

Nuneaton and Bedworth Borough Council

Borough Plan Review (2021 - 2039)



Statement of Common Ground between
Nuneaton and Bedworth Borough Council
and Opus Land
Strategic Site: SEA6

July 2024

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Organisations

- Nuneaton and Bedworth Borough Council (NBBC).
- Opus Land.

Introduction

This Statement of Common Ground has been prepared to establish the main areas of agreement between NBBC and the promoter of part of the strategic employment allocation site SEA6, Opus Land. The area over which Opus Land has an interest is shown on the plan below and is title number WK237884.



This Statement identifies where further work is required to achieve soundness and demonstrate deliverability to the Planning Inspector.

Opus Land did not submit representations to the Issues and Options public consultation, on the Borough Plan Review. However, Opus Land did make representations to the Regulation 18 Preferred Options consultation and Regulation 19 consultation (representation 121). The Duty to Cooperate Compliance Statement outlines in detail the engagement activities and outcomes undertaken during the Plan's preparation.

Opus Land support the allocation of SEA6 within the Borough Plan Review. This Statement of Common Ground relates specifically to matters raised, in their representations, regarding the proposed allocation. However, the representations do

also raise other matters relating to policies within the Plan. This Statement of Common Ground provides an update in relation to the future delivery of SEA6.

Description of the Site

Strategic employment allocation SEA6 will contribute to meeting the strategic employment needs of the Borough, as well as the job creation objectives of the plan, delivering some residential dwellings to contribute towards the Borough's needs.

Planning Status

Two outline planning applications have been submitted by Opus Land, and at the time of writing this Statement are outstanding, on site SEA6.

Application reference 039611: Outline planning application for the demolition of all existing structures on site, the development of up to 60,000 sq.m. of commercial/industrial floorspace (Use Classes B2/B8/E(g)(ii and iii)) including ancillary office space (Use Class E(g)(i)) together with internal access roads, service yards, parking, landscaping, drainage and associated works with all matters reserved (appearance, landscaping, layout and scale) except for access to Bowling Green Lane and the widening of the carriageway of School Lane and associated works.

Application reference 039592: Outline planning application for the development of up to 93 dwellings (Use Class C3) and up to 70 bed care home (Use Class C2) including parking, open space, drainage and associated works with all matters reserved except for access (on to Bowling Green Lane).

Strategic matters

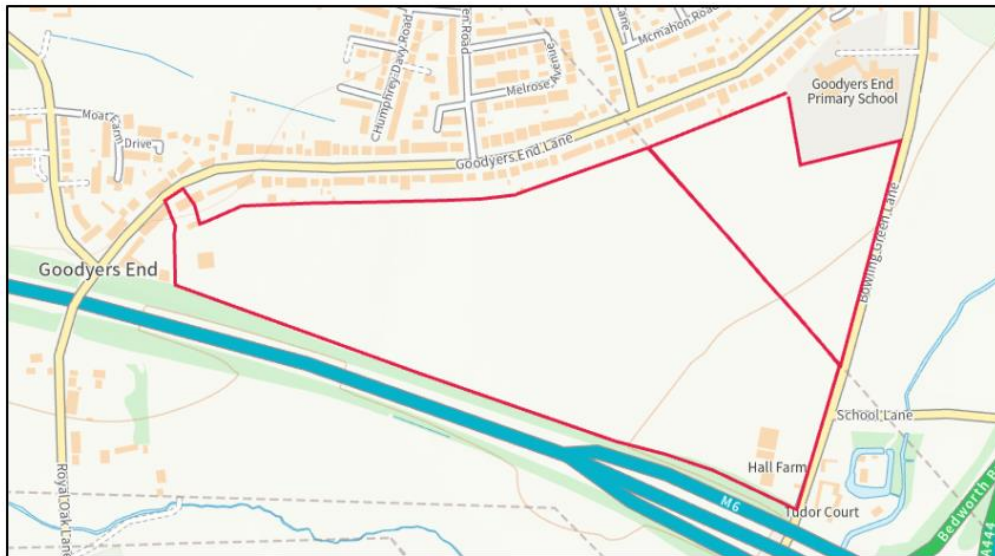
Areas of Agreement

- **Opus Land is the promoter of part of the site SEA6 within the Borough Plan Review (2011-2039), which is allocated for approximately 19.89ha of employment land and approximately 7ha of residential land to deliver approximately 150 dwellings.**
- **That NBBC has worked collaboratively with Opus Land throughout the Plan making process to ensure the site is available, viable and deliverable for employment provision and the development of approximately 150 dwellings.**

Strategic Policy SEA6

Opus Land and NBBC have agreed that the redline identifying the area suitable for residential development within the SEA6 allocation should be amended. The site red line has therefore been recommended as a Minor Modification to the Planning

Inspector to match the current planning applications. An agreement has been reached in what red line will be shown in the Local Plan as per below.



