


ENFORCEMENT APPEAL – PROOF OF EVIDENCE OF JONATHAN ADAMS

Land to rear of dwelling known as Longfield, Poolhead
Lane, Tanworth-in-Arden, Solihull, B94 5ED



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On behalf of Mr John Clayton-Wright and Mrs Dawne Clayton-Wright

August 2024

ENFORCEMENT NOTICE REF: 3/00058/DESB0C:

PINS REF: APP/J3720/C/24/3342067

OUR REF: M24/0506-01.RPT

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Appendices

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Introduction

Section 1

Planning Evidence

- 1.1 I am Jonathan Adams, a Senior Director at Tetlow King Planning (TKP). I hold an Upper Second Bachelor of Arts Degree in Town and Country Planning with Honours and a Bachelor of Town Planning with distinction from University of West of England, Bristol. I am a Member of the Royal Town Planning Institute. I have over 25 years professional experience in town planning, including four years in various roles for two local planning authorities (LPA) and 19 years at TKP.
- 1.2 TKP was established in 1985 and offers a wide range of specialist advice on planning and housing issues throughout England. TKP has acted for many landowners; more than 150 house builders; more than 100 housing associations; more than 50 local authorities; and a range of government organisations.
- 1.3 I was first instructed in May 2024 to advise on the Enforcement Notice issued at Longfield and to prepare for the appeal in relation to ground a. I have visited the appeal site and am familiar with the site and surroundings.

Enforcement Appeal

- 1.4 This proof of evidence has been prepared by me on behalf of the appellants Mr John Clayton-Wright and Mrs Dawne Clayton-Wright.
- 1.5 It relates to the enforcement appeal APP/J3720/C/24/3342067 at land to rear of dwelling known as Longfield, Poolhead Lane, Tanworth-in-Arden, Solihull, B94 5ED (the 'appeal site'). The enforcement appeal is made against the enforcement notice dated 29th February 2024 issued by Stratford-on-Avon Council (the Notice) which alleges the following:

“Without planning permission, the following development:

- i) Material change of use of Land to a business use;*
- ii) The erection of buildings (in the approximate positions shown 'C' and 'E' on the Plan);*

- iii) Creation of additional area of hardstanding (in the approximate position shaded in grey and identified as 'D' on the Plan);*
- iv) Significant alteration and extension to the former garage building (in the approximate position 'A' on the Plan) which facilitates and was part and parcel of the change of use to business use; and*
- v) The erection of new building (in the approximate position 'B' on the Plan) which facilitates and was part and parcel of the change of use to business use referred to item i) above."*
- 1.6 The LPA's reasons for issuing the notice are detailed in the notice. The Notice requires the following actions:
- "a) Cease the use of the Land (including buildings) for business purposes;*
- b) Demolish the buildings located in the approximate locations 'C' and 'E' on the Plan and remove all associated materials from the Land;*
- c) Remove the hardstanding from the area identified as 'D' on the Plan and remove all associated materials from the Land;*
- d) Demolish the building located in the approximate location 'A' on the Plan and remove all associated materials from the Land;*
- e) Demolish the building located in the approximate location 'B' on the Plan and remove all associated materials from the Land."*
- 1.7 The Notice gives six months from the date of the notice for the appellants to comply with all the above requirements.
- 1.8 The appeal is scheduled to be heard at inquiry on 3 September 2024 for two to three days.

Scope of My Evidence

- 1.9 The appellants are appealing on grounds a), b), d), e), f) and g). My evidence is concerned with ground a).
- 1.10 For ground a Section 174 (2) of The Town and Country Planning Act 1990 (as amended) states: *"that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged"*.

- 1.11 It will be demonstrated in the below evidence that the development should be granted permission contrary to the LPA's reasons for issuing the Notice. It will be demonstrated that the development does not contradict the development plan or NPPF on development in the countryside, Green Belt and residential amenity of neighbours.
- 1.12 My evidence explains that the proposal is sustainable and considers the very special circumstances that justify the development in the Green Belt.

Statement of Common Ground

- 1.13 The appellants and the LPA are preparing a Statement of Common Ground to inform the enforcement appeal. It will be submitted to The Planning Inspectorate in advance of the inquiry.

Contents

- 1.14 This report is structured as follows:
- Section 2 – Site description and character;
 - Section 3 – Planning history of the appeal land and background;
 - Section 4 - Planning policy framework;
 - Section 5 – Ground a case;
 - Section 6 – Summary and conclusions.

Site Description and Character

Section 2

- 2.1 The appeal development is located to the rear of the dwelling known as Longfield, which is a large, detached dwelling with a long spacious rear garden. The appeal site is not within any settlement, however the boundary of the Wood End Built-Up Area Boundary as set out in the Neighbourhood Plan cuts through the rear garden of the site. The site is within the Green Belt. The site is part of a row of dwellings which extend along both sides of Poolhead Lane. There are similar ribbon type developments along the surrounding roads on Broad Lane to the south and Penn Lane to the west.
- 2.2 The site is bound by Wood End railway station and railway line to the east, and neighbouring dwellings to the north and south. Ladbroke Park Golf Club (clubhouse and golf course) is located near to the appeal site to the west of Poolhead Lane.
- 2.3 Land to the east of the railway station is allocated for up to 10 dwellings under the Tanworth-in-Arden Neighbourhood Plan. A planning application (ref: 23/01387/FUL) to develop this allocation is currently being considered by the LPA. The allocation and planning application are described further below.
- 2.4 In terms of setting, beyond the row of dwellings along Poolhead Lane is mostly open countryside with the M42 further to the north. However, further to the north of Poolhead Lane area industrial/employment units. Therefore, the area also has a significant built form with a mixture of uses.
- 2.5 The appeal site is not widely visible from public viewpoints and very well screened by boundary hedges and trees. The development subject to the enforcement notice is not readily visible from any public viewpoint.
- 2.6 The site is accessed from the existing accesses to Longfield from Poolhead Lane.
- 2.7 With regards to the appeal development, it consists of four buildings and a hardstanding area. All the buildings are single storey and do not have a significant footprint in the context they lie within. The buildings are used as offices, storage, construction/setting up of computer controlled entry systems and conferencing and housing associated equipment and infrastructure serving the onsite local business which employs 55 people all from the local area at the time of writing.

