

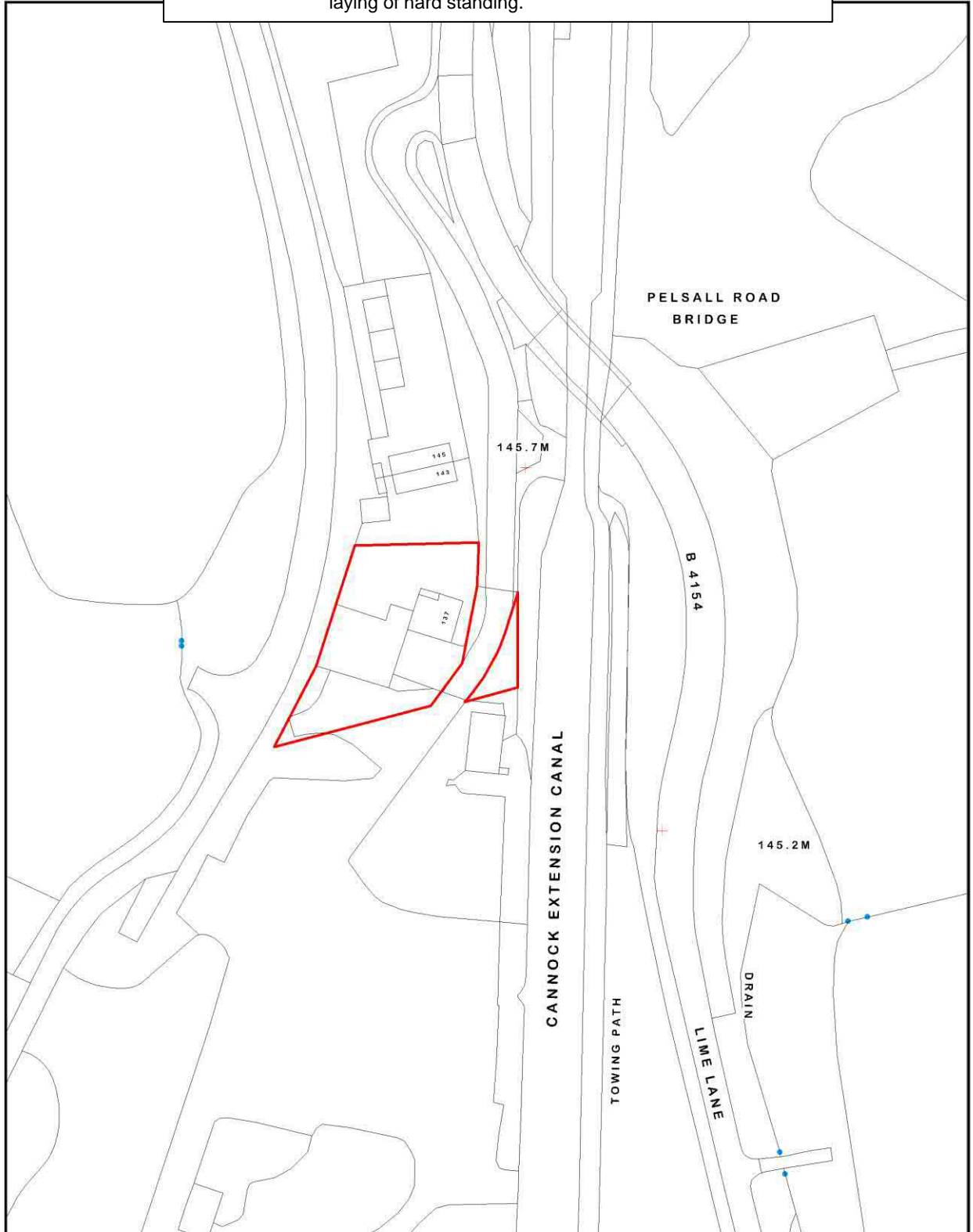


**Application No:** CH/19/048

**ITEM NO. 6.165**

**Location:** Grove Colliery, Lime Lane, Pelsall, Walsall, WS3 5AW

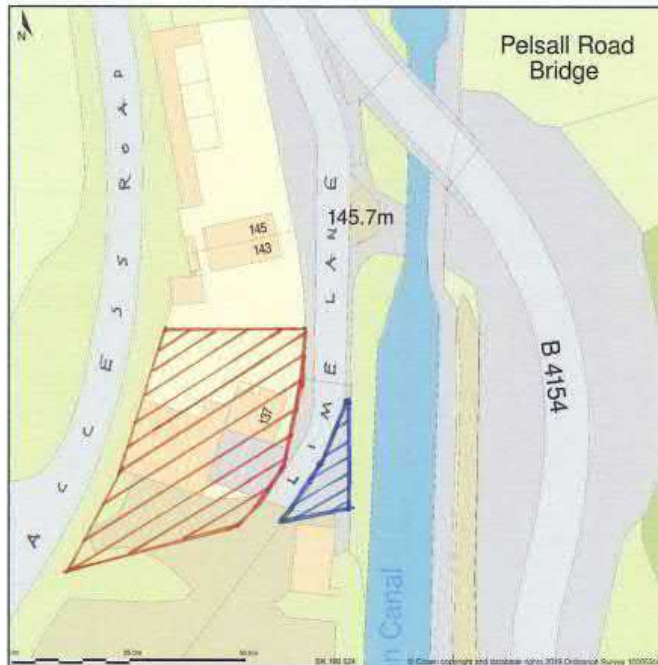
**Proposal:** Change of Use of land to Gypsy Traveller Residential site for up to 7 caravans, of which no more than 3 would be static caravans. The construction of a day room block and utility block, creation of a new vehicular access and the laying of hard standing.



# Location Plan



Former Grove Colliery Office site, Lime Lane, Pelsall, Walsall, Staffordshire, WS3 5AW



Site Plan shows area bounded by: 401913.87, 306171.72, 402055.29, 306313.15 (at a scale of 1:1250), OSGridRef: SK 198 624. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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**Drawing RC01 Grove Colliery Office Site**  
Location Plan v. 2

Scale 1:1250 at A4

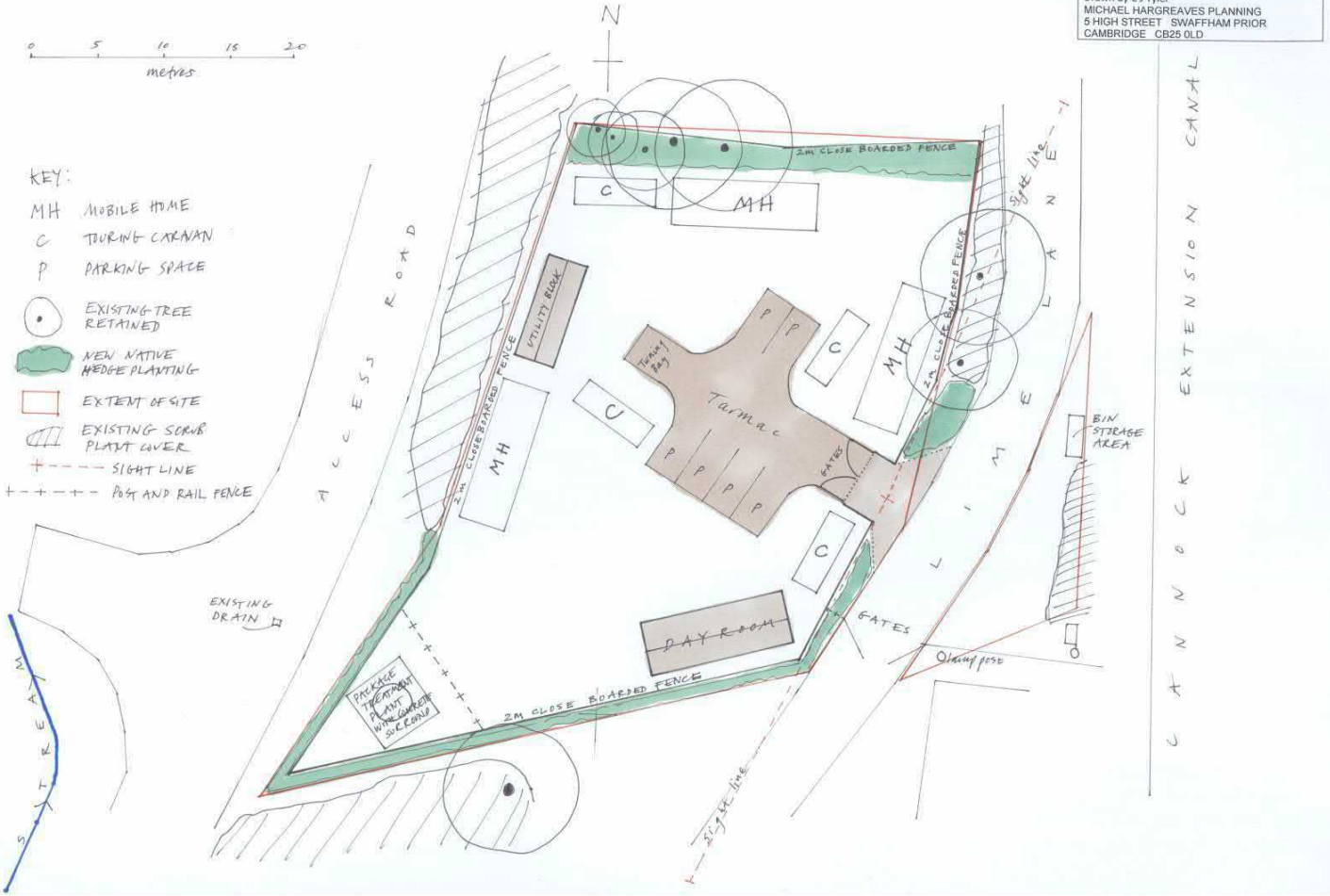
MICHAEL HARGREAVES PLANNING  
5 HIGH STREET SWAFFHAM PRIOR  
CAMBRIDGE CB25 0LD

# Proposed Site Plan

Drawing RC02 Grove Colliery Office Site  
 Proposed Site Plan  
 Scale 1:250 at A3  
 Drawn by C J Tyler  
 MICHAEL HARGREAVES PLANNING  
 5 HIGH STREET SWAFFHAM PRIOR  
 CAMBRIDGE CB25 0LD



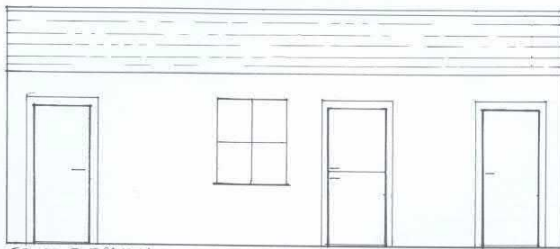
- KEY:
- MH MOBILE HOME
  - C TOURING CARAVAN
  - P PARKING SPACE
  - EXISTING TREE RETAINED
  - NEW NATIVE HEDGE PLANTING
  - EXTENT OF SITE
  - ▨ EXISTING SCRUB PLANT COVER
  - SIGHT LINE
  - - - - - POST AND RAIL FENCE



CANAL EXTENSION CANAL

# Utility Block Plans and Elevations

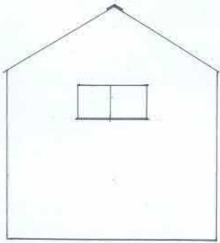
Drawing RC06 Grove Colliery Office Site :  
Utility Block, Plan and Elevations  
Scale 1:50 at A3  
Drawn by C J Tyler  
MICHAEL HARGREAVES PLANNING  
5 HIGH STREET SWAFFHAM PRIOR  
CAMBRIDGE CB25 0LD



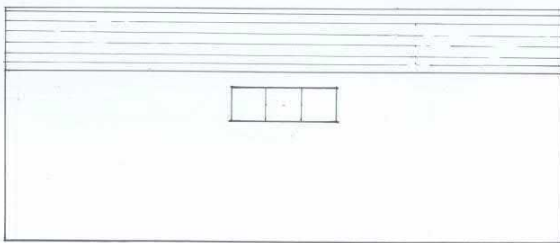
FRONT ELEVATION



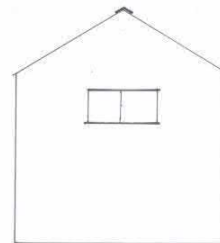
PLAN OF UTILITY BLOCK



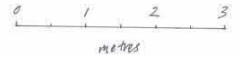
SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION



<b>Contact Officer:</b>	<b>Claire Faulkner</b>
<b>Telephone No:</b>	<b>01543 464 337</b>

**PLANNING CONTROL COMMITTEE**

**15 JANUARY 2020**

<b>Application No:</b>	CH/19/048
<b>Received:</b>	06-Feb-2019
<b>Location:</b>	Grove Colliery, Lime Lane, Pelsall
<b>Parish:</b>	Norton Canes
<b>Description:</b>	Change of Use of Land to Gypsy Traveller Residential site for up to 7 caravans, of which no more than 3 would be static caravans. The construction of a day room block and utility block, creation of a new vehicular access and the laying of hard standing.
<b>Application Type:</b>	Full Planning Application

**RECOMMENDATION:**

S106 then Approve with Conditions

**Reason(s) for Recommendation:**

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

**Conditions (and Reasons for Conditions):**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. No materials shall be used for the external surfaces of the day room block and

utility block other than those specified on the application.

**Reason**

In the interests of visual amenity and to ensure compliance with Local Plan Policies CP3, CP15, CP16, RTC3 (where applicable) and the NPPF.