Strategic Policy SEA6 – Principles

Opus Land consider that the site area, stated in principle 1, should be amended to reflect the revised allocation boundaries which are required to be amended as previously mentioned. This has been agreed as per above.

Principle 2 should be amended to allow more flexibility, in relation to Strategic Policy DS4.

In principle, the Council’s Policy Team have no objection to the levels of housing and employment currently being considered. The wording for ‘at least’ was at the request of the Inspector from the previous Local Plan for all of the residential allocation sites. Notwithstanding this, to overcome this concern, the Council have recommended as a Minor Modification to the Planning Inspector to amend criteria 2 of the Key Development Principles to read:

“2. Provision of approximately 7 ha of land to deliver approximately 150 dwellings.”

Opus Land consider that Principle 3 addresses the detail of the proposed access onto Bowling Green Lane serving the employment site and the policy should recognise that the residential site should be served by an independent access or accesses (to allow for an emergency access should this be required) to avoid potential conflict between employment and residential uses which will be separated by the presence of the electricity pylons and intervening green infrastructure.

The Council advise that the Strategic Transport Assessment (July 2023), carried out for the Publication Document, only showed one access point off Bowling Green Lane.

It is appreciated that the current planning applications have separate access points but at the time of writing this Statement of Common Ground, Warwickshire County Council Highways have not commented on the fundamental principle of two access points on the current planning applications. Therefore, the principle of this has not been tested.

NBBC have subsequently spoken to WCC Highways who have advised “from a design and access point of view having separate accesses is probably better”. However, this is with the caveat that for residential developments of over 150 dwellings an emergency access is usually required. To meet with the Agents requirements the Council have recommended as a Minor Modification to the Planning Inspector to amend criteria 3 of the Key Development Principles to read: |

3. Provision of a junction or junctions onto Bowling Green Lane to serve the residential development element of SEA6. The employment site is to be served by the provision of a new junction onto Bowling Green Lane at the School Lane junction, with associated traffic lights and any transport improvements/new junctions and upgrades required along Bowling Green Lane and School Lane (in conjunction with both the development on School Lane and either by agreement with the landowner or securing the transfer of the land to the highway authority to facilitate the use of highway powers for land outside of the School Lane site. The developer will be expected to submit for agreement an HGV routing strategy which will show HGVs accessing/egressing the site from the School Lane direction and avoiding the local schools on Bowling Green Lane, Ash Green Lane and Wheelwright Lane).

Strategic Policy SEA6 – Principle 8

Opus request that Principle 8 should be amended to provide justification of how development at the site would give rise to a requirement for a contribution towards increased personnel and vehicles for Warwickshire Police in line with the CIL Reg 122 tests.

NBBC advise that Warwickshire Police do generally ask for contributions on major applications of over 100 dwellings and the IDS identifies the requirements. Warwickshire Police have been further consulted on this particular Point and have confirmed this, therefore as this is still likely to be requested the Council cannot concede this point. For clarity the Council are willing to add “for 100 or more C3 dwellings” as a Minor Modification request.

Opus Land support the Minor Modification noted above provided that the request by Warwickshire Police is CIL Reg 122 compliant.