Planning History and Background

Section 3

3.1 The history of the buildings at the appeal site is detailed in the appellants' statement of case under ground d).

3.2 Previous planning applications at the appeal site are listed below:

Application Ref	Description	Decision	Date
94/00503/FUL	Double garage and workshop to side of existing dwelling.	Approved	23/08/1994
07/02170/FUL	Two storey extension	Withdrawn	14/09/2007
08/01776/FUL	Two storey extension	Approved	28/08/2008
09/00691/LDE	Use of land as domestic garden (Certificate of Lawful Development).	Refused	18/12/2009

3.3 Three of these applications relate to the erection of a double garage and an extension to the house, which are not relevant to the enforcement case. The Certificate of Lawfulness relates to the use of the garden, which is addressed by ground d.

Background

3.4 The appellants are the owners of the dwelling Longfield and the appeal site, having purchased it in July 2005. The appellants are also the owners and operate a business known as 'Ashbourne Management Services Limited' ("AMSL") which was established in 1999. AMSL administers gym memberships for gyms nationally and supplies the back office functions a gym/club would need, including installing and managing entry systems. AMSL is an internet business and is not open to the public. This means that members of the public do not call to the property. It is therefore an 'office' use falling within Class E of the Use Classes Order (i.e. one which can be carried out in a residential area without detriment to the amenity of that area). The description in the Notice, however, simply refers to it as a 'business' use, which could also include industrial uses under Class B2 or sui generis uses so long as they are carried out as part of a 'business'.

- 3.5 Initially the appellants operated the business from the dwellinghouse Longfield together with the office space rented at Byth Valley (which continues to be utilized to the present). Due to the growth of the business the main dwelling was extended and subsequently the rear outbuilding referred to as 'building A' on the enforcement notice and other associated buildings. The identified hard standing within the enforcement notice for the parking of vehicles was also constructed immediately to the south of building A. These extension and other works took place and were completed between 2010 and 2013. By this stage the site was in mixed use, with the appellants residing in the main house and operating ASML from the house as well as building A.
- 3.6 As the business grew, additional space was required to support the business, therefore what is known as 'building B' on the Notice was erected. An additional building was then erected immediately to the east of building B, which the Notice refers to as 'building E'. Building E consists of a hexagonal structure which is used as part of the main office and is also used for private Teams meetings and other conference calls. Building C was a dilapidated structure on the eastern boundary. This was substantially refurbished to use as storage and a workshop. The business at this point has been long established at the site and has grown and currently employs 55 people.
- 3.7 The timeline of when these buildings were erected/extended is described in the appellants' ground evidence.

The Planning Unit and its Mixed Use

- 3.8 With regards to the remainder of the appeal site between the main house and the office buildings to the rear, this area has always been used as a domestic garden by the appellants and this position has been known to the LPA through PCN responses and CLUED applications dating back to 2009. The LPA has recently disclosed reports showing that, by 2012 at the latest, it accepted that land included within the red edge of the Notice plan has lawful residential use.
- 3.9 It is well established that the unit of occupation is normally the relevant planning unit "unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally".¹ In this case, there is no such physical and functional separation. Indeed, the LPA noted that domestic paraphernalia including a trampoline was in evidence across all of the land. In particular, the area covered by the Notice is used for both the appellants' business and for domestic purposes, which – as noted above – the LPA has previously accepted

¹ Burdle v SSE (1972) 3 All ER 240.

have become lawful over the passage of time. Therefore, the way the Notice and the attached plan have been drafted fails to reflect either the correct planning unit or the true character of its primary use.

Planning Policy Framework

Section 4

Section 38(6) of the Planning and Compulsory Purchase Act 2004

- 4.1 The starting point for any appeal is Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 The development plan for the appeal site comprises the Stratford-on-Avon District Core Strategy 2011 to 2031, adopted in 11 July 2016 and the Tanworth-in-Arden Neighbourhood Plan 2021 - 2031, 'made' on 12 December 2022.

Stratford-on-Avon District Core Strategy 2011 to 2031

- 4.3 **Policy CS.1** Sustainable Development – states that when considering development proposals the Council will *“take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). It will work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”*
- 4.4 **Policy CS.5** Landscape - requires that the landscape character and quality of the district is maintained and enhanced. It then lists three areas which should be carefully considered and enhanced which includes landscape character and enhancement, visual impacts and trees, woodland and hedges.
- 4.5 **Policy CS.9** Design and Distinctiveness – requires new development to ensure high quality design and provides a number of criteria to achieve this, including high quality attractive architectural design, development should be sensitive to its setting, distinctive, connected, environmentally sustainable, accessible, safe and incorporate design that ensures healthy living.
- 4.6 **Policy CS.10** Green Belt – states that the purposes of the Green Belt will be upheld by resisting inappropriate development except in cases where very special circumstances are justified in accordance with the NPPF.

- 4.7 **Policy CS.12** Special Landscape Areas - states that development within these areas should not have a harmful effect on their distinctive character.
- 4.8 **Policy CS.22** Economic Development - states opportunities for business development will be provided in the countryside in accordance with Policy AS.10 Countryside and Villages.
- 4.9 **Policy AS.10** Countryside and Villages - Strategy provides a list of acceptable types of business development in the countryside. One of the aims of this policy is: *“In order to help maintain the vitality of rural communities and a strong rural economy, provision will be made for a wide range of activities and development in rural parts of the District.”* The policy also provides exceptions and in exception (k) it states: *“Conversion of a building for business purposes subject to its location and character, including historic or architectural merit, being suitable for the proposed use and it having been in existence for at least ten years.”*

Tanworth-in-Arden Neighbourhood Plan 2021 - 2031

- 4.10 **Policy E1** Existing Business – states *“Proposals for small scale expansion or redevelopment of existing business premises will be supported in principle provided that they comply with Green Belt Policy; do not have a detrimental impact on the local character or neighbouring residential amenity; and do not adversely impact on the operation and capacity of the local highway network.”*
- 4.11 **Policy BE1** Responding to Local Character and Design Principles – requires that proposed development take into account the local character as described in the character assessments and provides a list of design principles.
- 4.12 **Policy NE1** Landscape, and Valued Views – states that new development must take into account the Character and Landscape Assessment statements which are summaries in the appendices and assess the impact on the landscape and valued views.