3. No trees or hedges shown as retained on Dwg No.RC02 V2, shall be cut down, topped, lopped, uprooted or removed without the prior written permission of the Local Planning Authority nor shall they be wilfully damaged or destroyed.

Any trees or hedges which, within a period of 5 years from completion of the development are cut down, topped, lopped or uprooted without permission of the Local Planning Authority or become seriously damaged or diseased or die shall be replaced in the next planting season with similar size and species unless the Local Planning Authority gives written consent to any variation.

**Reason**

The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP14, CP12 and the NPPF.

4. The approved landscape works shown on Drawing RC03 'Landscaping and Boundray Treatment' shall be carried out in the first planting and seeding season following the occupation of any buildings or the completion of the development whichever is the sooner.

**Reason**

In the interest of visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

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

**Reason**

In the interests of visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

6. No part of the development hereby approved shall commence or any actions likely to interfere with the biological function of the retained trees and hedges shall take place, until details for tree and hedge protection have been submitted to and approved by the Local Planning Authority. Details shall include the position and construction of all fencing and the care & maintenance of the trees & hedges within.

**Reason**

The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

7. Prior to the commencement of any construction or site preparation works

including any actions likely to interfere with the biological function of the retained trees and hedges, approved protective fencing shall be erected in the positions shown on the approved Tree & Hedge Protection layout pursuant to Condition 7 above shall be erected to the approved layout. Within the enclosed area known as the Tree Protection Zone, no work will be permitted without the written consent of the Local Planning Authority. No storage of material, equipment or vehicles will be permitted within this zone. Service routes will not be permitted to cross the Tree Protection Zones unless written consent of the Local Planning Authority is obtained. The Tree Protection Zone will be maintained intact and the vegetation within maintained until the cessation of all construction works or until the Local Planning Authority gives written consent for variation.

Reason

To ensure the retention and protection of the existing vegetation which makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

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

Drainage Report Ref.No.16651  
Construction Environmental Management Plan  
Construction Environmental Management Plan Table  
Supporting Statement  
Heritage Assessment  
Ecological Report – Bat Surveys – Roost Characteristics  
Phase 1 Land Contamination Assessment Ref.No.QA 18/045  
RC02 V2 Site Plan  
RC03 Landscaping & Boundary Treatment  
RC05 Dayroom, Plan and Elevations  
RC06 Utility Block, Plan and Elevations  
Location Plan

Reason

For the avoidance of doubt and in the interests of proper planning.

9. Following demolition of the existing buildings and further to the recommendations set out within the drainage report Ref.No.16651 dated 18/5/19, further investigation shall be carried out to establish how the connection shall be made to the existing drains. This further investigation shall include assessment of the drains from the site to the canal with any such drains being blocked off where required. Thereafter development hereby permitted shall be implemented in accordance with the approved details before the development is first brought into use.

Reason:

This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

10. The development hereby permitted shall not be brought into use until the access

parking, servicing and turning areas have been provided in accordance with the approved drawing No. RC02 V2 and thereafter be retained for the lifetime of the development.

Reason

To comply with the objectives and policies contained within paragraph 109 of the NPPF.

11. The development hereby permitted shall not be brought into use until the visibility splays shown on Dwg .No RC02 V2 have been provided. The visibility splay shall thereafter be kept free of all vegetation except the two existing large trees in the highway verge.

Reason

To comply with the objectives and policies contained within paragraph 109 of the NPPF.

12. The development hereby permitted shall be carried out in accordance with the Phase 1 Land Contamination Assessment, Ref QA.No.QA 18/045 and the recommendations identified in part 9.0 of the assessment.

Following completion of the approved remediation requirements a validation report shall be submitted to the Local Planning Authority.

Reason:

To safeguard the environment, water quality, safety of waterway users and structural integrity of the Cannock Extension Canal.

13. If after commencement of development, contamination not previously identified is found to be present, no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until either: a site investigation has been designed and undertaken in accordance with details approved in writing by the Local Planning Authority, a risk assessment has been produced and a method been approved by the Local Planning Authority or; if the above has been previously undertaken, the developer shall submit and obtain written approval from the Local Planning Authority for an addendum to the method statement detailing how this unsuspected contamination shall be dealt with.

Reason:

To safeguard the environment, water quality, safety of waterway users and integrity of the Cannock Extension Canal. Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site should be avoided and details of pollution prevention measures should be provided. Works should also be carried out at appropriate times to avoid adverse impacts to nesting birds / bats etc. The users of the waterway (pedestrians, cyclists, moorers, boater, anglers etc) need to be considered as sensitive receptors during any demolition, remediation or construction phases and any historic drainage channels identified and sealed. This could be addressed by the imposition of a condition requiring the submission of a Construction and Environmental Management Plan.



14. The development hereby permitted shall be carried out in accordance with the approved Construction Environmental Management Plan and the Construction Environmental Management Plan Table. In particular, no development shall commence until a scheme detailing: -

- (i) Measures for ensuring that waste water from the wheelwashing of haulage vehicles is contained and disposed of safely; and
- (ii) A Waste Management and Disposal Plan for the appropriate disposal of waste; and
- (iii) A survey for the presence of asbestos, together with a remediation strategy, and measures for verification that the remediation strategy has been implemented; and
- (iv) Measures for the control of dust; and
- (v) Measures for the avoidance of the spillage of dust and debris; and the
- (vi) Protection of breeding birds

has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved schemes.

Reason:

To safeguard the environment and in the interests of the structural integrity of the waterway and to ensure the proposed works do not have any adverse impact on the safety of waterway users and the integrity of the Cannock Extension Canal and the amenity of the occupiers of the surrounding residential properties in accordance with Policy CP12 and the National Planning Policy Framework.

15. Following demolition of the building and before any construction works take place

- (i) a further drain survey of the site shall be undertaken; and
- (ii) a report outlining the result of the survey together with a review of the drainage strategy for the site;

shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved drainage strategy as amended by the review.

Reason:

To safeguard the environment and in the interests of the structural integrity of the waterway and to ensure the proposed works do not have any adverse impact on the safety of waterway users and the integrity of the Cannock Extension Canal in accordance with Policy CP12 and the National Planning Policy Framework.

16. Notwithstanding the approved plans, the details for an external bin store area shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the bin store shall be provided and retained for the lifetime of the development.

Reason

To ensure the continued protection of the SSSI / SAC and the amenity of neighbouring occupiers. Whilst the submission indicates a bin store located to the east of the site, adjacent to the canal no further details are provided. This could

not only result in potentially adverse visual impacts to the canal corridor it would also increase the likelihood of windblown litter, seepage or spillages entering the canal adversely impacting on water quality and the SSSI/SAC designations of the Cannock Extension Canal. It is however noted that the bin storage area falls outside the red line boundary for the current application. The proposals for bin storage should therefore be clarified.

17. Prior to the occupation of the development details of any proposed external lighting for the development, including details of foundations, luminance in candelas, hours of operation etc. shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details. No form of external illumination shall be used other than in accordance with the approved scheme.

Reason:

The lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and other wildlife within the canal habitat corridor and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protects the integrity of the waterway infrastructure.

18. No development to which this permission relates shall commence until an appropriate programme of historic building recording and analysis to Level 2 has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

To ensure that an appropriate record is made of the historic building fabric that may be affected by the development.

19. A detailed bat mitigation plan shall be submitted to Cannock Chase Council prior to the commencement of development. No development shall commence in the application area until written approval for the contents of the plan have been obtained from Cannock Chase Council. The mitigation plan shall cover all aspects of the measures necessary to maintain bat habitat on site, with particular reference to long term tree and shrub management, roost construction, and the phasing of mitigation measures. The Bat mitigation measures as approved by Cannock Chase Council shall be fully implemented and maintained for the life of the approved development.

Reason

In the interests of preserving protected species in accordance with Planning Policy Statement 9 - Biodiversity and Geological Conservation and ODPM Circular 06/05.

20. The site shall only be used as a caravan site for Gypsies or Travellers and their family and / or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

**Reason**

The proposal is only acceptable, on balance, as it meets the objectively assessed needs of gypsy and travellers in an area deemed suitable in principle to meet the needs of people with migratory lifestyles.

- 21.No site preparation works, demolition, construction, deliveries of materials to and despatch of materials from the site shall take place outside of the hours 08:00hrs to 18:00hrs Mondays to Fridays, 08:30 to 13:00 on Saturdays and at no time on Sundays, Public and Bank Holidays.

**Reason**

In the interest of protecting the amenity of the occupiers of the surrounding residential properties in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127 of the National Planning Policy Framework.

**Notes to the Developer:**

Should planning permission be granted the following informative shall be appended to the decision notice:

1) The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust"

2)Severn Trent advise that there maybe a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

3)Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers. And where diversion is required there is no guarantee that you will be able to undertake those works on a self—lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

4) Prior to any of the existing highway vegetation within the visibility splay being removed, please contact Staffordshire County Councils Community Highway Liaison Officer on 01785 854672 or email [cheryl.larvin@staffordshire.gov.uk](mailto:cheryl.larvin@staffordshire.gov.uk)

## Consultations and Publicity

### *External Consultations*

#### Norton Canes Parish Council

Whilst it is recognised that there is a shortfall of Gypsy and Traveller residential pitches within the District which was identified in the adopted Local Plan July 2014, the issue of these sites were meant to be addressed through allocation of specific sites in the adopted Local Plan Part 2. As this has now been abandoned we understand a complete review of the 2014 Local Plan is now underway and that this Plan is intended to deal with the Gypsy and Traveller need.

1. Whilst the whole of the Green Belt in Norton Canes is included in the current 2014 Local Plan as an area of search for Gypsy/Traveller pitches, no specific sites are identified. However the former Grove Colliery site is specifically identified as having potential for recreation, leisure and tourism opportunities following restoration.
2. The above application site contains two substantial buildings, the former Harrison Colliery Company offices and Colliery Managers house and the application involves demolition of these buildings and 'replacement with caravan pitches which would mean that the opportunity would be lost for the potential implementation of the Policy aim of achieving a recreation, leisure and tourism based development seriously prejudiced.
3. We feel there is a need to preserve the two buildings referred to as being demolished and that consideration should be given to them being 'listed' due to their historic and architectural significance.
4. The current application is therefore contrary to the adopted Development Plan and should be refused. Meeting the recognised demand for additional Gypsy/Traveller pitches should be addressed in the current review of the Local Plan not by an ad hoc decision on a planning application which conflicts with current policy.
5. The Parish Council reserves the right to speak at the District Planning Committee.

We strongly object to the proposed application.

#### Environment Agency

We have reviewed the documents submitted and have no objections, in principle to the proposed development. We have the following comments to make.

#### Groundwater and Contamination

We have the following comments to make which relate solely to the protection of 'Controlled Waters', matters relating to Human Health should be directed to the relevant department of the local council.

Reference to the 1:50,000 scale geological map indicates that the site is located on Devensian Till. This is designated as a secondary, undifferentiated aquifer. This means

that these deposits could have properties of either a Secondary A or Secondary B aquifer. The definitions of each of these aquifer types are given below.

- Secondary A aquifers. These are permeable strata capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow to rivers.
- Secondary B aquifers. These are predominantly lower permeability strata which may in part have the ability to store and yield limited amounts of groundwater by virtue of localised features such as fissures, thin permeable horizons and weathering.

The bedrock geology beneath the above superficial deposits is the Pennine Middle Coal Measures. This is designated as a secondary A aquifer as described above.

Our records show that the land under application has been used previously used as a landfill. This was filled with spoil and deposits commenced in 1977. The Local Authority may have further details with regards this former landfill.

#### Advice to Applicant

Paragraph 179 of the National Planning Policy Framework states “Where a site is affected by contamination or land stability issues, responsibility for securing safe development rests with the developer and/ or landowner.”

We recommend that developers and/ or landowners should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to the [Environment Agency Guiding principles for land contamination](#) for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
3. Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

#### Natural England

As submitted, the application could have potential significant effects on Cannock Extension Canal Special Area of Conservation (SAC) and Cannock Extension Canal Site of Special Scientific Interest (SSSI).

Internationally and nationally designated sites

The application site is within close proximity of Cannock Extension Canal SAC which is a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the ‘Habitats Regulations’). The SAC is notified at a national level as the Cannock Extension Canal SSSI. Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/ or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your authority has concluded that the Construction Environmental Management Plan and the proposed measures within it, if put in place would adequately protect the integrity of the Cannock Extension Canal SAC and to ensure the proposed measures are put in place, if planning permission is granted, conditions would be recommended.

Having considered the assessment Natural England advises that we concur with the assessment conclusions and advise that the relevant planning conditions, to deliver the measures within the Construction Environmental Management Plan, are secured.

#### Canal & River Trust

The main issues relevant to the Trust as statutory consultee on this application are:

- a) The impact on the heritage, character and appearance of the waterway corridor.
- b) The impact on the natural environment of the waterway corridor.

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is to advise that additional / amended information and suitably worded conditions are necessary to address these matters. Our advice and comments follow:

The Impact on the Heritage, Character and Appearance of the Waterway Corridor.

The site is located to the west of the Cannock Extension Canal and the existing buildings within the site are a surviving part of what was the main industry in the area. Both the buildings and particularly the former colliery office (which the submitted report identifies as being taller than houses nearby) do appear to have some significance.

