £1.00 subject to the County Council having in place an approved scheme for the implementation of the Vehicular Link (to include as necessary the approval of the use of the County Council's powers of compulsory purchase) using the land required for the Vehicular Link and confirmation that funding is in place for contracts to be entered into to implement the scheme with such transfer to be subject to the usual terms and conditions for such transaction and to include covenants for the benefit of retained land requiring that the land only be used for the purposes for which it is transferred PROVIDED THAT any notice served by the County Council pursuant to this paragraph must be served prior to 31 January 2031."*

- 3.12 As set out above the Council's requirement for the Scheme is guided by design and engineering requirements. As such under the CPO or via a separate procedure the land take requirement would be the same, including the size of Plot 038.
- 3.13 There is, in addition a further point to consider. That is the precise wording of the clause within the S106 set out at paragraph 3.11 above. The S106 generally allows for some early works to take place but in terms of acquisition the position is clear. The clause operates once the Council has in place an approved scheme for the implementation of the Vehicular Link *"(to include as necessary the approval of the use of the county council powers of compulsory purchase)"*. That process is currently ongoing, and it is at the very least debatable if the ability to acquire the land actually exists until a time where the Scheme is in a final form with the CPO, and by analogy the SRO, are both confirmed. The Council cannot proceed on such a basis and needs certainty to progress the Scheme. The failure to have such certainty would be a potential impediment to its progress. Given that the Scheme is an integral and essential part of the progress of the Scheme which WEL wishes to pursue to build houses, such an approach should not be seen as being either realistic or acceptable.
- 3.14 It is therefore necessary to include Plot 038 in the CPO and in any case the requirements of the CPO are no more onerous on WEL than if the Council was to use the S106 as mechanism to acquire the land in question.
- 3.15 Further through the CPO process the Council has given assurances that the land can be offered back to WEL after completion of construction. No such requirement exists under the S106.
- 3.16 The CPO needs to be maintained in its current form to ensure that the Scheme can be built as proposed and as shown within the planning permission.

#### 4 Rebuttal to the █████ Connors' (OBJ7) Letter

4.1 █████ Connors has set out a number of issues that relate to the use of her property, █████ as a gypsy traveller site.

4.2 The CPO proposes to acquire two Plots, 018 and 019, that are owned by █████ Connors. It is understood that these plots were not originally part of █████ but were transferred to █████ Connors in 2017 by way of transfer from David Wilson Homes Limited. Plots 020, 021 and 022 may also be occupied by █████ Connors and █████ family but these are in third party ownership and such occupation appears to be without the landowner's consent.

#### 4.3 Use of █████ as a gypsy traveller site

4.4 The OBJ7 Letter states █████ is occupied as a gypsy traveller site, comprising nine caravans, a house, a building, eleven vehicles and two dog kennels. █████ Connors also states that the site is occupied by █████.

4.5 The Council has conducted a review of the planning history of █████ to understand the lawful position as to the occupation of █████. In addition, the Council has attempted to understand the factual position at this property.

4.6 In carrying out a review of the local planning authority, North West Leicestershire District Council's (NWLDC) planning register, with advice from █████ the Council's planning witness, the following planning history was revealed (with links to the relevant applications):

| REF                          | DEVELOPMENT DESCRIPTION  | OUTCOME   |
|------------------------------|--|---|
| <a href="#">12/00390/VCU</a> | Variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed on the site at any one time to 5, of which 2 can be occupied as residential accommodation at any time.                                 | Permitted<br>12 May 2014                        |
| <a href="#">08/00362/FUL</a> | Change of use to mixed use as a single dwelling and as a caravan site.<br><br>Subject to a condition that stated no more than 3 caravans shall be stationed on the site at any time, of which no more than 2 shall be occupied as residential accommodation at any time. | Refused<br>2 May 2008<br><br>Approved on appeal |
| <a href="#">07/01079/FUL</a> | Change of use to mixed use as a single dwelling and as a caravan site.   | Refused<br>14 Sept 2007                         |
| <a href="#">06/00647/FUL</a> | Alterations to double garage to form ancillary accommodation for use by visitors.  | Refused<br>17 Aug 2006                          |
| <a href="#">06/00554/FUL</a> | Alterations to double garage to form ancillary accommodation for use by visitors.  | Void  |



|                              |  |                                 |
|------------------------------|--|---------------------------------|
|                              |  | 20 April<br>2006                |
| <a href="#">05/01427/FUL</a> | Erection of a detached double garage.  | Permitted<br><br>12 Nov<br>2005 |
| <a href="#">04/00430/FUL</a> | Change of use to mixed use of residential and use of land for stationing of two mobile caravan, hard surfacing the rear garden and erection of three lamp posts. | Refused<br><br>29 April<br>2004 |
| <a href="#">03/01525/FUL</a> | Change of use to mixed use of residential and use of land for stationing of three caravans, hard surfacing of rear garden and erection of three lampposts.       | Refused<br><br>10 Nov<br>2003   |