Other Considerations

National Planning Policy Framework (December 2023)

- 4.13 The National Planning Policy Framework, December 2023 (NPPF) sets out the national planning policies created by the Government and how they should be applied by LPAs.

- 4.14 Planning Practice Guidance (PPG) supplements the NPPF, providing further guidance on planning issues and is subject to ad hoc ongoing updates.
- 4.15 Paragraphs 10-11 of the NPPF identify the presumption in favour of sustainable development, encouraging this to be pursued positively. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay.
- 4.16 On economic uses paragraph 85 states *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”*.
- 4.17 Paragraph 88 of the NPPF states that planning policies and decisions should enable: *“the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings”*. The development clearly meets this objective.
- 4.18 Paragraph 89 further states that: *“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)...”*
- 4.19 With regards to the Green Belt the NPPF restricts some development within the Green Belt. It also provides a list of exceptions that are not inappropriate development which include the following (paragraph 154):
- “A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*
- a) buildings for agriculture and forestry;*
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*

- c) *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- e) *limited infilling in villages;*
- f) *limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and 45*
- g) *limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority*

4.20 Development that falls out of these exceptions are required to demonstrate very special circumstances as stated in paragraph 152: *“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”* And in paragraph 153: *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.*

An Economic Development Strategy for Stratford-on-Avon and Warwick Districts to 2028

4.21 The Economic Development Strategy document published by Warwick District Council and Stratford-on-Avon Council outlines a five-year strategy (2023 to 2028) for the South Warwickshire area, including the Stratford-on-Avon area and was adopted in December 2023. The Council states: *“The main purpose of the strategy is to coordinate economic growth activities around South Warwickshire and highlight the area”.* Warwick District Councillor Ella Billiald also states that: *“This new Economic Development Strategy for South Warwickshire provides a real opportunity for us to*

support our local businesses,”². It is relevant to the appeal development due to the emphasis the document has on supporting business and rebooting and growing the South Warwickshire economy.

The Growth Plan 2022

- 4.22 This document published by the Government outlines a plan for economic growth to achieve the Government’s target of a 2.5% trend rate. It states that *“Economic growth is the government’s central mission. The government’s aim is to achieve a trend growth rate of 2.5%”* (Paragraph 3.5). The paper also states that *“Business is the engine room of the economy”* (Paragraph 3.41). Therefore, supporting business and employees is key to economic recovery and supporting local people financially.

Emerging Local Plan

- 4.23 Stratford-on-Avon and Warwick District Councils are currently working on a combined plan for both areas. The emerging Plan will replace the current Core Strategy. According to the Council’s website consultations on issues and options and call for sites has been undertaken. The latest published Local Development Scheme (LDS, April 2022) targeted Regulation 19 consultations to have closed in August 2024 and adoption of the emerging plan by August 2025. The Councils are significantly behind this schedule. The emerging plan is at a very early stage and therefore is not a material consideration in the consideration of the appeal.

New Government

- 4.24 Following the recent election of the new Labour Government, the new Chancellor of the Exchequer Rachel Reeves stated in her first speech stated that *“Sustained economic growth is the only route to the improved prosperity that country needs and the living standards of working people”*. And stated the following regarding business: *“Britain has a stable government. A government that respects business, wants to partner with business, and is open for business. In an uncertain world, Britain is a place to do business”*³. Economic recovery and growth is a key ambition of the new Government.

² https://www.warwickdc.gov.uk/news/article/1123/warwick_district_and_stratford-on-avon_district_councils_approves_south_warwickshire_economic_development_strategy#:~:text=The%20main%20purpose%20of%20the,Avon%20and%20Warwick%20District%20Councils.

³ <https://www.gov.uk/government/speeches/chancellor-rachel-reeves-is-taking-immediate-action-to-fix-the-foundations-of-our-economy>

Draft NPPF

- 4.25 The newly elected Labour Government has made their intentions clear to reform the planning system and part of this reform is to amend the NPPF. The proposed amendments to the NPPF were published for consultation on 30th July 2024 and closing on 24th September 2024, there is a possibility the revised NPPF will be published before the Inspector decides on this appeal. Notwithstanding this, the draft version gives a clear indication of the direction of travel for the planning reforms and therefore a material consideration.
- 4.26 Of relevance to this appeal is the amendment to Paragraph 152 which states the following regarding development in the Green Belt and the introduction of ‘Grey Belt’ land:
- “In addition to the above, housing, commercial and other development in the Green Belt should not be regarded as inappropriate where:*
- “a. The development would utilise grey belt land in sustainable locations, the contributions set out in paragraph 155 below are provided, and the development would not fundamentally undermine the function of the Green Belt across the area of the plan as a whole; and*”
- 4.27 Grey Belt is then defined on page 74 as the following:
- “Grey belt: For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the green belt comprising Previously Developed Land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes (as defined in para 140 of this Framework), but excluding those areas or assets of particular importance listed in footnote 7 of this Framework (other than land designated as Green Belt).”*
- 4.28 The appeal site has the characteristics of the above defined Grey Belt land, elements of the appeal site are previously developed, and the site makes a limited contribution to Green Belt purposes. The site is also within a sustainable location.

Ground A Planning Justification

Section 5

5.1 This section provides justification for the appeal development and sets out the reasons why it ought to be granted planning permission. This falls under ground a of the appeal: *“that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged”*.

5.2 Planning permission should be granted for the buildings as built and use of the buildings by AMSL The Notice alleges that the buildings and use would be contrary to Green Belt, open countryside and residential amenity policies. The reasons why this is not the case is set out below.