The Grove Colliery employed many people locally giving it strong communal value. The buildings have become a local landmark for people and this suggests that the site holds local importance for people giving it a value. The buildings are non-designated heritage assets which form an important feature in the area and their retention could be of benefit to the locality. Considering this local importance and the connection between the colliery and the Cannock Extension Canal, which was built to serve the mining industry, a more rigorous heritage appraisal should be undertaken and submitted for consideration, prior to determination.

The Appraisal should include further details on the heritage significance of the buildings, a condition survey and an assessment of the suitability of the buildings to be

retained and reused in accordance with Policy CP15 of the adopted Local Plan. The proposals for the site should then be informed by this Appraisal and the Trust wish to be consulted on the details when available.

The Impact on the Natural Environment of the Waterway Corridor.

The waterways have a rich biodiversity, with many areas benefiting from SSSI, SAC, SLINC or CWS designations. The adjacent Cannock Extension Canal is a designated SSSI and SAC and the developments can have an adverse impact on the ecology of the waterways. Although the site is set back from the canal the proposed works do have the potential to result in adverse impacts to the natural environment of the canal corridor and in particular water quality. The submission indicates that it is likely asbestos is present in the existing buildings. This and contamination present on the site need to be addressed accordingly with further assessments submitted for consideration.

Whilst the submission indicates that currently there will be no drainage to the canal this does require further clarification. This is to ensure that no surface water enters the canal, from general runoff or via historic drainage channels. These issues could be addressed by conditions.

#### Inland Waterways Association

Thank you for consulting us on the above planning application close to the Cannock Extension Canal.

The Inland Waterways Association (IWA) is a national charity which campaigns for the conservation, use, maintenance, restoration and appropriate development of the inland waterways for public benefit. The Lichfield Branch of IWA has considered this application in relation to the environment of the canal and the interests of its users. The Cannock Extension Canal is a historic waterway and a valuable amenity and recreational corridor, providing leisure boating, walking, angling, cycling and nature conservation benefits to the area.

Whilst IWA has no objection in principle to a gypsy traveller residential site in this location we are concerned that it may become a transit site rather than a residential one and that it depends on the demolition of buildings of historic interest.

The proposed new buildings are small single storey structures and the indicated fencing and planting will largely screen them and the caravans, so the visual impact on the canal will be minimal. The application is for up to 7 caravans of which no more than 3 would be static, which leaves open the possibility that all 7 could be transit pitches. Experience has shown that whilst full time residential gypsy/ traveller sites are usually well maintained and trouble free, it is not always the case with purely transit sites. We would therefore suggest a condition that at least two of the pitches should be permanently occupied static caravans.

However, IWA is not convinced that provision of this facility justifies demolition of the two existing buildings on the site, as there are other areas of undeveloped brownfield land at Grove Colliery which could accommodate this facility.

The Grove Colliery Offices and Manager's House are large, substantially constructed, and architecturally attractive early twentieth century buildings. Such buildings were

once commonplace across the coalfield but most have been demolished, leaving only occasional pit head wheels or more modern memorials or art pieces as reminders of the once dominant coal industry in Cannock Chase. These buildings should be valued as undesignated heritage assets and considered for inclusion on the Local List. The Local Plan Part 1 at 4.103 says:

“The Council will also be proactive in creating a Local List of locally significant heritage assets. The Cannock Extension Canal and its wider setting of the former Grove Colliery with its remaining historic buildings is the main candidate with potential for designation as an additional Conservation Area, given its important landscape character, history and potential for environmental enhancement. It is hoped this will encourage consideration of how future development proposals can contribute to conservation and management objectives.”

Although superficially in poor condition, due to prolonged disuse, it appears to us that the buildings should be capable of repair and reuse for commercial or domestic purposes, or preferably as a community facility. This could combine an outdoor activity centre with cycle hire canoeing, angling, etc. with a mining heritage centre and a wildlife interpretation centre. This would be particularly appropriate given its proximity to the Cannock Extension Canal with its boating activity, and its SSSI and SAC status.

The Local Plan Part 1 at 4.62 says:

“the former Grove Colliery offer a longer—term opportunity in terms of the restoration of landscapes, which may be able to provide complementary recreation, leisure and tourism focused activities. The submitted Heritage Assessment recognises some of this heritage significance, but suggests repair would be uneconomic. IWA considers that more evidence is needed to support this assertion before any demolition is agreed. The application should be required to be supported by an independent structural survey, an estimate of the costs of basic renovation, and by a marketing assessment for the repaired buildings, before any irrevocable decision is taken.”

Therefore, IWA objects to this application pending further information.

#### Historic England

The Secretary of State for Digital, Culture, Media and Sport asked us to advise on the application in our role as the Government’s statutory adviser on the historic environment. We have completed an initial assessment of the buildings, based on the material provided in the application, but without any further investigation or a visit. The Secretary of State has considered our advice and recommendation, and has decided not to take the application forward to a full assessment. The buildings will therefore not be added to the List at this time.

The reasons for this decision are set out below:

Historic England has received an application to consider the former offices and manager’s house of Wyrley Grove Colliery for listing. The buildings have been vacant for a number of years. The site has been marketed for sale, and is the subject of a current planning application for the demolition of the two buildings and for the redevelopment of the site to a Gypsy and Traveller residential site. This has yet to be



determined. The colliery site is close to the Cannock Extension Canal which is designated a Special Area of Conservation (SAC).

Wyrley Grove Colliery, also known as Grove Pit, opened around 1852 and was part of the Brownhills Collieries, owned and operated by William Harrison Ltd. It was situated adjacent to the Cannock Extension Canal which formed part of the Birmingham Canal Navigations and also the Norton Branch Mineral Railway. In 1930 an explosion below ground at the colliery resulted in the loss of 14 men. Mining ceased in the 1950s and most pithead buildings were demolished, although the colliery offices and the manager's house, both constructed sometime between 1919 and 1938, remain standing. They are both of two storeys, built from brown brick laid in a Flemish bond under hipped roofs of plain clay tile with deep eaves; there are brick stacks to the house. They have sash windows, though most glazing is missing, and painted lintels with simple incised detailing. The house has the remains of two canted bays to one of its elevations. Based on the information provided and with reference to the Principles of Selection (DCMS, November 2018) and the Listing Selection Guide for Industrial Buildings (December 2017), the surviving buildings at Wyrley Grove Colliery are not recommended for listing for the following principal reasons:

Degree of Architectural Interest:

Although externally little-altered, these are utilitarian buildings of early-C20th date which are modestly detailed and of limited architectural merit;

Lack of Historic Interest:

Most of parts of the colliery have been demolished, reducing the context and significance of those buildings that remain.

Although of some local interest as remnants of the former coal-mining landscape these former colliery buildings do not have the requisite level of special interest to merit listing in the national context.

Staffordshire Highway Authority

No objection subject to conditions.

Severn Trent

I can confirm that we have no objections to the proposals subject to the inclusion of condition(s).

Staffordshire Police

I ask that the planning Department consider my comments which are site specific and made in accordance with;

Section 17 of the 'Crime and Disorder Act 1998':

places a duty on each local authority (Parish, District & County Council): to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area to include anti-social behaviour; substance misuse and behaviour which adversely affects the environment'.

National Planning Policy Framework:

Paragraph 91(b).

This paragraph looks towards healthy and safe communities. The paragraph includes:-

"Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder; and the fear of crime, do not undermine the quality of life or community cohesion"

Paragraph 127(0 includes;

'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience".

Paragraph 95 (a&b) includes;

"Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:

- a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of development, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security; and
- b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adverse/y by the impact of other development proposed in the area.

Cannock Chase District Council Local Plan Part 1 & Design SPD Designing Out Crime Policy Local Plan (Part 1) Policy CP3

Policy CP3 includes key design principles that includes;—

"Good design will give careful thought to how appropriate safety and security measures can be accommodated in a way sympathetic to the amenity of the local area." "

"The need to enhance crime prevention as part of new developments including building security and attractive design of surroundings (car parking etc.) to deter crime"

The Human Rights Act Article & Protocol 1, Safer Places: The Planning System and Crime Prevention and PINS 953.

Staffordshire Police recognises the status and rights of Romany Gypsies and Irish Travellers as distinct ethnic groups, their unique and legitimate lifestyle, and its duty under the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 to positively promote good race relations in our work with the Gypsies and Irish Travellers. We continuously strive to engage in partnership, working with other public sector bodies to improve our shared service delivery to the Gypsy and Traveller

community. This includes joint working with Crime and Disorder Partnerships at a local and county level.

Staffordshire Police's Local Policing Teams are committed to improving the delivery of local policing in order to provide the best possible service to all of the county's communities, this ensures that all Traveller sites will have access to an appointed neighbourhood officer and/or PCSO, working with those communities and responding to the individual needs of that particular community.

Staffordshire Police acknowledges and supports the need for additional pitches. The relevant issue for Staffordshire Police is the available support required to address the needs and capacity to accommodate additional gypsies and travellers within the community.

Consultation in other areas with the Gypsy and Traveller community along with other consultation documents supports the View that the size of sites should be small (five to ten pitches) and, where possible occupied by one extended family group (Mentor Briefing Paper), John Day, April 2007 and DCLG Good Practice Guide 'Designing Gypsy and Traveller Sites' 2008. Staffordshire Police concur and recommend that the optimal site size should be considered to be 5-10 pitches for occupancy by a single extended family with one family per plot because more than this causes disruption and disputes between the families.

Family disputes on sites cause Policing issues and the overall success and peaceful running of a site will clearly be of benefit to both the traveller and settled communities in a locality.

In summary, small, single family, well planned sites are in the best interests of all our communities. Consultation with members of the travelling community appears to endorse this recommendation.

Research in Hertfordshire with Gypsies and Travellers themselves recommends a limited number of pitches / families per site, and careful consideration as to who occupies those sites to avoid ongoing disputes between community members: the greater the number of pitches, the greater the challenge to ensure that there are no conflicting family groups located on the same site. The right location for a site is a key issue, with easy access to major roads or public transport services to enable the residents on the site to gain employment, attend school or other type of training, and access health services and shopping facilities. Sites should also provide a safe environment for the residents.

### ***Internal Consultations***

#### **Planning Policy**

The National Planning Policy Framework (NPPF para 11) states that development proposals that accord with an up to date development plan should be approved without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance (e.g. Green Belt, AONB, habitats sites) provide a clear reason for refusal, or any adverse impacts of doing so would significantly and demonstrably

outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The development plan for Cannock Chase District consists of the Local Plan (Part 1), adopted Neighbourhood Plans and the Staffordshire County Council Waste and Minerals Local Plans. The views of Staffordshire County Council as the waste and minerals planning authority should be considered, as necessary. These policy comments are restricted to matters concerning the Local Plan (Part 1), Neighbourhood Plans and supporting guidance.

The proposal is for a change of use of the land to a gypsy and traveller residential site for up to 7 caravans, construction of a day room block and utility block, new vehicular access and laying of hard standing. It appears this proposal will provide for up to 4 pitches (for 4 separate households within the overall extended family group). The site constitutes a Brownfield site currently comprising of a former colliery office building, managers house and hard standing for car parking (with some landscaping). It is not allocated for any specific use on the Policies Map; however it lies within the Green Belt. It is located within a semi-rural part of the District at Little Wyrley, to the south of Norton Canes local centre.

It should be established whether or not the proposed residents of the site meet the definition of 'traveller' as per the Planning Policy for Travellers (2015) Annex 1. This is relevant in determining the policy provisions that should be taken into account. It is noted that the applicants have provided evidence of this in the planning supporting statement.

In terms of national planning policy, the relevant framework consists of the NPPF (2019) and the national Planning Policy for Travellers (2015). The latter document identifies traveller sites as inappropriate development in the Green Belt. However, this also states (para 1) that the document should be read in conjunction with the NPPF and it predates the updated NPPF (2019) which now allows for changes of use to be considered appropriate development in the Green Belt (subject to provisions outlined further below). As per the NPPF (paras 143-147) and Local Plan (Part 1) Policy CP1 certain forms of development can be considered appropriate in the Green Belt. In terms of relevance to this proposal, the construction of new buildings that represent limited infilling or the partial or complete redevelopment of previously developed land and material changes in the use of land are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it (the five purposes of Green Belt are set out in para 134). Should openness not be preserved, then the development should be considered as inappropriate development within the Green Belt and it would need to demonstrate 'very special circumstances'.

In terms of openness, this is not defined in any national planning policy documents or guidance, but the NPPF (para 133) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Case law gives some indication of what should be considered and outlines that the effect on openness is a matter of planning judgment for the decision-maker. Impacts upon openness can be assessed in spatial (quantum of development) and visual impact terms.

In terms of 'very special circumstances' the NPPF (para 144) outlines that these 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. The Planning Policy for Travellers (para 16) states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, as stated in a recent planning appeal (that post dates the NPPF update in 2018) 'unlikely' should not be read to mean that these considerations will never clearly outweigh the harm, and any decision must take account of the actual weight afforded both the harm and the other considerations. A determination of weight is for the Decision taker.<sup>1</sup> In line with recent case law, should the personal circumstances of the applicants constitute a significant part of any necessary case for 'very special circumstances' then a personal planning permission should be considered (secured via condition).