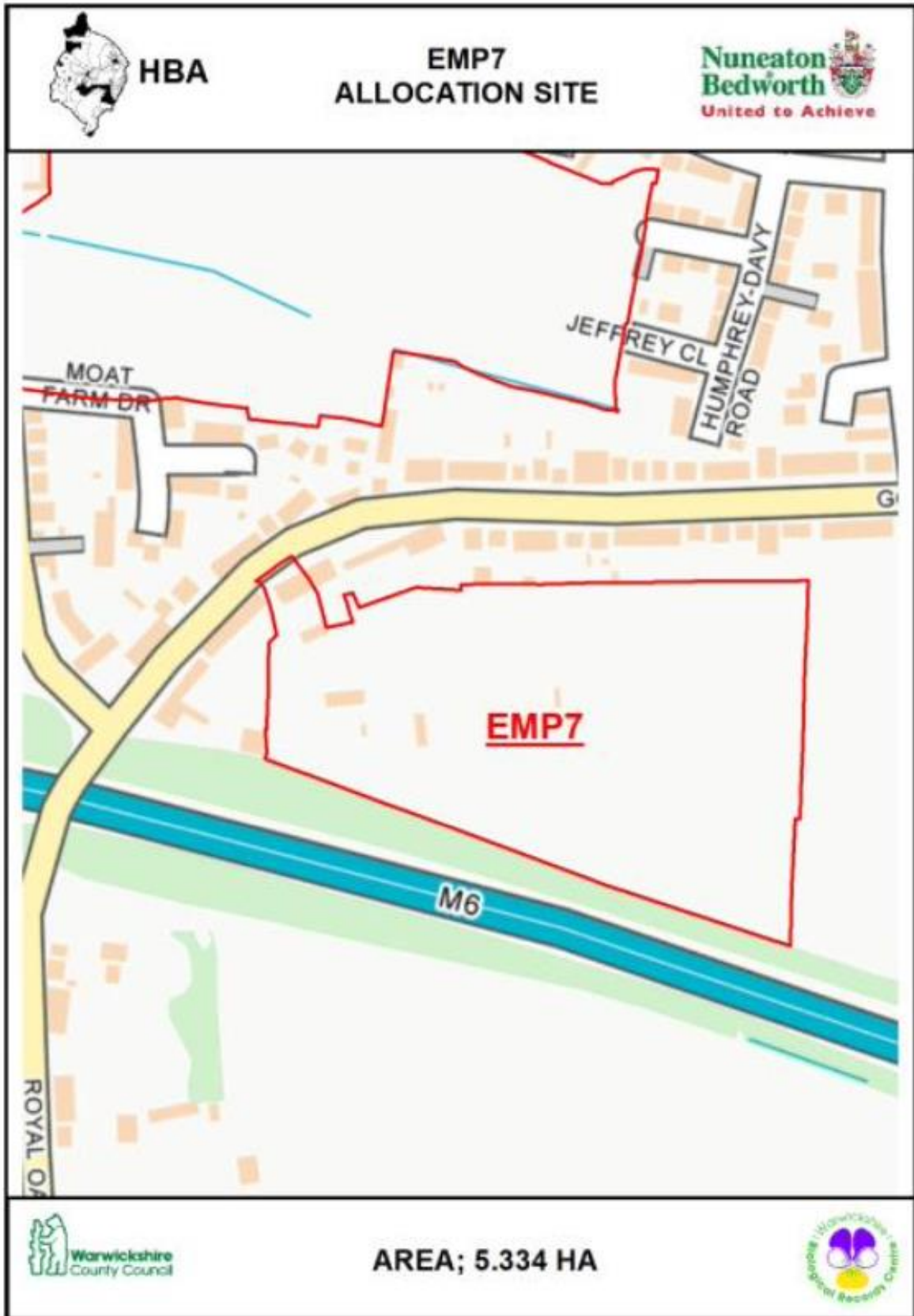
Areas of Disagreement

Strategic Policy SEA6 – Form of Development

Opus Land consider that Points 10, 11, 12 and 19 (Form of Development) are unsound or inconsistent with national guidance, in Opus Land’s view.

Opus Land note that the plan shown on page 8 of the Ecological Report carried out for the Local plan Review (July 2022) only covers the western third of the SEA6 site, which is the land outside of that over which Opus Land has an interest (see plan below, which is land to the west of title WK237884). The plan below identifies the site that was assessed as being only 5.444 ha, which is only part of the wider EMP7 or SEA6 site. The Ecological Report does not cover the Opus Land site and therefore, it would not be appropriate to have a blanket reference to buffers that apply to the southern or eastern boundaries, unless it is made clear that this relates only to that part of the site assessed by the Ecological Report.

The Council note the above comments, but respond to advise that the buffers are appropriate to the overall site allocation therefore reference to this is to be retained within the Policy.