- 4.7 There is no mention in the above list of any planning applications made more recently than 2014. However, the recent letter from [REDACTED] Connors refers to a new application which is addressed in paragraph 4.12 below.
- 4.8 The current lawful use of [REDACTED] is use in accordance with planning permission 12/00390/VCU. This permission permitted an increase in the number of caravans that can be stationed on the site at any time to five (from three permitted under the previous consent 08/00362/FUL), of which only two can be occupied as residential accommodation at any time.
- 4.9 I attach the planning permission for 12/00390/VCU and the approved site plan (approved by condition 4) as **Appendices AC4 and AC5** respectively. The site plan is not dated and has no scale shown. It is hand drawn with no indication as to its base. It was accepted and used by the NWLDC as the basis of the planning permission but the detail is not stated to be accurate. The CPO has been drawn on the applicable OS base and accordingly at least two matters arise. The CPO does not affect any of the pitches shown indicatively on that site plan. The existing building is also shown as being in the southerly section of the Site and in a L shape. Neither its location on the Site or the shape of the building appear to reflect the reality on the ground as evidenced by the aerial photos and the OS base used in the CPO. I attach the aerial photos from Google Earth of [REDACTED] from 2006, 2010, 2011, 2015, 2016, 2018, 2020, 2021 and 2023 as **Appendix AC6**. To illustrate this the Council's land agents Bruton Knowles have produced an overlay of Plots 018 and 019 onto the sites plan which is attached as **Appendix AC7** which shows that the lawful pitches are not affected by the CPO.
- 4.10 It is therefore clear that the current occupation of [REDACTED] as described in the OBJ7 Letter is not in accordance with the current planning permission and would be regarded as being unlawful especially as that extra area of land was not acquired until 2017. There are currently nine caravans at the site where only 5 are permitted. The occupation listed by [REDACTED] Connors also appears to be far too many people for two caravans therefore the number of occupied caravan will also likely breach the terms of the existing planning consent .
- 4.11 Aerial photos at **Appendix AC6** show caravans stationed on the land to be acquired at some points in time. However at these times the number of caravans on the site is in excess of

the number of caravans permitted by the planning permission and no indication they were occupied.

- 4.12 Based on the approved planning layout (**Appendix AC5**) the land take required by the CPO will not interfere with any of the lawful residential caravan plots. Only an area of hardstanding to the rear, which appears from aerial photos to be used for caravan, vehicle and open storage will be affected, as well as the land owned by third parties to the rear which is informally occupied by [REDACTED] Connors and [REDACTED].
- 4.13 The fact that the current use of [REDACTED] is unlawful appears to be acknowledged in the OBJ7 Letter as it is stated that retrospective planning application has been submitted. However, at the time of writing this planning application is not available to view on NWLDC's planning register. It is assumed this is because it is yet to be validated.
- 4.14 In relation of the retrospective application, if it is validated, NWLDC will determine it in accordance with the Development Plan and any other materials consideration. However, it is noteworthy that NWLDC were willing to approve permission 12/00390/VCU, as the application proposed only an increase in stored caravans, and no increase in residential occupation. I attach the NWLDC officer report for 12/00390/VCU as **Appendix AC8**. As such the current application would need to satisfy the NWLDC as local planning authority that the significant increase in residential occupation would not be an over-intensive use and would not have negative highway, noise or disturbance impacts. It is also noteworthy that the planning permission for the Bardon Link Road and the Scheme itself will be a material consideration for NWLDC in determining the application. This would, in effect be the creation of a new interest following both the grant of planning permission for the Scheme and publication of the CPO.
- 4.15 The Scheme is capable of being implemented without affecting the residential occupation of [REDACTED]. No permanent or temporary relocation of the gypsy traveller site is required.
- 4.16 While there will be some impacts from the Scheme, notably noise during construction and operation of the Scheme (addressed in the Proof of Evidence of [REDACTED] attached as Appendix EP2 to the Proof of Evidence of [REDACTED]), the Council will seek to mitigate those impacts as far as possible.
- 4.17 Therefore, the Scheme, including the acquisition of Plots 018 and 019, can proceed without affecting the use of [REDACTED] as a gypsy site in accordance with its existing planning permission. [REDACTED] Connors will be entitled to compensation for the land acquired as well as any disturbance costs and the Council will continue to attempt negotiations with [REDACTED] Connors in that regard.
- 4.18 The Council is also exploring whether it can reduce the Scheme landscaping to the rear of [REDACTED] without having a negative impact on the Scheme. If a satisfactory alternative landscaping proposal can be designed and subject to agreement of the Council in its role as local planning authority, the Council may be able to offer back some of the land required to [REDACTED] Connors after construction of the Scheme, retaining only the parts required for the Bardon Link Road itself. However, unless and until any variation to the S73 Bardon Link Road Planning Permission is agreed by the local planning authority, Plots 018 and 019 are required permanently for implementation of the Scheme landscaping as explained in the Proof of Evidence of [REDACTED].