Location in the Countryside

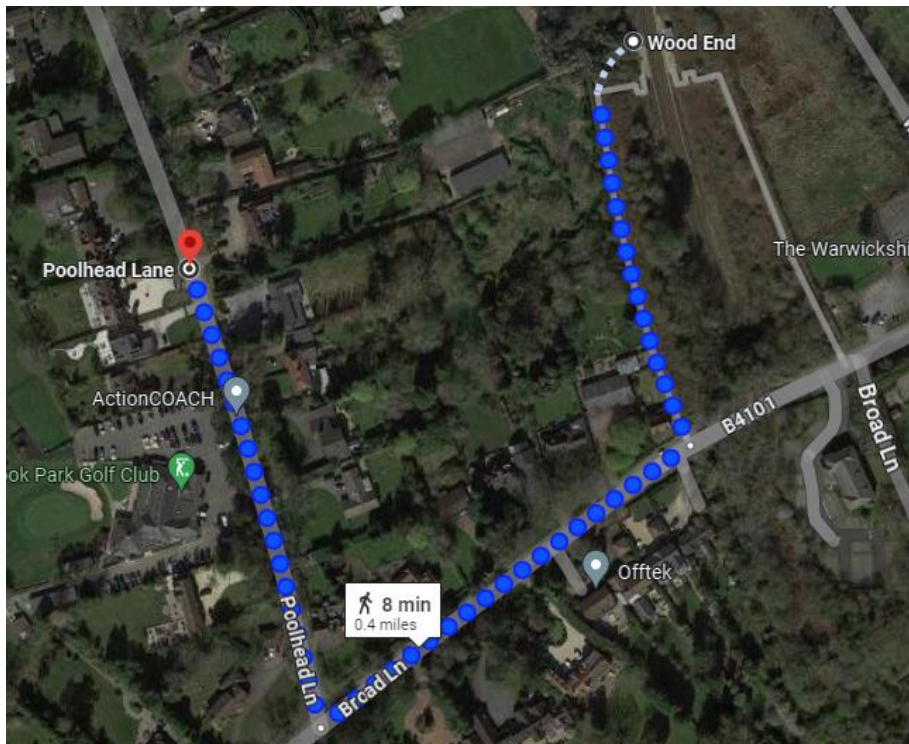
5.3 Policy AS.10 of the Core Strategy provides a list of acceptable types of business development in the countryside. The LPA alleges that the development does not fall within any of these types of development. However, one of the aims of this policy is: *“In order to help maintain the vitality of rural communities and a strong rural economy, provision will be made for a wide range of activities and development in rural parts of the District.”* As the development supports a prosperous local business and employs 55 local people the development clearly contributes to this aim of the policy.

5.4 Notwithstanding the above, the appellants consider that part of the development falls under two of the acceptable types of development within Policy AS.10 and the LPA has not properly considered this in the Notice.

5.5 The first relevant exception is (k) which states: *“Conversion of a building for business purposes subject to its location and character, including historic or architectural merit, being suitable for the proposed use and it having been in existence for at least ten years.”*

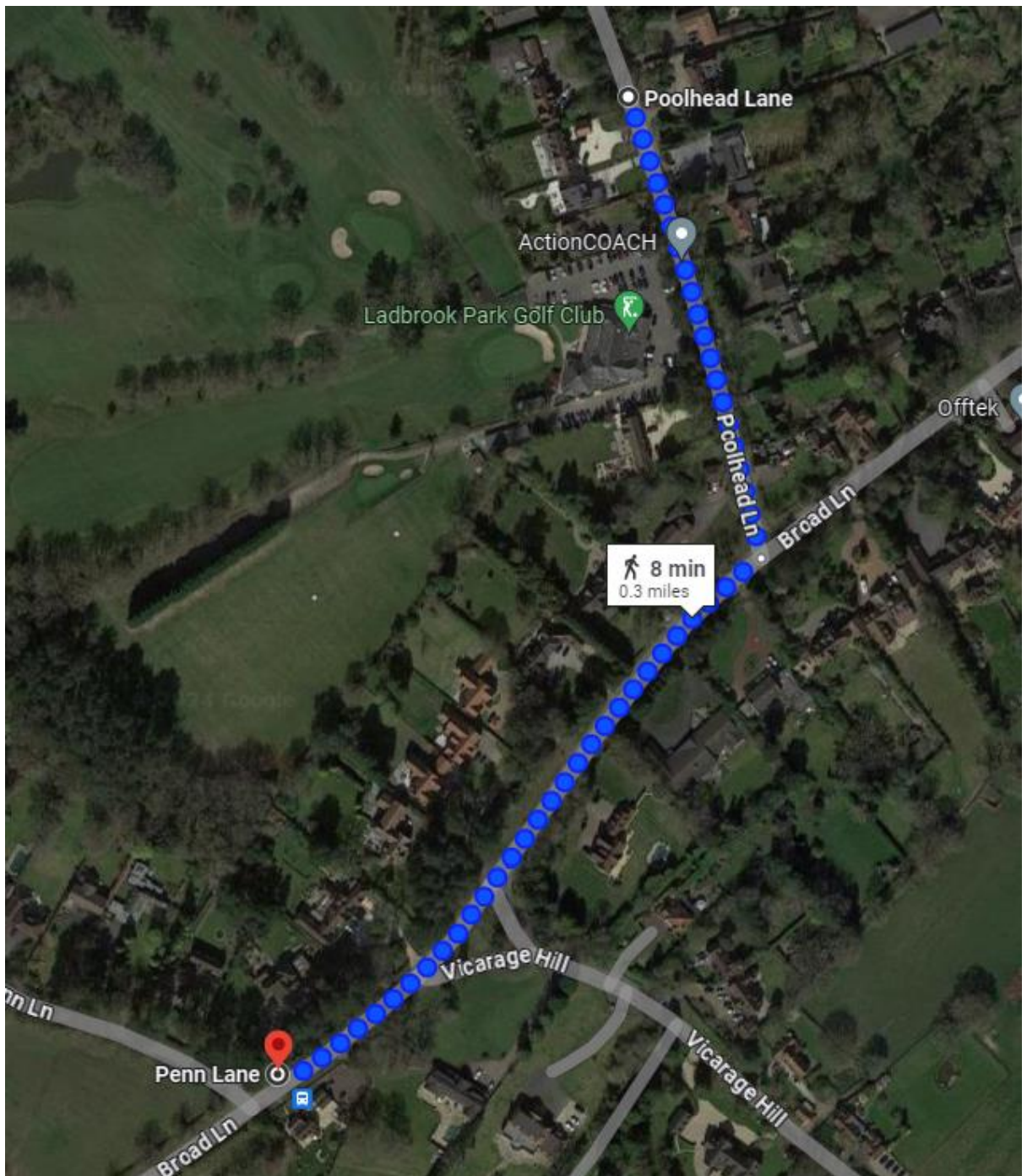
- 5.6 In this case Building A has been in situ for over 10 years and was also converted and adapted to business use over 10 years ago. The building was initially used in conjunction with the main house to run the operation of AMSL. As the AMSL grew additional space was required and Buildings B and E and the hardstanding were subsequently built and building C substantially renovated and converted.
- 5.7 It is common ground that building A, Building B and the hardstanding area has been in situ for more than 10 years and therefore meet part k) of the policy.
- 5.8 The second relevant exception is (n) which states: *“An extension to a business in its established location, particularly if it would be unreasonable to expect the business to relocate in order to expand”*.
- 5.9 As outlined in section 3 of this proof, AMSL was established in 1995, and parts of the business has been run from the appeal site since the Appellants moved into the main dwelling in 2005, therefore the business is long established at this location. The business was further expanded from 2009 as described in section 3 which includes buildings C and E. A significant amount of sophisticated electronic and IT infrastructure has been installed at the site and relocating would lead to a significant drop-in service in the lead up and following relocation. There are also associated security issues as detailed in Mr Clayton Wright’s proof of evidence. Therefore, it would be unreasonable to expect the long established business to relocate. And therefore, the buildings C and E fall into this exception (n).
- 5.10 It must also be emphasised the buildings constructed and converted are essential for AMSL to currently operate. They support 55 employees from the local area and provide numerous economic benefits both locally and nationally. If the appeal is dismissed, it will result in the loss of a significant number of jobs and harm an innovative locally run business having wider impacts on the local economy. This would be contrary to Policy AS.10 of the Core Strategy and NPPF paragraphs 85 and 86.
- 5.11 Also of relevance is Policy E1 of the Neighbourhood Plan, which allows for small scale expansion or the redevelopment of existing business premisses subject to compliance with Green Belt policy and not having a detrimental impact on local character, neighbouring amenity or the local highway network. The development also meets the requirements of this policy as set out below.