The site assessed above is also shown on the plan below, which clearly shows the Opus Land are as being outside of the area assessed.

Designated Sites: Local Sites

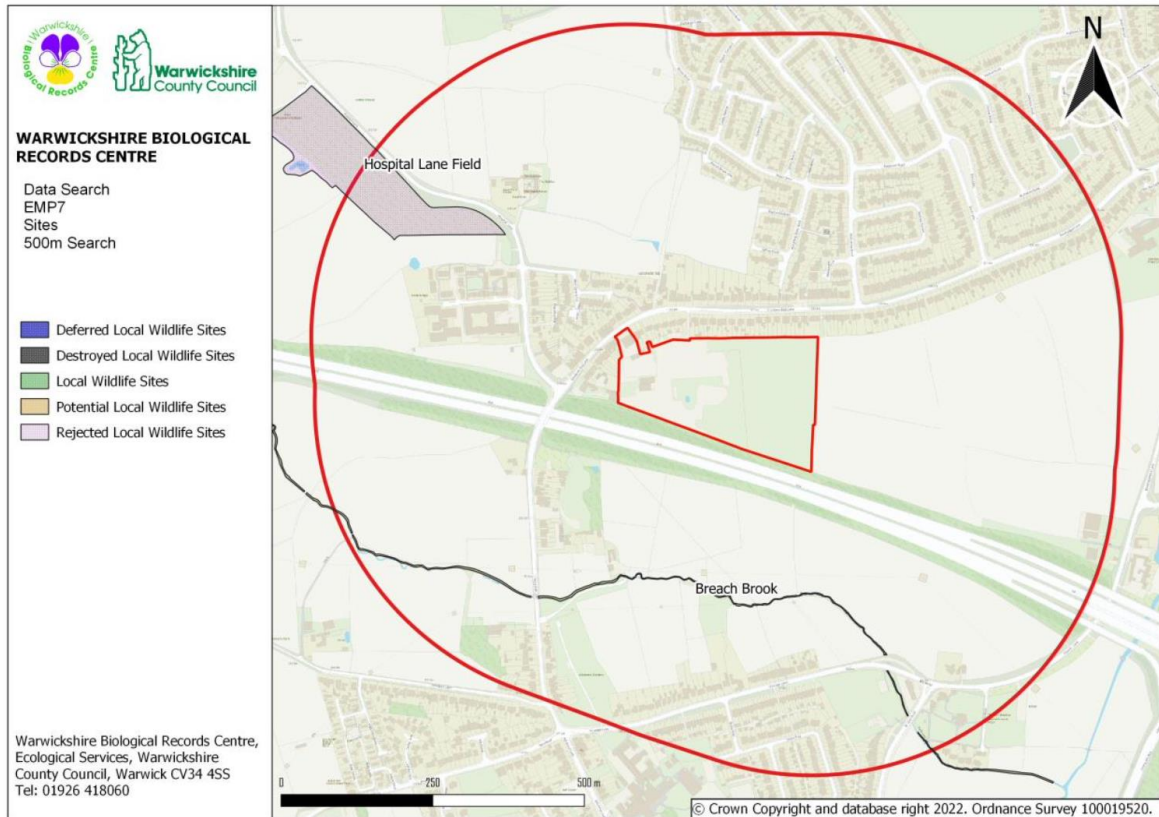


Figure 1: Site Designation Map

Re Point 10 - The Ecological Report carried out for the Local Plan Review (July 2022) (EMP7 page 8) specifically refers to 30m buffers to woodland and 5m to hedgerows and 8m to wetland; all of which are either features of the southern or the eastern boundary of the western third of the employment SEA6 site (see plan above). The Point is also consistent with the specific requirements for the site within the Local Plan Review Report Landscape Sensitivity Study (April 2023 pages 16, 23/24). Similarly, these buffers are shown on the adopted Concept Plan for EMP7 (2020). No evidence has been provided to show where this is inconsistent with national guidance.

The Council's response to Points 10,11,12 and 19 (Form of Development) advise that the criteria in Point 10 is considered to be consistent with National and Local Policy. To clarify this the Council have recommended as a Minor Modification to the Planning Inspector to Add new title and paragraph in supporting text titled "Treatment of boundary edges" and advises that the Ecological Report carried out for the Local Plan Review (July 2022) (EMP7 page 8) specifically refers to 30m buffers to woodland and 5m to hedgerows and 8m to wetland; all of which are either features of the southern or the eastern boundary of the western third of the (employment part) SEA6 site (see text and plan above).