Planning Policy for Travellers (2015) provides an overarching set of aims in respect of traveller sites (para 3-4) for plan making and decision making. It contains a section entitled 'Decision-taking' containing Policy H. Paragraph 24 of the Planning Policy for Travellers outlines a number of issues that the local planning authority should take into account when considering applications for traveller sites. For example, these include the existing level of provision and need for sites, and the availability (or lack) of alternative accommodation for the applicant; however these factors need to be considered in conjunction with Paragraph 16 (outlined above). Paragraph 25 states that sites in rural areas should respect the scale of, and not dominate, the nearest settled community and should avoid placing undue pressure upon local infrastructure. Paragraph 26 provides a series of factors to which weight can be given, including the redevelopment of brownfield land. Paragraph 27 provides that a lack of 5 year supply of sites should be given significant material consideration; however this is not the case where the application relates to Green Belt (and other designated) land. Paragraph 28 outlines situations where conditions or planning obligations may be appropriate in order to overcome planning objections to proposals.

As per national planning policy, the Council is required to plan for the future needs of travellers via its Local Plan policies. The Cannock Chase District Local Plan (Part 1) Policy CP7 identifies a need for 41 gypsy and traveller pitches from 2012-2028. As set out in Policy CP7, the Local Plan (Part 1) pitch requirements were due to be delivered via the allocation of sites in the Local Plan (Part 2) focusing upon an 'Area of Search' which is identified on the Local Plan (Part 1) key diagram. This area largely encompasses the southern part of the District which lies below the Cannock/ Lichfield Road (A5190) and constitutes Green Belt land in the main. The local context warranted the 'exceptional circumstances' to consider sites within this largely Green Belt area i.e. the A5 corridor represents a main travelling route and the vast majority of the District's existing gypsy, travelling and travelling showpeople sites are located within the area already (within relatively sustainable locations). The policy also provides a series of criteria for the consideration of gypsy and traveller proposals, which should be taken into account i.e. the proximity of existing settlements with access to shops, schools and other community facilities; providing adequate space for vehicles; providing appropriate highway access.

However, due to the extent of more recent changes to the national and local policy context the Council has since ceased work on the Local Plan (Part 2) and is now

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undertaking a review of the Local Plan. The Local Plan Review (Issues and Options) consultation document (due to be publicly consulted upon in May 2019, having received Cabinet approval in Feb 2019) identifies the difficulties that have been faced in terms of identifying sites for gypsy and traveller uses since the adoption of the Local Plan (Part 1). This is largely due to a combination of the inability of existing gypsy and traveller sites in the District to expand further (due to physical and landownership constraints) and a lack of new sites being available i.e. landowners are promoting alternatives uses of their land. The Authority Monitoring Report (2018) which monitors Local Plan policies outlines that no pitches have been delivered to meet the Local Plan (Part 1) requirements to date and that the Council does not have a five year supply of sites.

As part of the Local Plan Review the Council is currently updating its evidence base in relation to gypsy and traveller needs (via an updated Gypsy, Traveller and Travelling Showpeople Accommodation Assessment). This is due to be made publicly available alongside the forthcoming Issues and Options consultation in May 2019. It will provide an up to date assessment of need within the District.

The Design SPD provides guidance on the design of new traveller sites (page 27-28). The approach to be taken to each site depends upon its size and intended occupants; however there are common features across all sites to be considered too e.g. provision of appropriate utility buildings and space around the caravans.

In terms of other relevant Local Plan (Part 1) policies, the proposal is in close proximity to the Cannock Chase Extension Canal SAC and a number of locally designated sites. In accordance with Policy CP12 the proposal should demonstrate that there would be no adverse impacts upon this internationally protected site; guidance from Natural England should be sought. Impacts upon locally designated sites should also be taken into account. CP10 and CP16 require schemes to ensure they mitigate any impacts upon the transport network and contribute to sustainable transport. The site is situated in proximity to the A5 AQMA. Comments from Environmental Health regarding the air quality implications should therefore be taken into consideration. As the proposal lies within a largely undeveloped area of open landscape, Policy CP14 should be considered with regards to landscape character. The site is currently occupied by former colliery buildings. These are not listed, or locally listed; however in line with the NPPF (Chapter 16) and Local Plan (Part 1) Policy CP15 the historic value and significance of all heritage assets (including undesignated assets) should be considered. This should be proportionate to the assets importance. It is noted that that applicants have submitted a Heritage Assessment.

As the proposals are for change of use and there is no additional floorspace constituting a dwelling (C3 use class) the scheme is not CIL liable. Any site specific requirements may be addressed via a Section 106/ 278 if required, in accordance with the Developer Contributions and Housing Choices SPD (2015) and the Council's most up to CIL Regulation 123 list. Permanent traveller pitches are regarded as residential development for the purposes of the Habitat Regulations (see 'Cannock Chase SAC Partnership FAQs', updated May 2018). As per the Cannock Chase SAC Guidance to Mitigate the Impact of New Residential Development (2017), the development would therefore be required to mitigate for its impact upon the Cannock Chase SAC via the current standard charge of £221 per dwelling. This charge would be applied to each permanent pitch proposed by the development (appears to be 3 mobile homes - this should be confirmed).

The site lies within designated Norton Canes Neighbourhood Area. The Parish Council is in the early stages of producing a Neighbourhood Plan (public consultation on issues the plan should consider in autumn 2018). No draft plan or policies have been consulted upon to date. The most up to date position with regards to the Neighbourhood Plan should be considered at the point of determination.

Response Received 23 December 2019 in the light of the Letter from Shakespeare Martineau (dated 19 December 2019)

As discussed, this was submitted in response to the Local Plan Issues and Option 2019 consultation (May-July) and therefore has not been subject to any assessment work or consultation as part of the Local Plan process. The document attached represents the extent of the submission by Wyrley Estates on this site i.e. no further supporting technical work was provided alongside this document. It represents a greenfield Green Belt site. It is suggested as an extension to the existing Woodlands Caravan Park. The owner of this caravan park has expressed an interest in expansion previously and the Council has considered other site options for traveller provision which lie to the rear of the site (in the ownership of another landowner, St Modwen). The site proposed by Wyrley Estates can be taken forward as an option for further assessment and consideration as part of the Local Plan process. However, the outcome of the Local Plan process can not be pre-judged, particularly at this early stage of the plan making process. The next stage of Local Plan consultation (Preferred Options) is not scheduled until summer 2020. Adoption of the Local Plan is not anticipated until July 2022.

#### Conservation Officer

The site comprises part of the former Grove Colliery (historically Wyrley Grove Colliery and later Brownhills Colliery: Grove Pit) which operated 1852-1950. Many of the surface installations and colliery buildings have gone but remaining buildings include William Harrison's office and the colliery manager's house. The former colliery stood beside the Cannock Extension Canal, opened 1863, which served as a major transport artery for coal to Black Country industry into the 1960's. Part of the colliery site has been used for landfill, more recently capped and covered with topsoil and planted for wildlife. The whole area has been looked at in developing the current Local Plan as a regeneration opportunity for leisure and recreation — Local Plan objectives 4 and 7.

Although not statutorily listed buildings nor standing within a conservation area the buildings are most definitely 'heritage assets' under the terms of the NPPF and would be candidates for a forthcoming District Local List. They still exhibit traditional architectural details, techniques and materials which should in any case be recorded whilst they survive.

#### Legislation and Policy

The NPPF 2019 sets out the process for considering the conservation and enhancement of historic environment in paras 184-202, and the potential impacts of development proposals. Of particular relevance here:

- Para 184: heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

- Para 189: In determining applications local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets importance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
- Para 190: the Local Authority should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this into account when considering the impact of a proposal on a heritage asset to avoid or minimise any conflict between the heritage assets conservation and any aspect of the proposal.
- Para 192: in determining applications, local planning authorities should take account of:
  - The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
  - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability
  - The desirability of new development making a positive contribution to local character and distinctiveness.
- Para 197: the effect of an application on the significance of a non—designated asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- Para 198: Local Planning Authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
- Para 199: Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact and to make this evidence and any archive generated publicly accessible. However the ability to record evidence of our past should not be a factor In deciding whether such loss should be permitted.

Local Plan Policy CP15 seeks the safeguarding of historic buildings, areas and their settings from developments harmful to their significance in order to sustain character, local distinctiveness and sense of place. Proposals including new developments that are sensitive to and inspired by their context and add value to the existing historic environment, landscape and townscape character will generally be supported with planning standards applied in a flexible manner to maintain historic continuity. The conservation and enhancement of heritage assets will be supported through other work including preparation of a Local List of locally significant heritage assets (forthcoming) and through the development management process.



Objective 7 of the Local Plan District wide objectives (para 4.103) makes reference to the Grove Colliery site and its locally significant heritage assets, with potential alongside the Canal for designation as a Conservation Area given its important landscape character history and potential for environmental enhancement.

As non-designated heritage assets the significance of these buildings needs consideration in the decision making process. The applicant has provided some historical information about the area and the buildings to support the application, but not in any detail. It is acknowledged that these buildings are in a state of considerable disrepair, however they remain a key part of the larger significant historic site (in conjunction with other remaining former colliery buildings, the canal basins, bridges and workshop building) and signpost the heritage of the area and so the preferred option from a conservation viewpoint would be to retain and reuse them as part of a heritage regeneration project to revitalize the District in accordance with the Local Plan. It seems short sighted to erase them just to achieve a small cleared site when there is plenty of open land adjacent, but in this event it is recommended that a Level 2 building survey is conditioned and carried out to record these buildings as part of the history of Norton Canes which should be deposited in the SCC County Historic Environment Record.

There is a conservation objection to the loss of the buildings as proposed.

#### Property Services

The Council commissioned a Condition Survey Report in March 2018. This report confirmed that externally the buildings are in very poor condition, citing the following issues:-

- i) The roof is leaking and appears to have been for a number of years therefore the full roof replacement required.
- ii) The fenestration is damaged and beyond repair, rotten timber windows and doors with glazing smashed. All windows would need replacement.
- iii) The external walls are in poor condition, Brickwork damaged with defective pointing. Concrete flaunching cracked and weathered and pots damaged/ missing. Structural cracking on the rear elevation between the ground floor window lintel and first floor window sill. Concrete sills to window openings are cracked damaged and poor. Pointing is weathered, recessed and generally poor. Deteriorated gutters and downpipes.
- iv) Internally, the building is in very poor condition having been subject to prolonged water penetration over a number of years with areas of the structure affected by dry rot. All internal finishes and the majority of the internal structure are beyond repair / salvage.
- v) Areas of the building have been vandalised and stripped out. The external areas are completely overgrown with vegetation and mature trees and shrubs making the areas inaccessible.

The report concludes that the building and external areas are in very poor condition having not been occupied for a number of years. The envelope of the building has been

leaking for a number of years allowing prolong water ingress. There is extensive internal damage to finishes and dry rot evident in a number of locations.

The property was put up for sale on the open market by Andrew Dixon & Company acting on behalf of the Council. After an initial period of exposure to the market written offers were invited. Several bids were received and the Leadership Team approved the sale of the property to the successful bidder subject to contract and planning.

#### Environmental Services Ecology

The bat survey submitted with the application confirms the presence of roost sites used by common pipistrelle bats. The proposals require the demolition of the former colliery buildings in which the roost sites are situated therefore resulting in complete removal of the features concerned. Cannock Chase Council must be able to demonstrate that the presence of a protected species has been fully taken into consideration in the decision making process. In order to comply with legislation Cannock Chase Council must be satisfied that the relevant derogation requirements necessary for the issuing of a licence are likely to be met. In order to meet licensing criteria it is necessary to establish that the following three legal tests can be met:

- The activity is for a purpose that can be shown to be of overriding public interest.
- There is no satisfactory alternative that will cause less harm to the species.
- The activity does not harm the long-term conservation status of the species.

The Ecologist concluded that it is for Cannock Chase Council to decide if the application can pass the imperative overriding public interest test and be confident that there are no less damaging alternatives available. In the event that it is minded to approve this application I advise that any such approval should be subject to a condition requiring the submission of a detailed lighting plan in order to ensure that light pollution is prevented or reduced to the minimum possible level. The canal corridor is used by a number of bat species that are capable of being adversely impacted by light pollution. It should be noted that when applying for a licence to Natural England, then the "Imperative overriding public interest" test is met when permission has been granted in line with planning policy on development.

The bar to consider that there is 'no satisfactory alternative' is low given the species and type of roost, which are both common and widespread. However should such a statement be required, then it could be noted that the building cannot be retained within the layout and must be demolished for construction to proceed and the site to be used as specified. Consequently no roosts can be retained within the site at their present locations.

#### Environmental Health

No adverse comments are offered regarding these proposals in principle from Environmental Protection. Suitable and sufficient permanent arrangements should be made for the storage of waste and recyclables and the subsequent collection and disposal of same. I note that foul and storm drainage proposals are included within the application documents and recommend that Severn Trent are consulted on these particulars.

### Strategic Housing

There is a need in the District for gypsy and traveller sites and accommodation. The change of use of this site will assist towards meeting this need. The applicant and his family are currently living in overcrowded conditions. When they move to the proposed site and vacate their current pitches, this will help to meet the needs of other gypsy and traveller families.