- 4.19 The OBJ7 Letter reiterates a comment made previously by ■■■ Connors that the issue does not relate to compensation payments, which is not wanted, but rather the potential for a land swap to take place. Such an approach falls outside the legitimate use of compulsory purchase powers as pursued by the Council in respect of this Scheme and is not something that the Council is either able or willing to pursue.

## 5 **Update on Objections**

### 5.1 **Introduction**

5.2 In this section I have provided the Council's latest position on engagement with each of the seven objectors.

5.3 The Council will provide updates to the Inspector at the inquiry.

### 5.4 **CPO and SRO**

#### 5.5 **Objection dated 27th December 2023 - W M Morrison Supermarkets Limited (OBJ 1)**

5.6 Heads of Terms have been agreed between the Council and Morrisons regarding the permanent acquisition of land (Plot 007) and the use of a further plot of land (Plot 008) during the construction phase. Lawyers representing the Council have drafted the following documents to enable the Council and Morrisons to enter into the required agreements. It is expected that once all agreements have been signed by both parties, Morrisons will be in a position to withdraw their objection to the Orders:

5.6.1 Licence - relating to the use of Plot 008 during the construction phase. The Council has no requirement to permanently acquire this land and therefore has agreed with Morrisons to enter into a licence to secure its temporary use;

5.6.2 Option Deed – relating to the permanent acquisition of Plot 007. The Council requires permanent acquisition of this plot to construct the widened carriageway at this location; and

5.6.3 HM Land Registry form TP1 (Transfer of part of registered titles(s)) – relating to the permanent acquisition of Plot 007. This form is required to complete the title transfer.

5.7 The Council has provided draft documents to Morrisons for their approval on 18 May 2023. We await comment from Morrisons and have chased up a response.

#### 5.8 **Objection dated 3rd January 2024 - Network Rail Infrastructure Limited (NRIL) (OBJ 3)**

5.9 Heads of Terms have been agreed between the Council and NRIL. NRIL has suggested (and the Council agrees) permanent transfer of Plot 032 to the Council. This is not operational railway land and the Council propose to install and amend drainage features relating to the Scheme. NRIL have also agreed to dedicate as highway the section of the Bardon Link Road which passes over land in their ownership. Further, NRIL have agreed to grant the Council rights in order to use and maintain two ditches within Plot 035. Finally, NRIL and the Council have agreed that the Council will install the new culvert that is required through the railway embankment and NRIL will maintain this structure in the future.

5.10 Lawyers working on behalf of NRIL have drafted a Deed of Undertaking, along with associated property agreements that will be entered into at a future date. The Council and its lawyers have reviewed these agreements and returned comments on those to NRIL

- 5.11 Separately, the project team is in discussions with NRIL's Asset Protection Team to agree an Asset Protection Agreement (**APA**) which provides for the required permissions from NRIL for the Council to install the underbridge and for NRIL to take on ownership and maintenance responsibility for this structure once constructed. The Council is currently waiting for a draft APA from NRIL.
- 5.12 It is expected that once the Deed of Undertaking has been signed by both parties, NRIL will be in a position to withdraw their objection to the Orders.
- 5.13 **Objection dated 4th January 2024 - Wilson Enterprises Limited (WEL) (OBJ 5)**
- 5.14 The Council, through its land agents Bruton Knowles, has been working to arrange a meeting with WEL in order to fully understand the nature of all the points in their objection. A meeting took place on 16th May 2024 which was productive and the Council believes a voluntary agreement with WEL to acquire the necessary land and rights is achievable. Further discussion on the heads of terms has taken place and a revised draft of the heads of terms is being discussed between the parties.
- 5.15 The Council is hopeful an agreement will be reached, but in the meantime the position is as set out above.
- 5.16 **CPO only**
- 5.17 **Objection dated 2nd January - [REDACTED] Measures and [REDACTED] Measures (OBJ 2)**
- 5.18 On 3rd June the Council, through its land agents Bruton Knowles and agents acting for [REDACTED] Measures reached terms for the voluntary acquisition and heads of terms for the agreement are now being drafted. The Council therefore expects to acquire [REDACTED] Measures property by voluntary agreement.
- 5.19 **Objection dated 4th January 2024 - North West Leicestershire District Council (OBJ 4)**
- 5.20 On 23rd May 2024, the Council and NWLDC entered into an Option Agreement and licence to formally agree use of the alternative site for the construction compound in place of Plots 005 and 006.
- 5.21 NWLDC has since withdrawn its objection to the CPO. In addition, NWLDC have provided us with a letter in support of the scheme and which provides information on the funding position, which is attached as **Appendix AC9**.
- 5.22 The Council proposes a modification to the CPO to remove Plots 005 and 006 because a reasonably convenient alternative site for use as a compound location has been offered by NWLDC. The Option Agreement and Licence securing use of this site have been agreed by both parties and therefore the Council is satisfied that it has available to it the land it requires to construct the Scheme. As a result the Council no longer requires Plots 005 and 006 and has notified affected landowners as well as the Inspector of its intention to seek a modification to the CPO in this regard. The modification will be presented formally to the inspector at the opening of the inquiry.
- 5.23 **Objection dated 5th January – Cadent Gas Limited (OBJ 6)**