- 5.12 The location is sustainable with access to Birmingham from Wood End railway station, which is an eight to 8-minute walk from the appeal site. Notwithstanding this, the appellant is proposing to install a gate to the rear boundary to allow direct access to the train station and it is requested the inspector secures this by condition. The below image shows that the distance from the dwelling Longfield to Wood End railway station is 0.4 miles, an eight-minute walk. The route along the B4101 benefits from a footpath and streetlighting.



Source: Google maps

- 5.13 Services from this station run to Birmingham Moor Street within 40 minutes, operating Monday to Saturday between 6am and 11pm. The train timetable is provided at **Appendix JA6**.
- 5.14 The appeal site is also served by buses. The nearest bus stop is Broad Lane which is an eight-minute walk from the appeal site and provides routes around the local area, timetable for this bus stop is provided at **Appendix JA7**.



Source: Google maps

- 5.15 Paragraph 88 of the NPPF states that planning polices and decisions should enable: *“the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings”*. The appeal development meets this objective.

- 5.16 Paragraph 89 further states that: *“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)...”*
- 5.17 Therefore, the location of the business within nominal ‘countryside’ is not unacceptable in principle. The appeal site is outside a settlement but it is well served by public transport, which is a major benefit.
- 5.18 With regards to the impact on its surroundings and the alleged urbanising impact, the development is well screened around all sides by mature vegetation and trees, and as such is contained within the appeal site. Also, the buildings are not readily visible outside of the site and therefore sensitive to the surroundings.
- 5.19 The development does not generate significant traffic and does not have an unacceptable impact on local roads. There are no large-scale deliveries required and employees work flexible working hours so are not all entering or exiting the site at the same time.
- 5.20 Therefore, for the reasons set out above the development should not be resisted on grounds of location. Policy AS.10 of the Core Strategy, Policy E1 of the Neighbourhood Plan and the NPPF encourage economic development within the countryside subject to criteria which the development meets. It also provides jobs for local people and contributes significantly to the local economy whilst not causing any significant harm to the countryside setting or highway network.

Green Belt

- 5.21 The LPA states in the Notice that the change of use and erection of buildings is inappropriate development within the Green Belt and no very special circumstances have been put forward to allow the development as required by paragraph 152 of the NPPF.

Whether the development would be inappropriate development in the Green Belt, including having regard to its effect on openness of the Green Belt and the purposes of including land within it

5.22 Although the NPPF restricts most development within the Green Belt it also provides a list of exceptions that are not inappropriate development. These exceptions are listed in paragraph 154, one of those being exception (g) which states the following:

“g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

5.23 Policy CS.10 of the core strategy mirrors the NPPF’s policy on Green Belt with regards to inappropriate development, however, also sets out the following exceptions which are relevant to this appeal:

“The purposes of the Green Belt will be upheld by resisting inappropriate development within it, except in cases where very special circumstances are justified in accordance with the provisions of national policy.

The following forms of development in the Green Belt are not inappropriate in principle.....:

b. A small-scale extension or alteration of a building, or the replacement of an existing building for the same use, as long as the replacement building is not materially larger than the one it replaces.

c. The limited infilling or the partial or complete redevelopment of a previously developed (‘brownfield’) site, whether redundant or in continuing use (excluding temporary buildings), subject to it not having a materially greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.....”

5.24 The development involves the re-use of the existing Building A and is therefore partly redevelopment therefore complying with exception g) of the NPPF and exception b) of Policy CS.10. The appeal site also forms part of a row of detached dwellings with long spacious gardens. A number of neighbouring gardens have outbuildings and sheds to the rear end of the gardens similar to the appeal site. Further to the east is Wood End railway station. Furthermore, land to the east of the railway station is allocated for

housing by the Neighbourhood Plan (Fig. 5 Wood End) and a planning application is currently under consideration for 10 dwellings (ref: 23/01387/FUL). The proposed layout for the 10 dwellings is provided at **Appendix JA8**.