Opus considers the buffers are also not consistent with the specific requirements for the site within the Local Plan Review Report Landscape Sensitivity Study (April 2023 pages 16, 23/24). Similarly, these buffers are shown on the adopted Concept Plan for EMP7 (2020).

However, the Council would disagree and advise that they are.

The Council wish to advise that in relation to Point 11 - The Heritage Site Assessment (June 2022) carried out for the Local Plan Review (page 3) states:

"It is recommended that the development commits to the 'provision of enhanced buffer in the south-eastern corner to protect the setting of the Exhall Hall scheduled monument and listed buildings, as well as ensuring that the scale of development does not detract from the prominence and importance of the listed buildings', as set out in Appendix A of the Nuneaton & Bedworth Borough Council Borough Plan Review Preferred Options 2024-2039."

This was verified at Preferred Options and Publication and reiterated and supported by Historic England. The requirements are also consistent with the specific requirements for the site within the Local Plan Review Report Landscape Sensitivity Study (April 2023 pages 23 and 24).

The Council wish to advise that in relation to Point 12 – See Point 10. See the text and plan above relating to the extent of the assessment undertaken as part of preparing the Ecological Report carried out for the Local plan Review (July 2022).

The Council wish to advise that in relation to Point 19 – The views to the Listed Water Tower were identified for the site within the Local Plan Review Report Landscape Sensitivity Study (April 2023 page 16). Opus would advise that: no specific viewpoint is identified and the landscape report references the views as having limited influence on the site. The Council reiterate that the point is to be maintained in the Policy.

Opus Land considers Point 14 to lack justification as to where the wildlife corridor will sit or in quantifying the value of the habitat.

The Council consider that Point 14 is required and is consistent with the Ecological Report carried out for the Local Plan Review (July 2022) (EMP7 page 8) although Opus would disagree and advise , this did not cover the eastern two thirds of the SEA6 site (see text and plan above), and should not therefore apply to this area. The Council advise the points referred to in the Policy are for the entire site and will be retained within the Policy.

Opus Land considers Point 15 appears to have been included without sufficient consideration of the physical layout and appearance of the strategic employment development. Again, the Council would refer to comments made on Point 10 and Opus Land note that the Ecological Assessment referred to in respect of Point 10 did not cover the land over which Opus Land has an interest. The Council would again refer to the fact that the Points cover the whole allocation.

Point 17 lacks clarity, in Opus Land's view. The Council advise that Point 17 is consistent as this has been taken from the Local Plan Review Report Landscape Sensitivity Study (April 2023 pages 16 and 24) which refers to residential properties reflecting existing vernacular and in terms of employment it states:

- *Set development back from existing properties and higher ground to the north and west and establish a landscape buffer.*
- *Set development back from heritage features to the south-east and establish a landscape buffer.*
- *Smaller industrial units should be located adjacent to residential uses and heritage features.*
- *Orientate buildings in a north to south direction to avoid long elevations when viewed from the majority of residential properties on Goodyers End Lane and from the M6.*

Opus Land notes that the consultation responses to the employment application from the Environmental Health Officer stated a preference for an east to west building orientation to help to shield the residential properties on Goodyers End Lane from noise from the M6. Therefore, there are clearly different benefits to be derived from alternative layouts and the Policy text should be clear in stating that the layout of the site would need to be assessed on its merits. The Council would agree and note the comments, but notwithstanding this advises the Point in the Policy will be retained in its entirety because the massing still has to be considered in proximity to housing.

Similarly, the Councils adopted Sustainable Design and Construction SPD (2020 chapter 11) refers to the requirements to assess the impact on existing and proposed residential amenity including daylight, sunlight and privacy.

Strategic Policy SEA6 – Groundwater regime

The supporting text of Strategic Policy SEA6 requires that ‘an appropriate assessment of the groundwater regime be carried out at the site-specific Flood Risk Assessment (FRA) stage’. Opus Land consider the justification for this to be unclear as to date, in the course of the live applications, groundwater flood risk has not been considered to be an issue.