### ***Response to Publicity***

The application was advertised by way of neighbour letters to adjacent residents and a site notice was put up adjacent to the site. 15 letters of representation were received from neighbouring properties. A summary of these objections is set out below:-

- As a resident neighbour and Business owner in Lime lane of 10 years it was my (objector) understanding that the property and associate land belonging to the council was to be developed for leisure use, the suggestion that at the entrance of this site should be used as a residential Gypsy site surely prevents any further development or investment which were outlined in the local development plan.
- The Proposed site plans show no regard for the Public right of way which passes through the site. The Timberland trail inaugurated in 2003 passes through the Grove Colliery in appreciation of the former colliery buildings of which the proposal plans to demolish. The walking instructions featured on the Forest of Mercia website states that walkers should “enter the site of the former Grove Colliery” and a wooden wayfinding post is present near the site, pointing in its direction. Once again, this is a unique feature of the area and something that we are fortunate to have in Norton Canes. The Forest of Mercia trails give an insight into the natural beauty and colourful history of our area which could be impinged on by this development.
- The historical importance of these buildings appears to have been overlooked somewhat (see book ‘William Harrison company Ltd written by Mick Dury CCMHS Publications) and the condition elaborated in favour of the proposal. The detached property to the front of the site (The Colliery Managers house) was lived in until more recent years and could be easily restored, and is also a residential unit that the planning application appears to overlook.
- The house which is to be demolished is a very old building, although the outside walls and roof are sound, and has a historical value to the area and would be put to better use as a heritage museum, which has been suggested before, then we wouldn't be losing the history.
- The area which is currently serviced by Lime Lane service Road supports several noise generating businesses Inclusive of 2 heavy haulage firms, Wilkinsons Fair (engineering works), Cannock Pallets and ourselves who have a licenced boarding kennels for 50 dogs, the site is far from an ideal location to house families in caravans. Surely not a suitable location for such a development!
- The access road is narrow with a blind entrance onto a major road with less than 20 metres visibility in the direction of Pelsall due to the construction of the new canal bridge, immediately after the junction with Lime Lane the road turns a right-angle in front of the cottages. I (objector) cannot see how a vehicle towing a caravan - particularly a large one would be able to manoeuvre safely onto the access road let alone the site.

- The Service road area is unlit, has no street lights and is without pavements, meaning access to and from the site unless by car, would be along an unlit service road used by HGVS.
- At the entrance there should be a clear sightline both ways. The drawing actually shows both sightlines blocked by existing trees, shrubbery and new hedges/fences. All these would have to be removed to achieve an acceptable clear view splay. The access point, being as it is on the apex of a convex curve in the road, makes the required safe sightline, very difficult to achieve and is therefore not in the most practical or safest location. By contrast the road at the rear is concave with good sightlines both ways.
- The proposed entrance will create dangerous congestion, inhibit the free flow of existing traffic, be a magnet for obstructive parking problems, and thereby frustrate our and others business operations. The site occupancy, however temporary, could easily double from the wide range of family, friends and visitors, particularly since there are only six parking spaces for seven residences. Where will all the gardening vehicles, four x fours, trucks, flat horse trailers, caravans for sets, and gigs be parked if not on this totally inadequate site? Obviously they will be left wherever the owner sees fit. Maybe without regard to anyone else and create nuisance and possible catastrophe when "invisible children" suddenly pop out.
- The plans do not show adequate parking for the number of vehicles expected with this type of proposal, there is no consideration for visitor parking, or the number of visitors who currently park in the area to gain access to local walks and the marina. This section of Lime Lane is a very narrow road which is not designed for two-way traffic or for vehicles to be parking along the length of the road. This site straddles the road itself and given that there are only six allocated parking spaces in the site plan, it is inevitable that vehicles will be parked on the other side of Lime Lane from the pitches. This would restrict the ability of HGVs and the travelling showpeople to pass down the lane; this could lead to vehicle damage as well as arguments and tension between the neighbouring sites.
- The increase in traffic outside of normal working hours would cause further noise disruption and light pollution concerns.
- If there are lorries bringing in caravans to the new site there is no room for them to turn round to back into the site.
- The planned access road is at times quite busy with HGVs as well as other vehicles; the extra traffic at a constricted point on a bend in the roadway and the proximity of young children is of concern. The supporting documents point out that there are numerous young children amongst the families. If a transport company wished to set up a new base on a driveway which passed an existing Travellers site it would be highly likely to be refused on grounds of traffic being a danger to the children.
- There is no mains gas or mains sewerage for the area, another issue, which leads on to the concerns over the use of the sewage treatment plant proposed, and risk of local surface water pollution to both the stream and canal an area designated as of significant scientific interest.
- The drainage is also a big worry, we have problems with flooding on the approach to the moorings when we have a lot of rain now, so the waste from the new site may add to this and we need to make sure that nothing untoward leaks into the canal. The semi-detached properties to the north of the site drain into a

soakaway which is for their use only. The applicant appears not to have taken this into account and residents I have spoken to are questioning the maps provided by the applicant which appear to show a drain where there isn't one. I am concerned that the applicant may be assuming that wastewater could flow into a storm drain which is only designed to transport clean water. As the plans contain a utility block, this will be critical issue which would clearly need far more consideration to avoid potential damage to the valuable and diverse ecology present around the site.

- The drawing RC08 Submitted is completely inadequate and not representative of the local landscape, the stream highlighted for alternative drainage on the plan doesn't appear to exist, it shows no consideration for flooding or how the permitted discharge into controlled waters will be controlled or monitored by the Environment Agency and local authority.
- Bear in mind at the moment there is only the two residential dwellings (145 and 143) and by adding another potential 7 residential units in the form of 7 caravans, to the particularly marshy land here that already struggles with heavy rainfall, over tripling the output in the local area is going to cause increased flood risk.
- I (objector) do not feel that there has been adequate investigation into the wildlife and ecology that has become dependent on the site there are several endangered species which are known to inhabit the area including the great crested newt. There is nature in abundance around the area including various birds, swans, bats, newts, frogs and deer, which enhances the area and would obviously disappear if the site was changed.
- There are already 2x traveller sites within 2.5 miles. Surely there must be other locations not on unlit, unsafe roads, with no access to mains sewerage literally metres away from existing residential family homes with 3 of the proposed caravans right on the border.
- The proposal does not appear to adhere to Government policy guidelines. Policy C14 states that the scale of such a site does not dominate the nearest settled community. As the land that will be owned by the Travellers will straddle and be adjacent to, the entrance to the Palette business, the fairground site, the lorry business and the boat moorings, I (objector) fail to see how it can not dominate our settled business and leisure community.
- It also states that the site should promote healthy lifestyles, ensuring adequate landscaping and play area for children, bearing in mind that there could be anything up to 7 or 8 kiddies on site at certain times.
- I (objector) am a boat owner [amongst others] in the Grove Basin, which is at the end of the access road just past where the development will be. This has been my second home for nearly 20 years. The basin is an excellent mooring and affords a very peaceful and relatively secure environment now that nature has reclaimed the old mine area. The prospect of a Gypsy site, right on our doorstep, fills me (objector) with apprehension. We all know what problems local communities face when they are in an area.
- Security is my main concern together with possible unsocial activities around the area. Whilst I (objector) am aware of the need to provide sites for Traveling Families, we already have at least 14 such sites within a six mile radius of this proposal, 11 of which are within Staffordshire. I (objector) fear the consequences of this application in terms of security of my property on site.

- At present the area is accessed by gates which are padlocked to protect us from unwanted visitors walking or driving around, we will no longer feel safe to leave items lying around outside our boats for fear that they will be taken or tampered with.
- The noise would increase drastically with the amount of people that would be coming and going to the site and access to our gates and moorings would be compromised, also our main electricity incoming board, is just outside our gates and will become part of the new site what does that mean for us?
- The many businesses that are presently at Lime Lane have all said that they will have to move site, if this application goes ahead.
- The two houses on Lime Lane will be directly adjacent to the new site, and be too close to keep their privacy, peace and quiet. We understand that traveller sites should be placed a certain distance away from residential areas ?
- There are a lot of traveller sites in the area which work very well, but are all a considerable distance from residential houses and businesses.
- We hope you also realise, that if this application goes ahead, you will be putting one part of the travelling community alongside another in the fairground people who use their area for winter quarters and have been there for a long time without any problems, the fact that they have guard dogs on site, help us to feel protected, but these two sets of "very different travellers" do not get on at all! I am sure the police will be visiting the area a lot more often to sort out problems.
- The disruption during the demolition and construction work if not carried out by a competent contractor will be horrendous in such a confined area.
- The land that makes up the proposed site is owned in part by the Council and in part, our Landlord. Directly opposite the proposed site is Cannock Pallets Ltd. For the last 16 years and for some 11 years before us, both this business and our predecessors Pelsall Pallets, have used the proposed site for the loading, unloading parking and turning of our and our suppliers' lorries as part of our pallet recycling business. We have therefore used the proposed site as an extension of that business. Neither we, nor Pelsall Pallets before us have ever been given permission by the landowners for this usage of their land. No one on behalf of either landowner, over the last 27 years, has stopped us or our predecessors, nor has any attempt been made to stop us (and our predecessors) from using the proposed site as we have described above. Further, and importantly, we are advised that by virtue of our long use of the proposed site (which can be shown to be for over 20 years), we have acquired legal right over it, which we hereby assert and which we will now proceed to register against the respective titles.
- Pelsall Pallets have used the land in front of the Colliery offices for parking our two cars. In fact, in or around 2007 a sign was erected on this area of land to declare that parking was for Cannock Pallets only. We were not given permission by the landowner for this sign, but no objection has ever been raised to this sign, which is clear and visible and not hidden away.
- The site, in a light industrial area, sandwiched between two roads whose primary traffic is heavy goods vehicles, is totally unsuited for residential use. The road at the rear is used by HGV's and commercial vehicles attending Bayley's Garage and for overnight parking by up to six HGV's. There is much turning and shunting to perk up. They leave early morning and return around 4.30pm. Cold diesel engines have to be warmed up and shouting to each other above the

engine noise is almost obligatory. The road at the front. Lime Lane Service Road also has an early morning start. Murray's seven 45 ton trucks leave for the day to also return in the late afternoon. There are many frequent movements between Bayley's Garage and Murrays lorry park. (using both roads) because Bayley's service and carry out maintenance checks on Murrays total fleet of about twenty lorries and their double trailers. These additional vehicles are parked on the fairground site during the six month summer period when Wilkinson's Fair is on tour, and thereby add considerably to the total of truck movements.

- The containment of the proposed Gypsy site by a 2m fence and hedges will give no relief to the site occupants from this continuous engine and air brake noise disturbance, diesel exhaust smoke pollution from slow moving of lorries, mud on road, dust clouds, and low frequency ground vibrations. This will prompt them to make many justifiable complaints to the council, and thereby prove our assertion that this boxed in site opposite our noisy and unsightly pallet business, with no views or amenities for family life, is overwhelmingly unsuitable for residential occupation and its single entrance exit is downright dangerous for children.
- A bat survey has been submitted with the recommendation that a licence (EPSML) should be obtained to legally destroy this valuable roost and not to shine any bright lights on the canal. This is just not good enough and we urge the planning committee/ council to initiate real protection to this endangered species by maintaining the property as a Bat sanctuary, a Barn Owl home and a Swift hotel. There are Jackdaws nesting in the chimney pots there could be Blue Tit and Robin boxes. Honey Bee nests and more. Every year we rescue from the road, many Common toadlets exiting the site en-route to the canal. This is a Biodiversity Action Plan priority species and these toadlets are a preferred food of the Great Crested Newt who are resistant to the toadlets noxious secretions. There is a high probability therefore that this site is also the home of another protected species, namely the Great Crested Newt. It is therefore essential that the Councils Ecology Officer" prohibits any disturbance to the site. Initiates a thorough investigation and reports with all due haste to Planning Control.
- With a little vision, a lottery fund appeal and some voluntary help from enthusiasts the building and its site has the potential be a wonderful addition to the adjacent S.S.S.I. and. as such an important educational resource for local school children - a living museum.
- At question 16 in the application form, it is asked if the proposal will include the loss of residential units, to which the reply is "No". This is incorrect because it is proposed that the former Colliery Managers detached house lets be demolished. This would be wanton destruction of a historical residence that has the potential to be restored as an assailable example of a period property. Being adjacent to the former night and dayshift supervisors houses it is part of an important trio that enhances the history of the mine and our valued heritage. Unlike the offices, this house is eminently suitable for restoration and if it were to be separated from the rest of the site with a garden and properly promoted by an enthusiastic estate agent would quickly and profitably be sold for probably more than the whole site is currently valued at. It is part of our legacy and the Council should respect and protect the rare and valuable examples that remain from the ravages of the wrecking ball. We strongly implore you to reconsider this potential folly.