- 5.25 Once delivered the immediate areas around the site will be developed (see fig 5.18 below for location). The development therefore falls under the exception for infilling in paragraph 154 (g) of the NPPF and exception c) of Policy CS.10.

Fig 5.18 – Local Plan screenshot (areas hatched red show where planning applications have been submitted or currently being considered). The Wood End allocation is located immediately adjacent east of the railway station.



The effect of the development on the character and appearance of the area

- 5.26 The hardstanding and low-lying single storey buildings are not visually prominent in the Green Belt resulting in very limited impact. The appeal development is also well screened by mature trees and vegetation. There are no nearby public viewpoints that the buildings are noticeable from. The buildings are small scale single storey which are not dissimilar to other rear garden buildings found in the area, along with the comprehensive screening the development has little impact on the landscape, appearance or character of the area or any of the five purposes of the Green Belt as set out in paragraph 143 of the NPPF.

5.27 There have been numerous developments approved by the LPA within the immediate area including new buildings within rear and side gardens. The table below identifies a number of developments which have been approved nearby along Poolhead Lane and Broad Lane which has had an urbanising and effect on the area and in the case of larger replacement buildings increasing the built form of the Green Belt:

Application Ref	Address	Description	Comments
21/01926/FUL	Mewslade Poolhead Lane Tanworth-In-Arden B94 5ED	Demolition of part of existing house, erection of new access, erection of new dwelling and associated works to existing property including construction of new garage and porch	Demolition part of the existing dwelling and erection of a large 3 storey 5-bedroom house. Intensification of the site.
07/02315/FUL	Oak Lawns Poolhead Lane Tanworth-in-Arden Solihull West Midlands B94 5ED	Proposed triple garage	Erection of a large triple garage within garden measuring 5.8m x 8.9m and 4.8m in height. 201m ³ in volume.
19/00910/FUL	The Barff Poolhead Lane Tanworth-In-Arden B94 5ED	Erection of detached garage	Large double garage (6.5m x 6.5m and 5.5m in height) erected within front garden in front of existing building line.
17/03549/FUL	The Barff Poolhead Lane Tanworth-In-Arden B94 5ED	Proposed demolition of garage serving The Barff and erection of one dwelling with associated works	Demolition of garage to side of plot and erection of a large 4 bedroom house. The footprint and height is significantly larger than the garage it replaces.
20/02306/FUL	Land Off Poolhead Lane Poolhead Lane Tanworth-in-Arden	New Ablutions Unit & Medical Block	Greenfield site where new buildings have been approved following VSC being demonstrated.

16/03354/FUL	Arden Grange Broad Lane Tanworth-in-Arden Solihull B94 5DZ	Demolition of existing dwelling and erection of 3no. detached dwellings.	Demolition of existing dwelling and erection 3 large 5 bed detached dwellings. 2 granted on undeveloped garden land resulting in a significant increase of the built form.
20/00256/OUT	Marvern Broad Lane Tanworth-In-Arden B94 5DP	Proposed new dwelling, all matters reserved for full application	New dwelling within side garden area of existing dwelling, considered infilling.
22/03706/FUL	The Old Cottage Broad Lane Tanworth-in-Arden Solihull B94 5DP	Erection of 1no., 3no.-bed detached dwelling and associated development on existing residential site	Large detached dwelling approved within the front garden area of the existing dwelling.
15/00557/OUT	Land Adjacent Hardwick House Broad Lane Tanworth-in-Arden	Construction of a dwelling on land adjacent to Hardwick House	New detached dwelling permitted within side garden of existing dwelling.
18/00990/OUT	Hardwick House Broad Lane Tanworth-In-Arden B94 5DP	Demolition of existing dwelling and erection of three detached dwellings (Outline planning application including access and site layout with all other matters reserved)	Demolition of existing dwelling and erection of 3 large detached dwellings building over existing undeveloped garden areas.

Grey Belt

5.28 Given the site contributes little to the purposes of the Green Belt it is clearly a candidate to be allocated as 'Grey Belt' as part of the upcoming revised NPPF (as described in paragraph 4.25 to 4.27 of this proof). Under revised paragraph 152 it states commercial development in the Green Belt should not be regarded as inappropriate where the development would utilise Grey Belt in sustainable locations.

5.29 The site makes limited contribution to the purposes of the Green Belt and parts are previously developed land, which meets the definition of Grey Belt as outlined on page 74 of the draft NPPF. The site is also within a sustainable location accessible by public transport and therefore under these draft amendments the development would not be considered inappropriate. Although, the draft amendments are yet to be formalised (at the time of writing) it clearly shows the intention of introducing Grey Belt policy and therefore is a material consideration for this appeal.

If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

5.30 Notwithstanding the above, if the Inspector does not consider the development to be limited infilling, it is considered that there are very special circumstances justifying the grant of permission which the LPA has failed to consider in its decision to take enforcement action.

5.31 Following the COVID 19 pandemic and subsequent lock downs the UK economy has suffered significantly resulting in soaring inflation, a cost-of-living crisis and a shrinking economy. The Economic Development Strategy for Stratford-on-Avon and Warwick Districts also states that *“the pandemic hit South Warwickshire hard, with Stratford-on-Avon District being the fourth worst economically affected area in the UK due to its significant tourism and hospitality sector.”* (Page 4, 1st paragraph)

5.32 In response to this paragraph 3 on page 4 goes on to state that *“The strategy will foster further development and growth of innovative knowledge based businesses in key opportunity areas and the right type of local economic growth according to the business presence in the more rural locations.”*

5.33 The Economic Development Strategy goes on further to state on page 19 paragraph 1 that the following regarding business in the countryside: *“Whilst needing to be mindful of constraints such as landscape setting and traffic on rural roads, this strategy seeks to capitalise on the potential to provide for local employment opportunities to ensure thriving rural communities”.*