The Council advises that the supporting text goes on to state ‘The report concluded that Sequential and Exception tests are required for this site. The document should be considered as part of the further site-specific flood-risk assessment that will be required for any planning application’. Opus Land consider the requirement for Sequential and Exception Tests to be inconsistent with national policy and not required in any event.

Opus Land advises that they are not clear on what the Council is suggesting here and need to review the Strategic Flood Risk Assessment Level 2 document further as we do not understand the response provided by the Council without reviewing the more detailed reports referenced. We reserve our right to make further submissions on this matter.

The Council advise that the Strategic Flood Risk Assessment Level 2 document is available on the Council’s web site at [Evidence Base \(Borough Plan Review - Regulation 19 consultation\) | Planning Policy consultations | Nuneaton & Bedworth \(nuneatonandbedworth.gov.uk\)](https://www.nuneatonandbedworth.gov.uk/evidence-base/borough-plan-review-regulation-19-consultation/).

The Council advise that the Flooding section of the supporting text for the Policy was taken from the Strategic Flood Risk Assessment Level 2 (SFRA-L2) which was carried out for the Review for the individual sites. The site was identified as requiring a Level 2 SFRA. The Level 2 RAG summary for this particular site recognised that the site had significant flood risk. The SFRA-L2 Final Report (August 2023 page 33) identified this site as having:

“Despite having a low surface water flood risk, some sites have been included in the above table due to their close proximity to other larger sites which have greater fluvial or surface water flood risk. With this in mind, some site summary tables address the flood risk of multiple sites.”

The SFRA-L2 Detailed Site Summary Table for this site identified:

“The mapping shows banding across SEA-6. There are areas in the east and west of the site and parts of the centre of the site which are categorised as ‘no risk’. There is a small area of the east of the site and parts of the centre of the site where groundwater levels are either at or very near (within 0.025m of) the ground surface, and large parts of the centre of the site where groundwater levels are between 0.025m and 0.5m below the ground surface.

Most of SEA-6-1 is categorised as ‘no risk’ apart from an area in the centre to the south of the site where groundwater levels are either at or very near (within 0.025m of) the ground surface or between 0.025m and 0.5m below the ground surface.

The following comments can be made about areas within the different groundwater categories:

- Areas classified as ‘no risk’ are deemed as having a negligible risk from groundwater flooding due to the nature of the local geological deposits.*
- Where groundwater levels are at or very near the surface there is a risk of groundwater flooding to both surface and subsurface assets.*
- Where groundwater levels are between 0.025m and 0.5m below the ground surface there is a risk of groundwater flooding to both surface and subsurface assets.*

This assessment does not negate the requirement that an appropriate assessment of the groundwater regime should be carried out at the site-specific Flood Risk Assessment (FRA) stage.”

Similarly, the same site-specific details summary concluded that:

“The Local Authority will need to confirm that the Sequential Test has been carried out in line with national guidelines. The Sequential Test will need to be passed before the Exception Test is applied.

The NPPF classifies employment development as ‘Less Vulnerable’ and residential development as ‘More Vulnerable’. As there are two different flood risk vulnerability classifications for this site, the most vulnerable type is the one taken into consideration for the Exception Test.

The majority of the sites are at low risk of flooding. However, it is highlighted

that SEA-6 is bisected by a surface water flow path in all modelled surface water events and the most vulnerable classification for the sites is 'More Vulnerable'. Therefore the Exception Test is required for these sites."

Promoters anticipated build out rates

Housing Trajectory evidence has been provided by Opus Land, indicating 13 projected completions in 2026/27 and 40 projected completions per year in 2027/28 and 2028/29.

Deliverability Statement

Opus Land has submitted two planning applications for development at this site. Since submitting these applications, we have received enquiries for both the employment and the residential land. Therefore, Opus Land is confident the site will be developed within 5 years.

Further joint working


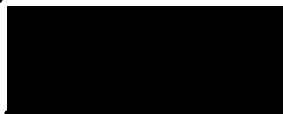
This Statement of Common Ground will be kept up to date through continuous engagement and cooperation between NBBC and Opus Land.

Monitoring

This Statement will be maintained by NBBC and updated as necessary with Opus Land. This is the second (updated) Statement of common Ground with Opus Land.