- 5.24 The Council has a duty under Part 3 of the NRSWA to work with Cadent to ensure that its apparatus within the existing adopted highway is identified, protected and if necessary diverted to enable the Scheme to be constructed. As all of Cadent's apparatus is within the adopted highway and all apparatus following completion of the Scheme will also be within the existing adopted highway, the Council does not believe that an APA is required as Cadent's interests are already protected through the duties the Council has under NRSWA. The Council has communicated this to Cadent.
- 5.25 Cadent has since withdrawn its objection to the CPO.
- 5.26 **Objection dated 12th January 2024 – █████ Connors (OBJ 7)**
- 5.27 There is little to update since my original Proof of Evidence in terms of reaching voluntary agreement because as █████ Connors no longer has an agent acting for █████, negotiations have proven difficult. However the Council's agents have reached out to another of █████ Connors' advisers to attempt to continue discussions.
- 5.28 The Council's design team is continuing to reconsider the design of the Bardon Link Road, in respect of landscaping to the rear of █████ Connors' property. However, until this work is completed, and any amendment to the S73 Bardon Link Road Planning Permission obtained, █████ Connors land is required to deliver the Scheme. The Council has made every effort to revisit all aspects of the design to reduce the impact of the CPO on █████ Connors' property.
- 5.29 The Council will continue discussions with █████ Connors and investigate the land take requirement. If this results in any changes to the Scheme the Council will inform the Inspector immediately. However, it is not anticipated that such a position will arise as the land shown is required for the Scheme. The fallback position is, however that on completion of the Scheme and when the landscape measures are in place, the Council will consider whether there is any possibility for some part of that land to be offered back to the █████ Connors in accordance with the approach it has been following throughout.
- 5.30 **Objection summary**
- 5.31 The Council is in ongoing discussions with all parties who have objected to the Order(s) with the aim of reaching mutual agreement and will update this information as matters progress.
- 5.32 The Council has carefully considered the objections. Notwithstanding the issues raised, the Council remains satisfied as to the justification of the Orders and that all the land shown within the CPO, save for the modifications proposed to Plots 005, 006, 040 and 041, as being the Order Land is required.

**6 CPO Modifications**

- 6.1 The Council is seeking modifications to the CPO to remove Plots 005, 006, 040 and 041. The Council's reasoning for removing Plots 005 and 006 is explained at paragraph 5.22 above.
- 6.2 Plots 040 and 041 were originally identified as a possible site compound and storage area. Following progression of detailed design of the works additional areas located within the public highway have been identified as suitable locations for a compound and works areas, allowing safe working. Consequently, the Council proposes to modify the Order to exclude Plots 040 and 041 which have been identified as no longer required to form part of the Order.

**7 Conclusion**

- 7.1 Seven objections were received by the Council to the CPO – however now only five are remaining; three of those also objected to the SRO. Agreement of the substantive terms has been reached with three of the remaining objectors: NRIL, Morrisons and [REDACTED] Measures and positive discussions continue with WEL.
- 7.2 The Council has carefully considered all points of objection and I have set out how it has responded to each in my original Proof of Evidence. Discussions with the remaining objectors continue with a view to reaching agreements that would enable the objections to be removed.
- 7.3 Notwithstanding the issues raised by the additional grounds of objections set out in the OBJ5 proof and the OBJ7 letter, the Council remains satisfied as to the justification of the Orders and that all the land shown within the CPO as being the Order Land is required.

## 8 Statement of Truth and Declaration

### 8.1 Statement of truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

### 8.2 Declaration

8.2.1 I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.

8.2.2 I confirm that I understand and have complied with my duty to the inquiry as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.

8.2.3 I confirm that I am not instructed under any conditional or other success based fee arrangement.

8.2.4 I confirm that I have no conflicts of interest.

8.2.5 I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the inquiry.

Signed:



Dated: 6<sup>th</sup> June 2024





## **Appendix AC4**

### **Planning Permission 12/00390/VCU**

Application reference 12/00390/VCU

Registered 2 May 2012

Planning Committee Decision  
6 May 2014

## PLANNING PERMISSION

### Town and Country Planning Act 1990

**Variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed on the site at any one time to 5, of which 2 can be occupied as residential accommodation at anytime. at [REDACTED]**

In accordance with the powers under Section 73(2)(a) of the Town and Country Planning Act 1990 North West Leicestershire District Council hereby permits the development specified in planning permission reference without complying with the condition(s) specified above, subject to the following additional condition(s):

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller sites (2012) Annex 1 Glossary: Definition 1 and subject to the provisions of Condition 3 below.

*Reason: To ensure the site continues to contribute towards the provision of accommodation for gypsies and travellers*

- 2 No more than 5 caravans shall be stationed on the site at any time, of which no more than 2 shall be occupied as residential accommodation at any time, and all caravans positioned on the site shall be capable of being lawfully towed on the public highway, without division into separate parts.