- 5.34 In addition, the Government published a Policy Paper titled ‘The Growth Plan 2022’⁴ which states that *“Economic growth is the government’s central mission. The government’s aim is to achieve a trend growth rate of 2.5%”* (Paragraph 3.5). The paper also states that *“Business is the engine room of the economy”* (Paragraph 3.41). Therefore, supporting business and employees is key to economic recovery and supporting local people financially.
- 5.35 Furthermore, paragraph 85 of the NPPF states *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”*.
- 5.36 The business currently employs 55 people on permanent contracts with all being from the local area. **Appendix JA1** provides details of where all employees live, with the majority being within a 10-mile radius of the appeal site (which is in a rural area where travel to work distances will tend to be longer), therefore the business has strong local connections and contributes significantly to the local economy. The jobs are secure due to the success of the established business and provide much needed job security under current economic conditions. Furthermore, the appellants confirm that the average hourly rate for employees is £17.82 which is significantly higher than the current Government set living wage of £11.44 per hour. If the appellants carry out the actions required in the enforcement notice it would risk the loss of these jobs during a cost-of-living crisis.
- 5.37 The appellants have provided evidence as to the likely impact of complying with the terms of the Notice and that the required actions (particularly as drafted) would likely result in the business being unable to operate and the closing of a locally innovative and prosperous business, which contributes to the local and wider UK economy. It would also result in the loss of significant future business rate contributions and tax generation which are desperately needed in the current economic climate.
- 5.38 The LPA has also failed to consider that the appeal site has a long-established use by AMSL and before that by the previous owner for car repairs in this location and that there have been no environmental or highway complaints that the appellants are aware of, and neither has the LPA reported as such. The additional buildings that have been constructed allow the long-established business to operate in the most efficient

⁴ <https://www.gov.uk/government/topical-events/the-growth-plan>

manner and ensures its continued viability. The LPA has failed to demonstrate that the alleged harm would warrant the loss of employment and damage to a long-established local business.

- 5.39 These are very special circumstances the LPA has failed to consider, and the development clearly contributes to the Government's central mission to grow the economy with an emphasis on business as the 'engine room' and the aims of the Economic Development Strategy. The impact of the buildings and hardstanding on the openness on the Green Belt is minimal for reasons already set out above.
- 5.40 This limited harm should be weighed against the significant benefits of local job creation for 55 people and supporting a successful established enterprise contributing to the economy in a very difficult economic climate. The site is also located in a sustainable location accessible by public transport.
- 5.41 There is precedent for economic factors contributing to very special circumstances and I refer to the following appeal decisions in this regard:
- APP/P1805/A/13/2196035 – Oakland International (Appendix JA2)
- 5.42 This appeal was against the decision of the LPA to refuse an application for the extension to a cold store which would result in an additional 900m² of storage. Similar to the appeal site the business 'Oakland International' is a successful business that is located in the Green Belt which required further expansion. The LPA considered the extension to be 'inappropriate development' and would diminish the openness of the Green Belt due to its height and scale.
- 5.43 The Inspector concluded the visual impact to be limited due to the extension being in a position that would be 'barely seen' and this is very similar to the appeal site where due to the landscaping around the site the buildings are not visible from public viewpoints. It should also be noted that the height and scale of the appeal buildings is significantly less than was the case at Oakland International.
- 5.44 In paragraph 20 of the decision the Inspector considered 30 additional full-time jobs and job security for the existing 180 employees to be "*convincing and compelling*" when considering the economic benefits.
- 5.45 In paragraph 26 the Inspector recognised the crucial role the business has in the local economy and local labour market and concluded that it was one of the considerations that outweighed the harm to the Green Belt and contributed to the very special circumstances.

APP/K3605/W/21/3271943 – Apps Court Farm (Appendix JA3)

- 5.46 This appeal allowed for a single storey building (450 sqm) for D2 use in the Green Belt. Due to the size of the proposed building the Inspector considered it to be inappropriate development, however, this appeal is particularly relevant as it considers the very special economic circumstances and benefits weighed against the impact on the openness of the Green Belt.
- 5.47 When considering the economic benefits in allowing the appeal the Inspector at paragraph 15 states “*the benefits that the proposal would bring in supporting the commercial operations of Apps Court Farm and the local economy, collectively I have given these other considerations very substantial weight*”. (Emphasis added)
- 5.48 When summarising the case the Inspector states at paragraph 17 of the decision that: “*The proposal would be inappropriate development in the Green Belt and would result in the loss of its openness. These matters carry substantial weight. Taken together, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.*” Therefore, as this decision shows, economic benefits like those demonstrated as part of the appeal site can be considered very special circumstances.

APP/A0665/A/14/2215043 – Dunham Rose Café (Appendix JA4)

- 5.49 The appeal proposal in this case was for the siting of a B1 office which measured 7.5m length x 2.7m width x 2.5m height. This appeal decision is particularly relevant as the Inspector considered the low lying single storey nature of the building to have limited views beyond the site. The Inspector at paragraph 6 also takes into account the screening around the site: “*As a result, the proposed building would be readily apparent only in direct views from the front of the site. It would be enclosed on three sides and would have no significant impact on openness in the limited views available, as the bulk of the building would not be readily discernible against the existing backdrop*”.
- 5.50 This appeal is also relevant as the Inspector discusses the acceptability of economic uses within rural areas and states the following at paragraph 11: “*Taken on balance, and having regard to the need to support a strong rural economy, the proposal would not conflict with guidance within the Framework which seeks to support the sustainable growth and expansion of all types of business and enterprise in rural areas*”.

5.51 With regards to economic benefits contributing to very special circumstances the Inspector at paragraph 13 states: *“The benefit to the rural economy which would arise from the business use weighs in favour of the proposal and taking into account the absence of other harm would provide the very special circumstances necessary to justify the development”*.

APP/J3720/C/18/3215384 – The Royal Oak, Solihull. (Appendix JA5)

5.52 This appeal was against an enforcement notice that required demolition of a 3-storey extension used for hotel accommodation. This appeal is of relevance as it is nearby to the appeal site and weighs the economic benefits against Green Belt harm. In this case, as the extension would be visible and would detract from the openness of the Green Belt the Inspector considered the development to be inappropriate development.