- The site is within the Green Belt. In such areas, national guidance (Planning Policy for Traveller Sites [PPfTS published in 2015]) advises that traveller sites are inappropriate development in the Green Belt, which should not be approved except in very special circumstances. It is further advised that personal circumstances and unmet need are unlikely to outweigh policy. It is not considered that the case presented by the applicant is anywhere near robust or compelling enough to outweigh Green Belt policy.
- It is noted that the council's own conservation officer has objected to the application. It is a key aim of the current local plan to promote the SAC for conservation and recreation and the proposal will do great damage to this. The scheme presented pays very little regard to its context and the justification provided is insufficient to deal with the harm adequately.
- The former colliery land contains large areas of brownfield land. Although the site is within the Green Belt and the countryside, the long term ambition is to work with the council to bring forward a comprehensive masterplan to realise the significant potential the land holds regarding economic, heritage and recreational uses. To allow the current application would undermine this and most likely render any masterplan as unworkable.
- The site-lies within a former colliery and is very close to a former landfill site, and we are aware that there is some evidence of gases leaching through the ground. At present there is simply no information to enable a proper assessment of this matter.
- It is imperative that the Council has given proper consideration to the applicant's Gypsy status. Suffice to say, it is an established point that if an applicant for planning permission wishes to ask for their gypsy status to be considered as a material consideration. It is for the applicant to demonstrate that status and for the Council to be satisfied with the evidence presented. Important cases in this regard are *R v South Hams DC Ex p. Gibbs* [W95] QB. i58 and *Wrexham CBC v National Assembly of Wales* [2003] EWCA Civ 835.
- It is established in case law (including for example *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466) that consideration of Green Belt impact is not merely a volumetric exercise but can also incorporate other relevant factors including visual impact.
- The applicant's statement (para. 10.1) refers to the proposal covering a smaller footprint than the existing structures and being lower, thereby causing less Green Belt impact. On the footprint point. It is noted that no calculations have been provided. At present approximately the middle third of the site is occupied by buildings, concentrated in a single area of the site. The rest of the site is open of development and gives a rural appearance, with mature landscaping (a point recognised in the Heritage Assessment). The proposal would allow for a much greater spread of development on the site, giving a clear impression of encroaching urbanisation into the Green Belt. This would conflict with at least one of the 5 purposes for protecting land in the Green Belt in para. 134 of the NPPF. Without calculations, it is difficult to comment on the footprint assumptions, but it is likely to be very similar given that the proposal will replace the existing buildings with 3 static caravans and two other permanent structures, with the site regularly occupied by touring caravans and vehicles. Even If there is a reduction.
- It is noted at para. 10.3 in the applicant's statement that it is claimed the site does not lie within the open countryside. This is clearly incorrect. The site and



the context have been part of an industrial complex in the past but a large area has been restored and the site lies outside an identified settlement. The countryside does not consist only of fields- it includes many different types of operation and buildings. However, the starting point must be those policies that relate to development within the countryside.

- The case presented is simply not sufficiently compelling to pass the stringent tests for very special circumstances. Only one of the proposed occupiers is at any risk of homelessness, and it is not clear whether that situation is critical. The other occupiers all have secure plots elsewhere. There is no evidence of significant personal circumstances and reference to children being able to all attend a local school appears to be borne out of convenience rather than necessity. In line with the PPfTS, this argument holds minimal weight.
- Even in terms of local need, it is noted that only one of the occupiers (the applicant) resides within the Borough at present. If approved, the development would therefore only generate a net increase of 1 pitch within the Borough, vacated by the applicant moving to the new site. Unmet need rarely represents very special circumstances, but even in this instance the proposal would have a negligible impact on improving the supply of available plots. The proposal will be a private site and there is no suggestion that it will be made available to others if the plots become vacant for any reason. In line with the PPfTS this argument holds minimal weight.
- Although the local unmet need and personal needs of at least one of the occupiers carries moderate weight in favour of the proposal, this is clearly insufficient. In addition to the minimal weight held by the other factors to provide a case for very special circumstances to clearly outweigh the substantial harm caused to the openness of the Green Belt by the very existence of the development, in addition to the harm arising to visual amenity.
- It is noted in the Cannock Chase Local Plan (Part 1) that the canal represents a 'key heritage asset'. Whilst the Heritage Assessment refers to the impact on the canal it only really mentions drainage as an impact. The document does not consider the impact of the development on the historical context of the canal which will be potentially impacted greatly by the removal of the historically-important buildings and establishment of a residential site utilising a form of development quite different to the nature and form of development historically associated with the canal and the colliery site. Indeed it is noted that the Conservation Officer is at a similar view and objects to the proposal. This should be afforded significant weight in the planning balance. The proposal fails to apply the tests as set out in paragraph 189 of the NPPF and therefore fails to accord with policy.
- The landowner holds an ambition to instigate a long—term masterplan for the development of brownfield land at the former colliery site and has signalled a desire to engage with the Council to discuss this process. The site is extensive but well positioned and could make a significant contribution to the Boroughs economic development needs as well as providing enhanced leisure and heritage facilities. A long-held ambition of the Council. Clearly, the best way to achieve the proper planning of the area is through the masterplanning process rather than unconnected piecemeal development proposals.
- The granting of piecemeal development proposals within the area puts this process at risk. Any encroachment of uses potentially incompatible with

economic development could reduce the viability of a wider masterplan to the point where it becomes unviable.

- It is noted in the applicant's statement at paragraph 1.3 that the purchase of the site by the applicant from the council is conditional on this application being granted — it is certainly hoped that the application will be determined in accordance with material planning considerations only and that matters relating to a potential land sale are treated as being wholly irrelevant.
- The proposed development is in the wrong place and will jeopardise long term ambitions to work with the council to provide significant benefits on the former colliery land to the wider Borough. A landowner owns land adjacent to the existing traveller site to the south along Lime Lane (the site currently home to the applicant) and would be willing to discuss a potential extension to that site, which as confirmed within the applicant's statement, is very popular. It would be far more sensible to extend an existing popular site than establish an entirely new one which would also likely increase the Borough's supply by a greater amount than the proposed development.
- Insurance premiums might go up if the site gets approval.
- The application quotes the adjacent site as being showman storage. This is not the correct description, as there are complete families continually living here from November to April each year for the last twenty eight years. After reading the application I (objector) fully agree that the Clee family, like myself (objector), needs somewhere to live on a permanent basis. I (objector) myself have been talking to Cannock's Planning Department for around twenty four years, so that we (objectors) may have a permanent base, a place to call home in the Norton Canes area. At the moment we (objectors) are told that there is no land available — and therefore we (objectors) have a temporary permission, though it seems as if we (objectors) are going to be here indefinitely.
- To pass this proposal would not take into consideration the settled community who one of which has their house adjoining the land in question. It would seem too dense a development in the entrance to the Grove, where there are cars and vehicles in and out all through the day and night. It could be said that this development could possibly attract around seven private vehicles, and five commercial use vehicles, which could potentially block access.
- Immediately to the north of this site are two semi—detached properties. Under the plans submitted, the occupants of the property that bounds the site (143 Lime Lane) would have a mobile home right up against their fence; even with a very high fence this would inevitably cause them a high level of disruption. The property next door contains a business which provides a rehabilitation service for dogs; this business is ideally located given the relative tranquillity of this area, a vital requirement for the work they do. This business could be significantly damaged by disruption that would almost inevitably result from the site in the form of noise pollution and vehicle movements. Further down the lane, both the wooden pallets and brick delivery businesses rely on unimpeded access down the lane on a regular basis; given that this site straddles the lane, this access could be compromised by vehicles being parked along both sides of the lane.
- Local Plan (Part 2) site options in January 2017 despite the fact that four other sites in the Norton Canes parish were. This raises the question of why this site would be suitable for a traveller site now when it was not deemed to be suitable by the District Council just two years ago. Given that other sites have been identified as potential traveller sites, I (objector) believe that the District Council

should stick to its thorough, methodological approach to the complex issue of traveller site provision by not accepting sites like this which fall outside of the Local Plan scoping exercise.

- We (objector), the showmen's site and the existing residents in the adjacent houses would be more than dominated, we would be completely overwhelmed. It would be like we were living in a Gypsy camp, enduring a lifestyle and culture imposed on us that we would not have chosen. The definition of the nearest settled community has been established by existing Caselaw as 400m. See *Brown, Delaney and others v Canterbury City Council*. Where Inspector Clegg found that a site about 400m from an existing settlement was not away from it. For further reference see *Suggery v Huntingdonshire DC*. Where Inspector Tim Wood said Paragraphs 14 and 25 of the Planning Policy for Travellers implicitly accept that such sites may be located in rural and semi—rural areas, but that they should not dominate nearby settled communities.
- The proposal represent “inappropriate development” in green Belt Policy Terms, it is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. National Planning Policy make sit clear that “subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances”.
- The Local Plan confirms that the “Green Belt will be protected from inappropriate development” and will be well managed and will be linked to the Area of Outstanding Natural Beauty”.
- Whilst the Local Plan identifies an unmet need for Gypsy and traveller sites in the District, the applicant and other constituent members of his family who would propose to occupy the site (including their children) all appear currently to have settled accommodation. Whilst there is no doubting their desire to live together on the application site, there is little, if any evidence (that [the objector] has seen) to suggest that releasing the site to them for this purpose is ‘necessary’.
- The remaining colliery buildings fulfil the definition of ‘heritage assets’ in the National Planning policy Framework.
- One need look no further than the adopted Local Plan for acknowledgement of the heritage credentials of the application site:
- “4.103 The Council will also be proactive in creating a Local List of locally significant heritage assets. The Cannock Extension Canal and its wider setting of the former Grove Colliery with its remaining historic buildings is the main candidate with potential for destination as an additional Conservation Area, given its important landscape character, history and potential for environmental enhancement.”
- “The Cannock Extension canal represents a key heritage asset, however given the ecological sensitivities of the site any proposal for enhancing its character will need to be carefully designed” and
- “a further conservation area will be considered for the Cannock Extension Canal having regard to its wider setting and potential for enhancements”.
- [The objector goes on to reference Local Plan Policy CP15, the comments of the conservation Officer dated 12 M and the comments of the Canal and river Trust in their consultation response dated 1 April 2019 March 2019.]

- The disposal of the application site by the Council to the applicant for the purposes of developing it as a Gypsy and Traveller site would drive a coach and horses through the Council's own policies.
- The proposed breach of Development Plan policy would appear to be exacerbated by the fact that an offer to the District council to collaborate on a heritage –led regeneration of the Grove site has been made by Little Wyrley Estate and Norton canes Parish Council. Through a joint masterplan/ brief for the site including its role as a recreation hub.
- Ecology
- The application site is located within the 'Cannock Extension canal Special Area of Conservation ("SAC"). SACs are internationally protected areas designated (in England and Wales) under the Conservation of Habitats and Species Regulations 2017 (as amended). The site is also designated as a Site of Special Scientific Interest.
- The primary reason for selection of this site as a SAC is that the canal is "an example of anthropogenic lowland habitat supporting floating water plantain *Luronium natans* at the eastern limit of the plants distribution in England. A very large population of the species occurs in the canal, which has a diverse aquatic flora and rich dragonfly fauna, indicative of good water quality. The volume of boat traffic on this terminal branch of the Wyrley and Essington Canal has allowed open-water plants including floating water plantain, to flourish, while depressing the growth of emergents.
- [The objector goes on to reference Local Plan Policy CP12, paragraphs 4.87, 4.90, 4.99, 4.104, 6.10 and 6.11 of the Local Plan, the citation for the Designation of the Cannock Extension Canal as a SSSI and the consultation responses from Natural England dated 18 March 2019 and 6 November 2019].
- It is trite law that for a plan or project to be approved, an HRA must result in there being 'no reasonable scientific doubt' that a plan or project will not have an adverse effect on the integrity of a European site. Decisions must be made and supported by the best scientific knowledge / evidence available. Furthermore, whilst the positive effects of mitigating measures may be included in a stage 2 Appropriate Assessment, the CJEU in the *Cooperatie Mobilisatie* case held that mitigation measures may only be taken into account as part of such an assessment where the benefits of the mitigation measures are certain at the time of the assessment: i.e.
- "126... according to the court's case-law, it is only when it is sufficiently certain that a measure will make an effective contribution to avoiding harm to the integrity of the site concerned, by guaranteeing beyond all reasonable doubt that the plan or project at issue will not adversely affect the integrity of that site, that such a measure may be taken into consideration in the 'appropriate assessment' within the meaning of Article 6(3) of the Habitats Directive (see, to that effect, judgements of 26 April 2017, *Commission v Germany*, C-142/16, EU:C:2017:301, paragraph 38, and of 25 July 2018, *Grace and Sweetman*, C-164/17, EU:C:2018593, paragraph 51)....
- ...130 The appropriate assessment of the implications of a plan or project for the sites concerned is not to take into account the future benefits of such 'measures' if they are uncertain, inter alia because the procedures needed to accomplish them have not yet been carried out or because the levels of scientific knowledge does not allow them to be identified or quantified with certainty.

- 131 It must be added that the appropriate assessment within the meaning of Article 6(3) of the Habitats Directive must include not only the anticipated positive effects of those ‘measures’ but also the certain or potential adverse effects which may result from them ( see to that effect, judgement of 25 July 2018, Grace and Sweetman, C-164/17, EU:C:2018:593, paragraph 53).
- 132 In the light of the forgoing, the answer to the fifth to seventh questions in Case C-293/17 and the third to fifth questions in Case C-294/17 is that Article 6(3) of the Habitats Directive must be interpreted as meaning that an ‘appropriate assessment’ within the meaning of that provision may not take into account the existence of ‘conservation measures’ within the meaning of that paragraph 1 of that article, ‘preventive measures’ within the meaning of paragraph 2 of that article, measures specifically adopted for a programme such as that at issue in the main proceedings or autonomous measures that are not certain at the time of the assessment”.
- It is respectfully submitted that in the context of the above, the Council’s conclusion that the Construction Environmental Management Plan (CEMO) and the proposed measures within it, if put in place would adequately protect the integrity of the Cannock Extension canal SAC is untenable.
- The substance of the CEMP is set out in a table. The numbered paragraphs below refer to paragraphs in that table. There area number of measures proposed in the table in order to remove that risk of adverse effect on te integrity of the SAC, the benefits of which were, at the time of the HRA, uncertain because the details of the actual measures themselves had not even been identified. For example

Stages of the Project	Risks	Mitigation
7. Demolition of the buildings	Water from the wheel washing of haulage vehicles, from dust damping during demolition and storm water may all present a potential threat to the integrity of the nearby canal and stream.	Seek advice and follow guidance regarding measures to reduce the risk of cross contamination. These may include provision of bunds, installing specific arrangements to control ground water movement and flow from the canal.