*Reason: To ensure the site remains compatible with the surroundings*

- 3 The occupation of the site hereby permitted shall be carried on only by Mr Connors children, their partners and resident dependants. When the land ceases to be occupied by these residents the use hereby permitted shall cease and all caravans brought onto the land in connection with the use shall be removed.

*Reason: In order to ensure the use of the site remains in the same use as the associated dwelling*

- 4 The use shall cease and the caravans shall be removed from the site within 4 months of the date of this decision unless full details of the landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following the approval of the scheme unless an alternative implementation programme has first been agreed in writing with the Local Planning Authority. The details shall include means of enclosure, car parking layouts, minor structures e.g. furniture, refuse or other storage units, lighting.

*Reason: To ensure a satisfactory external appearance*

- 5 This permission shall relate to the following plans: 1:1250 Location Plan received by the Local Planning Authority 20th June 2012 and A4 Site Plan 1:500, received by the Local Planning Authority 20th June 2012.

*Reason: To determine the scope of the permission*

- 6 Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

*Reason: To ensure the landscaping scheme is adequately maintained*

- 7 The use shall cease and the caravans shall be removed from the site within 4 months of the date of this decision unless full details of a scheme designed to provide safe access to and egress from the site, and on-site parking and turning, to serve the dwelling and caravans, has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented in accordance with a programme to be agreed in writing by the Local Planning Authority and shall thereafter be retained.

*Reason: In the interests of highway safety*

- 8 The existing perimeter fencing around the site shall be retained in its current form unless any variation is agreed in writing by the Local Planning Authority.

*Reason: To protect the residential amenities of neighbouring properties and to ensure adequate boundary treatment*

#### **INFORMATIVES :-**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

Your attention is drawn to the enclosed notes.

Signed: 

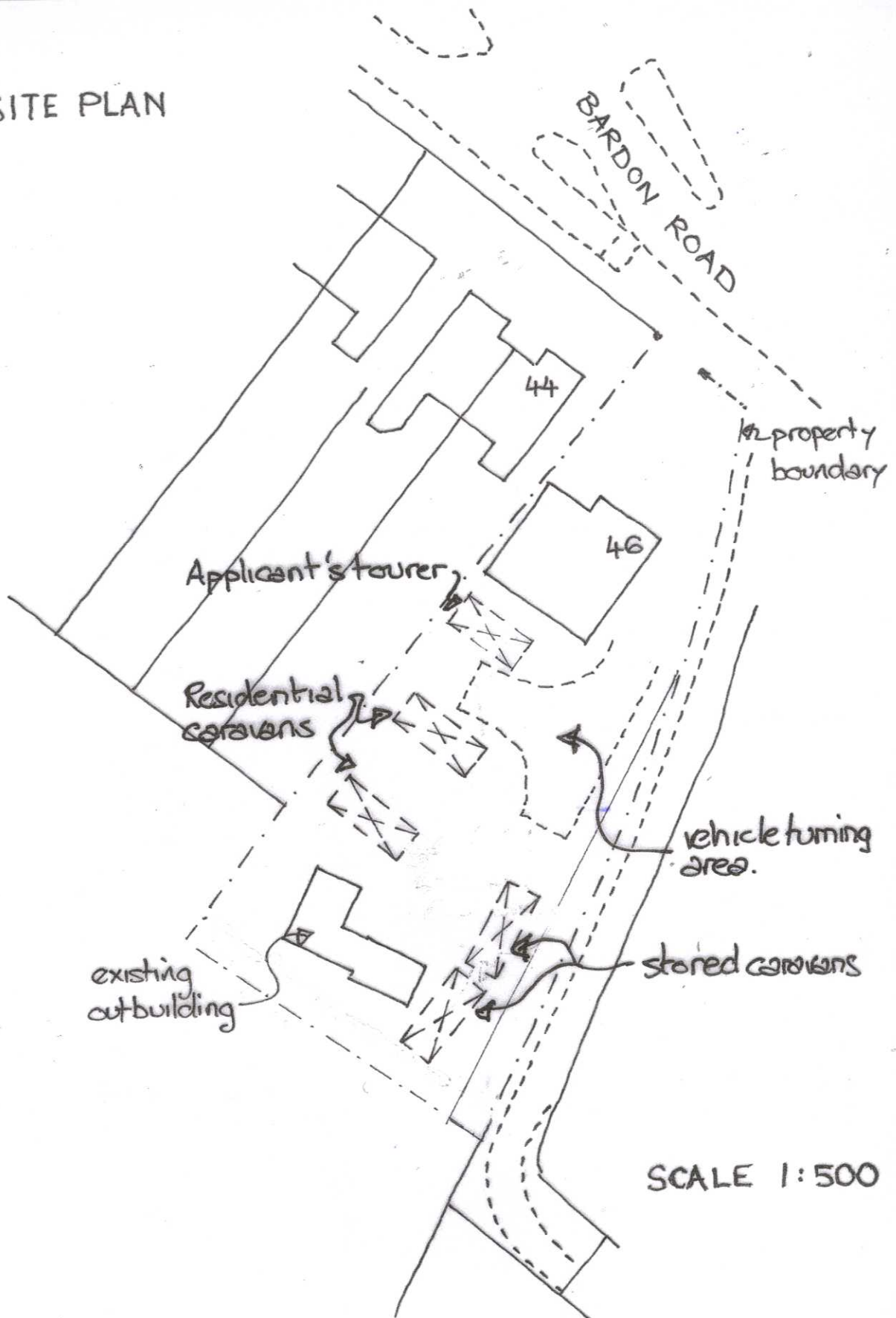
Planning & Development Team Manager  
Proper Officer of the Council