5.53 Relevant to the appeal site is that the Inspector attributed significant weight to creating three new jobs and sustaining the existing 27 jobs. The Inspector remarked at paragraph 57 of the decision that: *“On the other side of the balance, I give significant weight to viability and supporting economic growth and job creation taking account of local business needs, and the associated social and economic benefits this would have to the local economy, community, local services and supply chain. Whilst there would be modest job creation of 3 jobs, the business already supports 27 existing full-time equivalent jobs, and I regard this as an important consideration that weighs in favour of the development.”* (Emphasis added)

5.54 Of further relevance and importance is the fact that the Inspector in this appeal attached significant weight to the site being accessible by public transport, similar to the appeal site. At paragraph 58 of this appeal the Inspector states: *“I also attach significant weight to the environmental and social benefits arising from the business being accessible by public transport, advocated by national planning policy”*.

5.55 I also consider the direction of travel of national policy regarding the changes to the NPPF Green Belt policy as outlined in paragraphs 5.27 and 5.28 above to be material consideration when assessing these very special circumstances.

5.56 **Having regard to the above appeal decisions, I consider that the appeal development and retention of 55 good quality local jobs attracts significant weight. The benefit to this rural economy from AMSL’s use of the appeal site weighs heavily in favour of the proposal and taking into account the absence of**

other harm provides the very special circumstances necessary to justify the appeal development.

Residential Amenity

- 5.57 The LPA's final reason for issuing the Notice is *"in the absence of a planning application or legal agreement to control the activities associated with the unauthorised business use, it is considered that there is the potential for there to be a detrimental impact on the residential amenity of nearby residential properties through noise and disturbance."*
- 5.58 It is firstly worth noting that harm to local amenity is expressed as a potential, not existing, harm. This is a clear acknowledgment that there is presently no detrimental impact on residential amenity.
- 5.59 Whilst Policies CS.9 and AS.10 of the Core Strategy aim to protect neighbouring residential amenities the appellants disagree that the development contravenes these policy requirements. The LPA has not provided any specific evidence or justification demonstrating this is the case.
- 5.60 The nature of the business is office based with most of the work being desk based. There is no loud machinery operated on the appeal site and no activities that cause fumes or smells. Furthermore, no large-scale deliveries are required to run the business, trips to and from the site are mainly limited to employees arriving and leaving the offices. With the business offering flexible working hours between 08.00 to 18.00, there is no rush of vehicles entering and existing the site at any point.
- 5.61 The appellants have never been contacted by the LPA regarding any noise or other disturbances related to the business and the Environmental Protection department has never had any involvement with the appeal site. The business use has been running on the site for over 10 years and the LPA has failed to provide any evidence the business is causing any amenity issues to neighbours.
- 5.62 Notwithstanding the above the appellants are open to agreeing any conditions that are deemed reasonable and necessary by the Inspector on this matter.
- 5.63 Therefore, for the reasons set out above the development does not adversely impact neighbouring amenity and complies with Policies CS.9 and AS.10 of the Core Strategy.

Summary and Planning Balance

Section 6

- 6.1 In summary, I disagree with the reasons set out in the Notice relating to Green Belt and impact on neighbouring amenity for issuing the Notice.
- 6.2 As demonstrated in this evidence, the development does not constitute inappropriate development. It is limited infilling in the Green Belt being located between dwellings along Poolhead Lane and Wood End railway station. The allocation and pending application for 10 dwellings immediately east of the station supports the appeal site as infill development.
- 6.3 The appeal site is surrounded and screened by mature trees and vegetation and the appeal development is not readily visible from public viewpoints.
- 6.4 If the Inspector does not consider the appeal development to be limited infilling, it is considered that the appeal development and retention of 55 local jobs attracts significant weight. The benefit to the economy from the business use weighs in favour of the proposal and taking into account the absence of other harm provides the very special circumstances necessary to justify the appeal development.
- 6.5 With regards to the impact on neighbouring amenity, due to the nature of the development it does not cause any adverse impacts in this respect a point accepted by the LPA. The use is well established for over 10 years and there is no previous record of disturbance to residential amenity of neighbours or unacceptable impact to the local highway network. For these reasons, the development does not adversely impact neighbouring amenity.
- 6.6 The NPPF identifies that there are three dimensions to sustainable development - economic, social and environmental - and that these three roles should be pursued in mutually supportive ways (Paragraph 8). The appeal development is sustainable for the reasons set out below:

Economic

- 6.7 The business supports 55 people who are from the local area, the jobs provided are secure and employees are paid above the Government's set living wage. The business has grown since its inception and continues to perform strongly. It provides invaluable employment opportunities for local people and contributes to the local and national economy which is currently struggling. As detailed in the previous section of this report, the business use contributes to local and national economic growth objectives.

Social

- 6.8 The appeal land is within commuting distance of Birmingham and is highly accessible by public transport with Wood End railway station within walking distance which provides a direct link to Birmingham. Due to the success of the business, it provides much needed job security with above average pay for 55 people who live in the local area. As such, it provides crucial economic relief for individuals currently navigating the rising cost-of-living. It also provides an important boost for local people and the local economy.

Environmental

- 6.9 The development has resulted in some impacts on the environment due to the erection of buildings and hardstanding, however, these impacts are limited and do not have a significant impact on the landscape and Green Belt. This is because the appeal site can be considered infilling, and the buildings are single storey which are not readily visible from public viewpoints. The site is also screened by mature landscape along the boundaries further obscuring the appeal buildings within the landscape.

6.10 In summary, the balance at the appeal land is summarised as follows:

Positives	Negatives
Economic	
Securing 55 existing full-time jobs paid above the Government's set living wage.	
Contributing to the growth of the local and national economy.	
Social	
Securing 55 jobs for local people.	
Providing secure and well-paid jobs in a tough economic climate.	
Environmental	
Close proximity to railway station provides a viable public transport option reducing the need to use the car.	Erection of buildings and hardstanding in the Green Belt, although the harm is minimised by landscaped screening that surrounds the site. Harm to the Green belt is limited.
Existing extensive landscaping screens the development and contributes to local biodiversity.	

6.11 Weighing up all these factors it is considered that the positives significantly outweigh the negatives. Furthermore, the development complies with the development plan as a whole and consequently it is respectfully requested that planning permission should be granted.