- It can be immediately see from the above that the mitigation measures required to remove the risk of contamination to the canal and stream have not bene identified and thus the effectiveness of such measures- whatever they might, in due course, turn out to be-were not, and could not be certain at the time of the HRA.
- And further

Stages of the Project	Risks	Mitigation
8. Demolition of the buildings	Ste (stet) Waste management and disposal	The demolition contractor will provide a comprehensive Site Waste Management Plan and comply with current waste

		management and disposal legislation and guidance and to allow for the appropriate disposal of all waste generated by demolition...
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- Again, as the measures proposed in the Waste Management Plan are not identified and were not known at the date of the Assessment, the effectiveness of such measures was also at that time ,by definition, uncertain.
- And further

Stages of the Project	Risks	Mitigation
11. Following demolition of the buildings	Demolition of the buildings will allow investigation of the existence of any historic drainage channels from the buildings into the canal.	<p>A full understanding of the existing suite drainage could not be obtained through the initial survey which is recorded in the Conceptual Drainage Strategy.</p> <p>A further drain survey and review of the site drainage strategy is required at an appropriate stage of the demolition.</p> <p>If demolition of the buildings reveals that there are any historic drains into the canal they need to be blocked up. (The project thus provides the potential to improve the integrity of the canal compared with the existing.</p>

- Self-evidently, the proposed mitigation in both of the above paragraphs is subject to further survey and investigation work and thus the effectiveness of any of the proposed mitigation must have been uncertain at the time of the assessment.
- There is no room for doubt that in these circumstances, the Council could not lawfully take the proposed mitigation measures in the above paragraphs of the CEMP into account as part of the HRA as the benefits of the mitigation measures were uncertain at the time of the assessment.
- The consultation response to the application submitted by the Canal and River Trust (dated 1 April) also states

- “Although the site is set back from the canal the proposed works do have the potential to result in adverse impacts on the natural environment of the canal corridor and in particular water quality. The submission indicates that it is likely asbestos is present in the existing buildings. This and contamination present on the site need to be addressed accordingly with further assessments submitted for consideration.
- Whilst the submission indicates that currently there will be no drainage to the canal this does require further clarification. This is to ensure that no surface water enters the canal, from general runoff or via historic drainage channels. These issues could be addressed by conditions.”
- The applicant’s own heritage assessment acknowledges
- “The proposed demolition and development of the site for Gypsy and Traveller Residential use could pose a threat to wildlife and aquatic conditions in the SSSI and SAC. Therefore careful investigation of historic drainage channels on the site and nearby is proposed during site clearance and demolition and any remedial works carried out to avoid contamination of any remaining pipes or channels that may drain towards or into the canal...”
- The applicant’s supporting statement acknowledges
- “5.2 The Bat Survey indicates that the preliminary roost assessment found high potential for the presence of roosting bats within the two buildings. Three surveys were carried out, two at dusk and one at dawn. The findings suggest the presence of a summer roost for low numbers of male common pipistrelle bats. It is likely that roosts occupy a number of locations within the buildings. As the proposals require demolition of the buildings the roosts would be destroyed. This means a European protected species mitigation licence would be required from Natural England.
- [The objector at this point recites the response of the Council’s Ecologist, dated 2 March 2019].
- Whilst mitigation has now been proposed, we frankly doubt that the Council could rationally conclude that the destruction of the current bat roosts in order to make way for a private Gypsy and traveller site is of ‘overriding public interest’, that there is no satisfactory alternative that would cause less harm to the species (including an alternative site for the proposed development –see further below) or that the destruction of the roosts and the change of use of the site would not harm the long-term conservation status of the species.
- We acknowledge that the Council need to weigh all of the above considerations in the balance with the identified need for Gypsy and traveller sites in the area which, based upon the 0212 Gypsy and Traveller Accommodation Assessment (GTAA) the Local Plan states to be 41 additional pitches, but the recent (2019) GTAA now suggest is in fact 29 ( to the year 2038).
- The Local Plan (Part 2) Issues and options Consultation 2017 –Gypsy, Traveller and Travelling Showpeople Site Options Selection Methodology Background Paper (November 2016) contains a short list of sites to be taken forward for more detailed assessment and consultation as part of the Local Plan process. It is of particular note that the application site is not included on this short list.
- The representations submitted to the Council by Fisher German on behalf of the Wyrley Estate in response to the 2019 Local Plan Issues and Options, land off Lime Lane is offered to the Council as an extension to the existing well-populated and popular Gypsy and traveller site.

- The availability of alternative sites is a material consideration in the determination of the current application- particularly given the significant planning constraints that the application site appears to possess.
- The availability of alternative sites would clearly weigh against the grant of planning permission in the overall planning balance in any event.

### **Relevant Planning History**

None.

### **1 Site and Surroundings**

- 1.1 The current application relates to the site containing the former Brownhills Grove Colliery office building and the colliery manager's house off Lime Lane, Pelsall.
- 1.2 The application site covers an area of 1556m<sup>2</sup> and is currently owned by Cannock Chase District Council. The site itself is an irregular rectangular with two buildings located centrally within the site. There is an informal hard cored parking area towards the southern end of the site and an overgrown former garden area with semi-mature self set trees to the northern end. There are a couple of mature trees along the eastern boundary of the site. The eastern boundary is delineated with metal fencing.
- 1.3 The buildings comprise of two separate buildings that are attached via a single storey. The buildings are of traditional construction being facing brick under a tiled roof. The buildings have remained vacant for a number of years. The buildings on the application site are not statutorily listed buildings nor standing within a conservation area. However, they are candidates for a forthcoming District Local List (draft format).
- 1.4 The site is accessed from and lies to the west of the section of Lime Lane which forms a cul-de-sac off the B4154 (also called Lime Lane).
- 1.5 The immediate surroundings are varied; to the immediate north is a pair of two storey residential properties with a licenced dog boarding and training kennels (for 50 dogs) beyond. To the west of the site is an unnamed access road which runs south off Gorsey Lane and serves a heavy haulage firm. Beyond this and to the west lies an extensive area of land fill which covers much of the site of the former Brownhills Grove colliery. To the east of the section of Lime Lane serving the application site is the Cannock Extension Canal, with above it the B4154, which crosses the canal via a modern bridge.
- 1.6 To the south east of the site is Cannock Pallets in a single storey brick-built building surrounded by metal security fencing. Beyond this, to the south a site which has had a sequence of temporary permissions for the siting of fairground equipment (last permission expired 24<sup>th</sup> April 2016) and a residential canal mooring beyond this. Both with access via Lime Lane.



- 1.7 The site is located in a semi-rural area between Cannock, Norton Canes, Brownhills and Pelsall just under a kilometre to the south of the A5 / B4154 Lime Lane junction. While in the Green Belt, the character and environment has been heavily influenced by the area's coal mining history.
- 1.8 The wider area comprises of a varied settled/industrial landscape of former mining villages, pockets of ancient settled farmland and areas of disturbed ground. The remaining farmland, used mainly for stock rearing, comprises small to medium sized hedged fields defined by irregular, mixed species hedgerows. The landform to the south of the A5 comprises of topography of a low plateau summit with a gently rolling 'upland' character. Opencast coal mining and deep mining are a feature throughout the Coalfield Farmlands and within the relatively flat topography to the south of the A5, spoil tips, including the former historic mine workings at Grove Colliery and Little Wyrley (No 3 tip), provides the only real variation in topography. The spoil heaps have typically revegetated with secondary woodland, disguising their landforms and adding to the well treed character of the landscape. Areas of open water, subsidence flashes, and wet grassland are also a characteristic feature of this area.
- 1.9 The Coalfield Farmlands was historically a landscape of mixed arable and pasture farming, made up of an irregular pattern of medium sized hedged fields with hedgerow oaks. Where this agricultural landscape remains, it often includes old estates and farm buildings from the pre-industrial era. The area to the south of the A5 contains the historic and well wooded Little Wyrley Estate, where the estate woodlands still provide a strong sense of enclosure.
- 1.10 The application site itself lies within the open countryside but within a linear strip comprising of mixed uses comprising industrial and residential. The linear strip of development is clearly defined along its eastern side by virtue of the canal. The application site lies adjacent a residential dwelling, opposite a pallet yard and within close proximity to a travelling showpersons site.
- 1.11 The site falls within the Green Belt as defined within the Cannock Chase Local Plan (Part 1) Adopted. The application site is located adjacent to the Cannock Extension Canal is a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). The application site is designated as a Development Low Risk Area by the Coal Authority and is located within a Minerals Safeguard Area for Coal/ Fire Clay.

## **2 Proposal**

- 2.1 The applicant is seeking full planning permission for the demolition of the buildings and the change of use of the land to a gypsy and traveller residential site.
- 2.2 The proposed development would have a layout in the form of an extended family site rather than individual pitches. The proposal includes the siting of up to seven caravans of which no more than three would be static together with the construction of a day room block, providing a living room / kitchen, a washroom and a store room. The proposed utility block would provide two washrooms and

a laundry room. The proposal would also include the creation of a new vehicle access and the laying of hardstanding.

- 2.3 The proposed day room and utility block would be constructed using the bricks and tiles retained following the demolition of the existing building. The three proposed mobile home slabs would be sited around the periphery of the site mainly adjacent the northern, western and eastern boundaries with four slabs for the touring caravans adjacent. The proposed day room would be sited along the southern boundary of the site and the utility block opposite the entrance to the site along the western boundary.
- 2.4 The proposed day room and utility buildings would cover an area of 60m<sup>2</sup> and 24m<sup>2</sup> respectively. Both buildings would be constructed to a maximum height of 3.5m. Parking would be provided for 6 vehicles and this would be central to the site.

### **3 Planning Policy**

3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015 – 2030). Relevant policies within the Local Plan include: -

- CP1 - Strategy – the Strategic Approach
- CP3 - Chase Shaping – Design
- CP7- Housing Choice
- CP10- Sustainable Transport
- CP12- Bio-diversity and Geodiversity
- CP13 – Cannock Chase Special Area of Conservation
- CP14-Landscape Character and Cannock Chase Area of Outstanding Natural Beauty.
- CP15 – Historic Environment
- CP16- Climate Change and Sustainable Resource Use

3.3 The relevant policies within the Minerals Plan are:-

3.2 Safeguarding Minerals

3.5 National Planning Policy Framework

3.6 The NPPF (2019) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be "presumption in favour of sustainable development" and sets out what this means for decision taking.

3.7 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.8 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
124, 127, 128, 130:	Achieving Well-Designed Places
143-145	Protecting Green Belt
172	Conserving and Enhancing the Natural Environment
212, 213	Implementation

3.9 Other relevant documents include: -

Governments Planning Policy for Traveller Sites (PPTS)  
Gypsy and Traveller Accommodation Needs Assessment  
Design Supplementary Planning Document, April 2016.  
Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.

## **4 Determining Issues**

4.1 The determining issues for the proposed development include:-

- i) Principle of development in the Green Belt
- ii) Principle of isolated homes in the countryside
- iii) Other conflicts with the development plan
- iv) Impact on an undesignated heritage assets
- v) Design and impact on the character and form of the area
- vi) Impact on natural conservation Interests
- vii) Impact on residential amenity.
- viii) Crime and the fear of crime
- ix) Impact on highway safety.
- x) Drainage and flood risk
- xi) Air quality
- xii) Mineral safeguarding
- xiii) Waste and recycling
- xiv) Ground conditions and contamination
- xv) Availability of other sites
- xv) Other issues

4.2 The Principle of the Development in the Green Belt

4.2.1 The application site lies within West Midlands Green Belt, wherein there is a presumption against inappropriate development, which should only be allowed where very special circumstances have been demonstrated to exist.

4.2.2 The stages in taking decisions on applications within the Green Belt are as follows. In the first instance a decision has to be taken as to whether the proposal constitutes appropriate or inappropriate development. If the proposal constitutes inappropriate development then it should not be allowed unless the

applicant has demonstrated that 'very special circumstances' exist which would justify approval. If the proposal is determined to constitute appropriate development then it should be approved unless it results in significant harm to acknowledged interests.

4.2.3 Local Plan Policy CP1 states that development 'proposals in the Green Belt will be assessed against the NPPF and Policy CP14.

4.2.4 Local Plan Policy CP14 (and bullet point 11 of Policy CP3) relates to impacts on landscape character rather than to whether a proposal constitutes appropriate or inappropriate development.

4.2.5 Whether a proposal constitutes inappropriate development is set out in Paragraphs 145 & 146 of the NPPF. Paragraph 145 relates to new buildings whereas Paragraph 146 relates to other forms of development.

4.2.6 In this respect, paragraph 145 of the NPPF is relevant to the determination of the application. This states "A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include, amongst other things: -

(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;
- 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.

4.2.7 It is clear that the site constitutes previously developed land and therefore the proposal could benefit from the provisions of paragraph 145 provided that it would not have a greater impact on the openness of the Green Belt than the existing development

4.2.8 The term 'openness', is not defined in any national planning policy documents or guidance, but the NPPF (para 133) but for the purposes of interpreting Green Belt policy it is defined as the absence of built form. Paragraph 133 of the NPPF makes it clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Case law gives some indication of what should be considered and outlines that the effect on openness is a matter of planning judgment for the decision-maker and that impacts upon openness should be assessed in spatial and visual impact terms.

4.2.9 The existing buildings are two-storey in nature, cover a footprint of approximately 421m<sup>2</sup> (27% of the site area), have a combined volume of approximately 2636m<sup>3</sup>, a height to roof pitch of approximately 12m and are sited towards the centre of the site.