Dated: 12.5.14

## **Appendix AC5**

### **12/00390/VCU Approved Site Plan**

# SITE PLAN



SCALE 1:500

APPLICATION NO 12/00304/100  
**ADDITIONAL  
PLANS**  
DATE OF DEPOSIT: 20/06/12

## Appendix AC6

Google Earth aerial photos of [REDACTED]



Figure 1: Aerial photograph of , Google Earth (May 2023)





Figure 2: Aerial photograph of [REDACTED], Google Earth (June 2021)











Figure 7: Aerial photograph of [REDACTED], Google Earth (September 2011)







## Appendix AC7

### Overlay



## **Appendix AC8**

**Officer report for Planning Permission 12/00390/VCU**

Variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed on the site at any one time to 5, of which 2 can be occupied as residential accommodation at anytime.

Report Item No



Application Reference  
12/00390/VCU

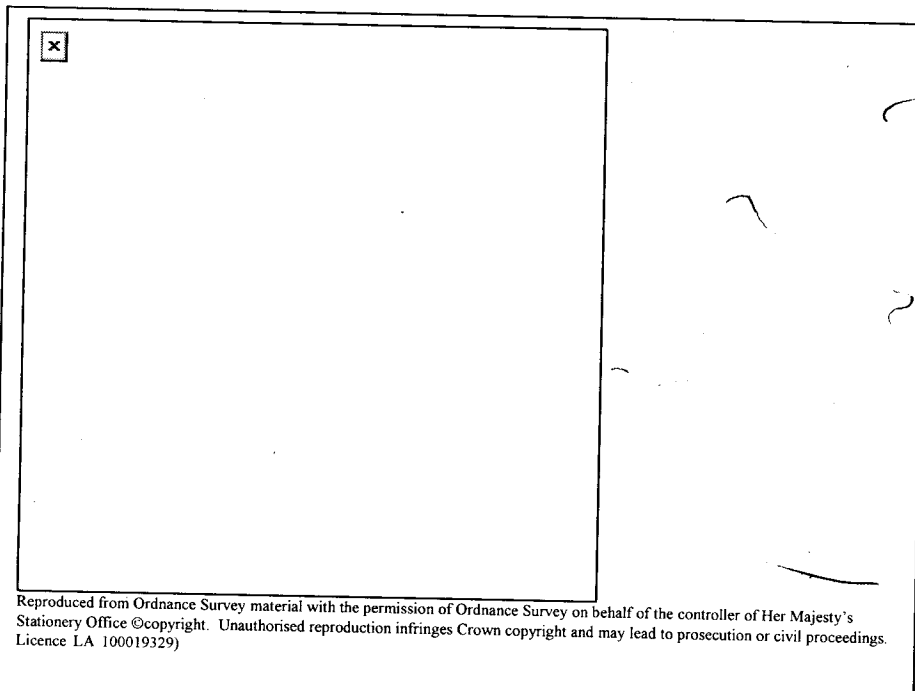
Applicant:



Date Registered  
2 May 2012

Target Decision Date  
27 June 2012

### Site Location



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## **1. Proposals and Background**

### **Executive Summary of Proposals and Recommendation**

#### **Proposal**

The application comprises a variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed at the site at any one time to 5 of which 2 can be occupied as residential accommodation at any time.

#### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals from the occupier of neighbouring properties; no other objections are raised by the statutory consultees.

#### **Planning Policy**

The site is within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application however is visual and residential amenity and highway safety.

#### **Conclusion**

The site has the benefit of permission for a mixed use of residential and caravan storage and the proposal seeks to increase the number of caravans stored from one to three. This is considered acceptable in terms of land use terms and would not have a significant impact on visual or residential amenity. Furthermore, no objection has been raised by the Highway Authority and conditions can be imposed relating to the access, parking and landscaping.

#### **Recommendation:-**

**PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS.**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

#### **MAIN REPORT**

The application comprises a variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed at the site at any one time to 5 of which 2 can be occupied as residential accommodation at any time.