NBBC will continue to work with Opus Land beyond the adoption of the Borough Plan Review for the monitoring and implementation of the Plan.

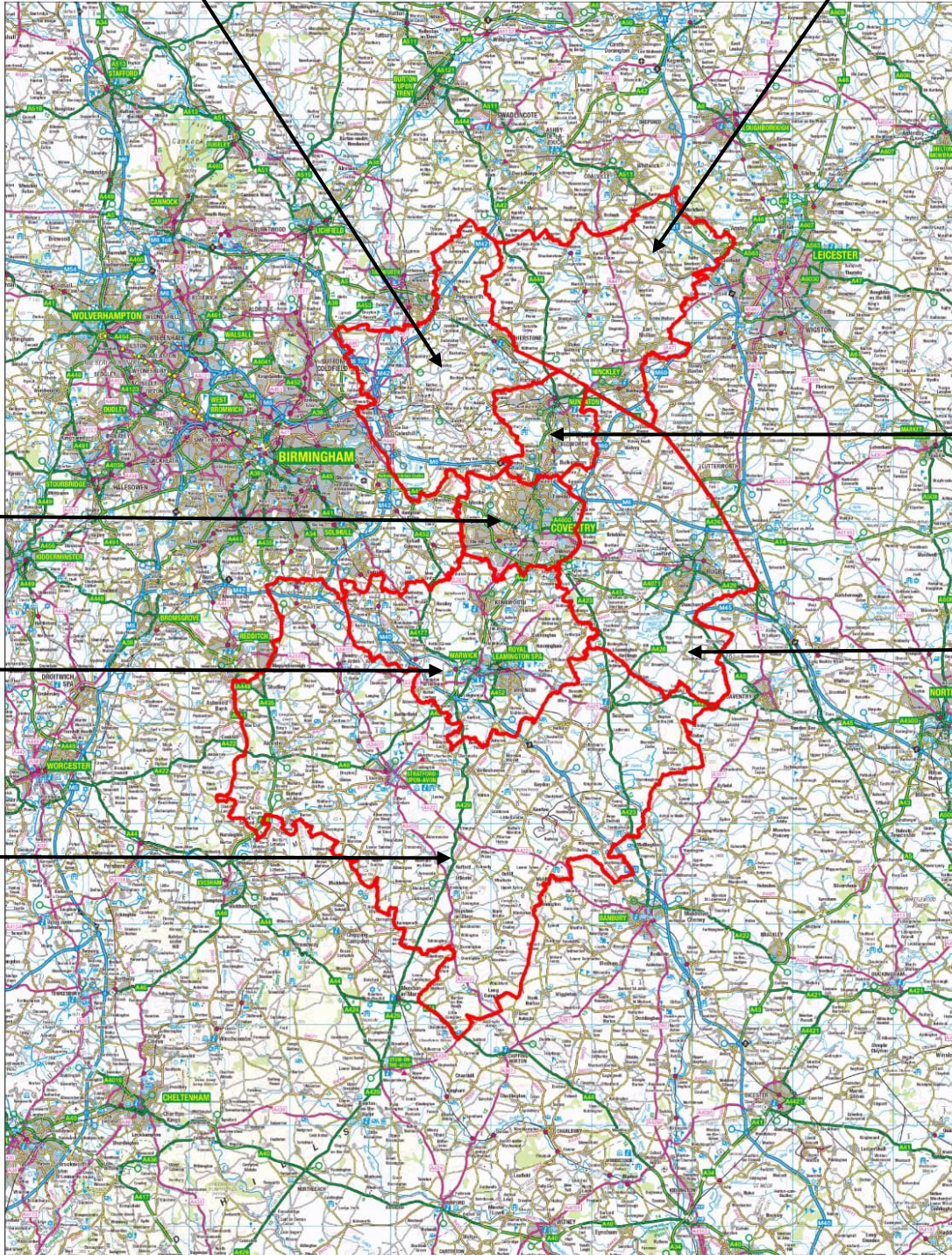
Signatories

Signature: 	Signature: 
Maria Bailey, Strategic Director for Place and Economy, NBBC	Ben Hooton, Development Director, Opus Land
Date: 8 th July 2024	Date: 8 th July 2024

Appendix A

North
Warwickshire
Borough

Hinckley and
Bosworth Borough



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