There is a detailed history on the site. The most relevant includes 08/00362/FUL which was allowed on appeal for a mixed use of the land as a single dwelling and as a caravan site. Condition 2 stated: "No more than 3 caravans shall be stationed on the site at any time, of which no more than 2 shall be occupied as residential accommodation at any time, and all caravans positioned on the site shall be capable of being lawfully towed on the public highway, without division into separate parts".

The application is retrospective.

#### **2. Publicity**

Neighbours have been notified.

Site Notice displayed

#### **3. Consultations**

#### **4. Summary of Representations Received**

Highway Authority: no objections, subject to a condition for a layout plan to be submitted showing adequate parking provision for the caravans.

Environmental Protection: no objections.

Two letters received objecting on the grounds that objections won't make any difference, the caravans will be visible from nearby dwellings, noise, questions how will it be monitored and work is carried out first without permission.

#### **5. Relevant Planning Policy**

##### **National Planning Policy Framework (NPPF) - March 2012**

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The NPPF (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

The sections of the NPPF that are relevant to this application are:

- 4 - Promoting Sustainable Transport through reducing greenhouse gas emissions, achieving sustainable modes of transport, providing safe and suitable access for all and improving the transport network;
- 7 - Requiring Good Design through seeking high quality and inclusive design for all, effectively connecting people and places and refusing poor design;
- 11 - Conserving and Enhancing the Natural Environment by protecting and enhancing landscapes, minimising the impact on biodiversity and recognising the benefits of ecosystem services.

##### **National Planning Policy for Traveller Sites March 2012**

The PPTS sets out the Government's policy for traveller sites. It should be read in conjunction with the National Planning Policy Framework. This is not detailed in this report as the proposal relates only to the storage of two additional caravans and does not relate to the creation of additional pitches.

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

##### **North West Leicestershire Local Plan:**

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

Policy S2 states that development will be permitted on allocated sites and other land within the Limits to Development where it complies with the policies of the Local Plan.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements.

Policy T8 relates to parking.

### **Submission Version Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

## **6. Assessment**

### **Principle**

The site is within the limits to development and has the benefit of permission to change the use of the site to a mixed use as a single dwelling and a caravan site. This permission was granted under 08/00362/FUL on appeal subject to a number of conditions. These included C2 stating that no more than 3 caravans shall be stationed at any time with no more than 2 occupied for residential accommodation.

The proposal seeks to vary this condition to allow the stationing of a total of five caravans of which two would be residential. A plan has been submitted illustrating the layout of the site which depicts the applicant's tourer, two residential caravans and two stored caravans.

The condition was imposed in order to limit the use of the site to ensure the use remains compatible with surrounding uses and occupiers, to minimise the use of the access on the grounds of highway safety and to ensure the use of the site did not become over-intensive.

The proposal seeks to increase the number of caravans stored, but not be occupied, from one to three. They are sited adjacent to the footpath and away from the nearest residential properties. It is not considered the proposed increase would lead to significant negative impacts. The site is capable of accommodating the extra caravans and as they would only be stored there would be no significant increase in noise or disturbance or additional people residing on the site.

It is therefore concluded that the proposal would be acceptable in principle and would uphold the general thrust of the condition imposed at the appeal.

### **Design and Visual Impact**

The proposed additional caravans are sited towards the rear of the site, well set back from the public highway to the north. The site is well landscaped and with the perimeter fencing views into the site are not easily available from the public realm. As a result the visual impact of the two additional caravans is limited. It is not considered, on balance, and notwithstanding the footpath adjacent, that the storage of the two extra caravans, have a significant impact of the visual amenities of the site and surroundings. The proposal therefore complies with policy E4.

### **Residential Amenity**

The site has housing to the east and west with dwellings to the north set well back from the highway boundary and separated by Bardon Road. The dwellings to the east are separated by the footpath and the site of the additional caravans is to the rear portion of the site, a significant distance from the neighbouring dwellings. To the west the two additional caravans are separated

by the approved three caravans and are on the far side of the site, away from the boundary.

Notwithstanding the objections raised, as the caravans would not be occupied it is not considered the siting only of two additional caravans would have an undue adverse impact on the residential amenities of occupiers of neighbouring properties. As such the proposal is considered to comply with policy E3.

### Highway Safety

The site is accessed from Bardon Road and has an on-site turning area. The Highway Authority raise no objection subject to a condition relating to the provision of adequate parking on the site. It is considered the site could accommodate the five caravans, the turning area and adequate parking and therefore a condition is recommended to illustrate the parking to serve the two occupied caravans and the dwelling.

On upholding the appeal the Inspector imposed a condition requiring a scheme designed to provide safe access to and egress from the site and on-site parking and turning. It appears this condition was not complied with and can be imposed on this current application.

It is therefore considered the proposal complies with policies T3 and T8.

### RECOMMENDATION - PERMIT subject to the following condition(s):

(subject to no contrary observations by 5 July 2012)

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in ~~paragraph 15 of Circular 01/2006~~. *Annex 1 Glossary (Definition 1) of Planning Policy for Traveller Sites (2012). Subject to the provisions of condition 3*
- Reason: To ensure the site continues to contribute towards the provision of accommodation for gypsies and travellers*

- 2 No more than 5 caravans shall be stationed on the site at any time, of which no more than 2 shall be occupied as residential accommodation at any time, and all caravans positioned on the site shall be capable of being lawfully towed on the public highway, without division into separate parts.

*Reason: To ensure the site remains compatible with the surroundings*

- 3 The occupation of the site hereby permitted shall be carried on only by Mr Connors children, their partners and resident dependants. When the land ceases to be occupied by these residents the use hereby permitted shall cease and all caravans brought onto the land in connection with the use shall be removed.

*Reason: In order to ensure the use of the site remains in the same use as the associated dwelling*

- 4 The use shall cease and the caravans shall be removed from the site within 4 months of the date of this decision unless full details of the landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following the approval of the scheme unless an alternative implementation programme has first been agreed in writing with the Local Planning Authority. The details shall include means of enclosure, car parking layouts, minor structures e.g. furniture, refuse or other storage units, lighting.

*Reason: To ensure a satisfactory external appearance*

- 5 This permission shall relate to the following plans: 1:1250 Location Plan received by the



Local Planning Authority 20th June 2012 and A4 Site Plan 1:500, received by the Local Planning Authority 20th June 2012.

*Reason: To determine the scope of the permission*

- 6 Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

*Reason: To ensure the landscaping scheme is adequately maintained*

- 7 The use shall cease and the caravans shall be removed from the site within 4 months of the date of this decision unless full details of a scheme designed to provide safe access to and egress from the site, and on-site parking and turning, to serve the dwelling and caravans, has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented in accordance with a programme to be agreed in writing by the Local Planning Authority and shall thereafter be retained.

*Reason: In the interests of highway safety*

- 8 The existing perimeter fencing around the site shall be retained in its current form unless any variation is agreed in writing by the Local Planning Authority.

*Reason: To protect the residential amenities of neighbouring properties and to ensure adequate boundary treatment*

#### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

Checked by (Case Officer).....

Date..... 16.4.14

**Appendix AC9**  
**NWLDC Letter of Comfort**

[REDACTED]  
**Head of Planning and  
Infrastructure**

Please ask for: [REDACTED]n  
Telephone: [REDACTED]  
Our Ref:  
Your Ref:  
Date: 3<sup>rd</sup> June 2024

[REDACTED]  
[REDACTED]  
  
Dear [REDACTED]

**A511 Growth Corridor including the Bardon Link Road**

I write on behalf of North West Leicestershire District Council (**NWLDC**) in relation to the A511 Major Route Network (**MRN**) Growth Corridor scheme (the **Scheme**). The Scheme is designed to tackle longstanding congestion and traffic related problems on the A511 between Leicester and the A42 via the M1 Junction 22, which will only be made worse by the level of housing and employment growth in North West Leicestershire and adjacent counties.

Major improvements to the A511 corridor were identified as a priority need through the work to develop the Coalville Transport Strategy in 2008 (**CTS**). The CTS identifies the need for developer contributions to be collected from development sites that have a traffic impact on the A511 route within the boundaries of the Scheme. This was re-affirmed during assessment of the transport impacts of growth proposals, including the NWLDC Local Plan, the Leicester and Leicestershire Strategic Growth Priorities and the Interim Coalville Transport Strategy in 2021 (**ICTS**).

The ICTS notes that the Scheme will be funded in part by the Department for Transport's MRN funding programme. The remainder will be funded through developer contributions collected through agreements under section 106 of the Town and Country Planning Act 1990. This also accords with Policy IF4 of the NWLDC Local Plan (adopted in 2017 and re-adopted following review in 2021) which requires that where *"new development has a demonstrable impact upon the highway network, contributions towards improvements will be sought commensurate with the impact. The following specific highway improvements are identified as priorities..... the A511 corridor between J22 of the M1 and J13 of the A42"*. NWLDC policy titled "Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville" was adopted in 2013. This policy sets out the NWLDC's approach towards dealing with competing developer financial contributions from major residential development in its area and gives highway infrastructure investment the highest priority for funding.

Since 2014 NWLDC has been securing developer contributions towards highway improvements that includes the Scheme pursuant to the above policies.

NWLDC strongly supports the Scheme and is committed to continue securing necessary developer contributions towards the Scheme through section 106 agreements where development sites will have a traffic impact on the A511 MRN. To date, a total of £2.877m worth of contributions have been

deposited with NWLDC, with a further £9.905m deposited with LCC. It is anticipated that a further £15.871m in S106 contributions could be secured as further developments in the area are built out.

The current total of financial contributions ringfenced for the Scheme stands at approximately £28.653m. All such developer contributions will be held pending allocation to Leicestershire County Council for use towards the Scheme.

I trust this sets out the Councils position in relation to the Scheme.

Yours sincerely

A large black rectangular redaction box covering the signature of the Head of Planning and Infrastructure.A small black rectangular redaction box covering the name of the Head of Planning and Infrastructure.

Head of Planning and Infrastructure