4.2.10 The proposal seeks to demolish the existing buildings and redevelop the site for the siting of 7 caravans (3 comprising mobile homes and 4 touring caravans) and two permanent brick built single-storey buildings. The proposed permanent buildings within the site would have a footprint of 144.5m<sup>2</sup>. Furthermore, on the basis of scaling from the submitted plan the 3 mobile homes would have a combined footprint of 114m<sup>2</sup> and the four tourer caravans would have a combined floor area of 48m<sup>2</sup>. Therefore the combined footprint of the proposed development would be 306m<sup>2</sup> (or 20% of the site area). Even taking into account that the caravans actually brought onto site could be marginally larger, it is clear that the proposal would have a substantially smaller volume and height than the existing built form on the site.

4.2.11 Even taking into account the looser form of the proposed development as compared to the existing development it is clear that it would have a much reduced visual impact on the openness of the Green Belt than the current built form. Furthermore, it is considered that this would still be the case even after taking into account other parked vehicles, activity on the site and the residential paraphernalia that would be generated by the proposal.

4.2.12 Given the above, it is concluded that the proposal would constitute the complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development and therefore would not constitute inappropriate development in the Green Belt.

4.2.13 It has been advanced by objectors that the Policy E of the National Planning Policy for Traveller Sites (PPfTS) (2015) states that traveller sites (permanent or temporary) in the Green Belt are inappropriate development and as such the proposal constitutes inappropriate development. However, the PPfTS at para 1 makes it clear that it should be read in conjunction with the NPPF and it should not be read in isolation.

4.2.14 Therefore, although the PPfTS does state that “traveller sites in the Green Belt are inappropriate development” it is also clear that this should not be the case if a particular proposal would benefit from the provisions of paragraphs 145 and 146 of the NPPF. Otherwise a situation could arise where one could allow the redevelopment of a previously developed site for a general caravan site if it did not have a greater impact on the openness of the Green Belt than the existing development but would not allow an identical proposal for a traveller site merely on the basis of the occupants. Such an approach would constitute discrimination on the basis of race.

4.2.15 As such, your Officers consider proposal would fall to be determined under paragraph 145(g) of the NPPF and on this basis would not be considered as inappropriate development within the Green Belt.

### 4.3 The Principle of Isolated Homes in the Countryside

4.3.1 Paragraph 79 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

4.3.2 Officers can confirm that the proposal does not fall in any of the above categories and therefore in this respect it is contrary to the NPPF.

4.3.3 However, a significant material consideration in the determination of this application is that the applicant and his extended family are members of the gypsy community.

4.3.4 The Governments Planning Policy for Traveller Sites (PPfTS). defines, for the purposes of planning, Gypsy and traveller to mean:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such”.

4.3.5 In this instance, the site would be occupied by the applicant and his family. The applicant confirms that health limitations restrict their ability to travel as much as they did in the past. However, they do still travel to evangelical Gypsy rallies across the country through the summer months staying in their touring caravan. They are also away for around three weeks each summer travelling to a major evangelical Gypsy convention in France. Within the extended family there are young children who need a more permanent residence to allow them to settle in at school. The extended family would travel during the summer months.

4.3.6 The applicant’s daughter and her family, including young children, are currently occupying a single caravan in the yard behind a house in Wilenhall, which is owned by Gypsy people. The yard is shared with two other caravans occupied by members of the owners’ family. The owner family want to replace the two caravans with mobile homes, which will mean there would not be room for Mr Clees daughter to remain. They are currently being allowed to carry on staying on the site pending being able to move on to the application site. If the current planning application were to be refused they would be vulnerable and potentially homeless with nowhere to go.

- 4.3.7 The applicant contends that their nomadic habit of life means that the family come within the definition of Gypsy and Traveller for planning purposes in the Annex to Planning policy for Traveller sites (PPfTS).
- 4.3.8 Officers note that although an objector has queried the gypsy status of the family they have provided no evidence to indicate otherwise. As such, on the balance of probabilities the applicant's assertion of his gypsy status is accepted.
- 4.3.9 Given the above it is noted that Policy CP7 makes provisions for the approach to providing homes for the travelling community. This states

“Provision for Gypsies, Travellers and travelling Showpeople will be made through the allocation of sites in Local Plan Part 2 to ensure a five year supply of suitable land is maintained for the plan period in accordance with the NPPF. The Cannock Chase Gypsy and Traveller Accommodation Assessment 2012 will be used as a basis for levels of provision within the District requiring 41 additional residential pitches and four Travelling showpeople plots over the plan period and five transit pitches.

A broad area of search for such sites, matching travel patterns and based along the A5 road corridor, is identified in the Key Diagram. The Council will seek to locate sites and determine planning applications in accordance with the NPPF, including within reasonable proximity of existing settlements and with access to shops, schools and other community facilities.”

- 4.3.10 In addition to the above it is noted that the PPfTS provides an overarching set of aims in respect of traveller sites for plan making and decision making. Within Policy H it states that planning law requires applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 4.3.11 Paragraph 24 of the PPfTS outlines a number of issues that the Local Planning Authority should take into account when considering applications for traveller sites. For example, these include the existing level of local provision and need for sites, and the availability (or lack) of alternative accommodation for the applicant, other personal circumstances of the applicant; however these factors need to be considered in conjunction with Paragraph 16 which considers traveler sites in the Green Belt (which has already been considered in the previous section).
- 4.3.12 In this instance, it is considered that the applicant and his family meet the definition of ‘gypsy’ as defined within the PPfTS. Further, there are a number of dependents that would benefit from the stability and security the application site has to offer. The children require stable and long term access to schooling, services and facilities which would only realistically be available from a settled base. Having a lawful, planned and reasonably spacious and safe site from which the applicants could access health services and have a stable education would also undoubtedly be in the best interests of the extended family.

- 4.3.13 In line with the PPfTS, the Council is required to plan for the future needs of travellers via its Local Plan policies. In this respect the Cannock Chase District Local Plan (Part 1) Policy CP7 identifies a need for 41 gypsy and traveller pitches from 2012-2028. Notwithstanding this, the Council has recently updated its evidence base for Gypsy and Traveller needs as part of the Local Plan Review process. This identifies a reduced need of 26 pitches for the period 2018-2036 (although it should be noted that as this evidence has not been tested via a Local Plan examination process, it carries little weight at this stage). Despite a reduced need being identified in the updated evidence, the fact that no additional pitches have been identified remains the case and therefore the Council will still be seeking to allocate sites as part of the Local Plan Review. As set out in Policy CP7, the Local Plan (Part 1) pitch requirements were due to be delivered via the allocation of sites in the Local Plan (Part 2) focusing upon an 'Area of Search' which is identified within the Local Plan (Part 1). The application site is located within this designated search area. However no sites within this area were specifically identified.
- 4.3.14 The search area largely encompasses the southern part of the District which lies below the Cannock/ Lichfield Road (A5190) and constitutes Green Belt land in the main. The local context warranted the 'exceptional circumstances' to consider sites within this largely Green Belt area i.e. the A5 corridor represents a main travelling route and the vast majority of the District's existing gypsy, travelling and travelling showpeople sites are located within the area already (within relatively sustainable locations). The policy also provides a series of criteria for the consideration of gypsy and traveller proposals, which should be taken into account i.e. the proximity of existing settlements with access to shops, schools and other community facilities; providing adequate space for vehicles; providing appropriate highway access.
- 4.3.15 However, due to the extent of more recent changes to the national and local policy context the Council has since ceased work on the Local Plan (Part 2) and is now undertaking a review of the Local Plan. The Local Plan Review identifies the difficulties that have been faced in terms of identifying sites for gypsy and traveller uses since the adoption of the Local Plan (Part 1). This is largely due to a combination of the inability of existing gypsy and traveller sites in the District to expand further (due to physical and landownership constraints) and a lack of new sites being available i.e. landowners are promoting alternative uses of their land. The Authority Monitoring Report (2018) which monitors Local Plan policies outlines that no pitches have been delivered to meet the Local Plan (Part 1) requirements to date and that the Council does not have a five year supply of sites.
- 4.3.16 In this respect the comments of the objectors are noted with regard to existing sites within close proximity to the application site. However, these sites fall outside the Cannock Chase District boundary and therefore cannot be considered as provision by Cannock Chase Planning Authority.
- 4.3.17 Given the above it is considered that the conflict with paragraph Paragraph 79 of the NPPF is clearly outweighed by the fact that the site is within an area of search for traveller sites identified in the Local Plan, the current lack of alternative sites for travellers at the present time and that there is currently no



firm proposal to identify and bring forward specific alternative sites to make up the shortfall in provision.

4.3.18 As such it is considered, on balance, that the principle of the use of the site to provide accommodation for gypsies and travellers is acceptable.

#### 4.4 Other Conflicts with the Development Plan

4.4.1 Whilst the application site is not allocated for any specific use on the Policies Map, paragraph 4.62 of the Local Plan (Part 1) identified the former Grove Colliery landfill site/ area as a landscape for restoration, which may be able to provide complementary recreation, leisure and tourism focused activities. However, this was not subject to any formal allocation given the lack of any detailed plans for the area.

4.4.2 Notwithstanding, this was largely related to a legacy of the former Local Plan (1997) which identified a potential tourism, leisure, recreational-focused regeneration site linked to the restoration of the Hatherton Canal, that would have linked into the Cannock Extension Canal. In view of the fact that the Extension Canal is a designated Special Area of Conservation this connection was abandoned in Local Plan (Part 1) and the Hatherton Canal will bypass the Grove Colliery area, removing part of the justification for the regeneration.

4.4.3 In addition it is noted that although the aspiration to stimulate tourism based development dates back to 1997 no firm proposal has come forward during that 22 year period and no evidence exists that such a firm proposal would come forward in the foreseeable future.

4.4.4 Given the above, it is considered that little weight should be given to the aspiration for tourism related development set out in the Local Plan and that this would be clearly outweighed by the substantial benefits arising from the delivery of three pitches for the travelling community.

4.4.5 Therefore having taken all relevant national and local policy and other material considerations into account it is concluded that the proposal is acceptable in principle.

4.4.6 However, although a proposal may be considered to be acceptable in principle it is still required to meet the provisions within the development plan in respect to matters of detail. The next part of this report will go to consider the proposal in this respect.

#### 4.5 Impact on the on the Undesignated Heritage Asset

4.5.1 In this respect, the application site is located to the west of the Cannock Extension Canal and the existing former colliery buildings are a surviving part of what was the main industry in the area. The Conservation Officer referenced paragraph 4.103 of the Local Plan (Part 1) which refers to the potential heritage value of the area and consideration of a Conservation Area. However, this designation was never progressed. It is understood that this was as result of further consideration of the heritage value of the site which did not then warrant such a designation.

4.5.2 As such the buildings at Grove Colliery and the Cannock Extension Canal constitute undesignated heritage assets.

4.5.3 Paragraph 197 of the NPPF states

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

In addition paragraph 191 of the NPPF states

“Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.”

4.5.4 In this respect, the comments of the Canal and River Trust, Inland Waterways, Conservation Officer and other objections received are noted. However the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. It goes on to say ‘the level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary’.

4.5.5 In this respect, and as required by Paragraph 189 of the NPPF, the applicant has submitted a Heritage Assessment with which to inform the application. Your Officers confirm that whilst the Heritage Assessment is minimal it does record the time period between which the buildings were constructed (1919-1938), the sites significance in employment generation and it notes the gas explosion in the 1950s is recorded on an information board sited on Lime Lane. The assessment also acknowledges the importance of the Cannock Extension Canal in relation to the site.

4.5.6 Officers consider that the above is sufficient to comply with the requirement of Paragraph 189 of the NPPF and enables the decision taker to understand the significance of the heritage asset.

4.5.7 Members’ attention is drawn to the fact that an application for the former colliery buildings to be granted Listed status was submitted to Historic England. Historic England rejected the application for the following reasons:-

i) Degree of Architectural interest:

Although externally little-altered, these are utilitarian buildings of early C20<sup>th</sup> date which are modestly detailed and of limited architectural merit;

ii) Lack of historic interest:

Most of parts of the colliery have been demolished, reducing the context and significance of those buildings that remain.

4.5.8 Historic England concluded that although of some local interest as remnants of the former coal-mining landscape these former colliery buildings do not have the requisite level of special interest to merit listing in the national context.

4.5.9 Officers therefore note that whilst the buildings are not nationally listed the site does have some very local historical significance in that the Grove Colliery employed many people locally giving it strong communal value and has an historic functional connection to the nearby Cannock Extension Canal. The buildings have some status as a local landmark for people and this suggests that the site holds local importance for people giving it a value. However it should be noted that the buildings are not locally listed, and that in the large the historic context of the buildings (that is the wider colliery), apart from the canal has all but disappeared.

4.5.10 The Canal & River Trust suggested an Appraisal should be provided to include further details on the heritage significance of the buildings, a condition survey and an assessment of the suitability of the buildings for retention and reuse in accordance with Policy CP15 of the adopted Local Plan. However, given the above and Historic England's comments the Local Planning Authority considers a proportionate approach to identifying the significance of the buildings has been taken by the applicant in accordance with paragraph 189 of the NPPF.

4.5.11 In respect to the condition of the buildings it is noted that the Council has commissioned a Condition Survey Report in March 2018. This report confirmed that externally the buildings are in very poor condition, citing the following issues:-

- i) The roof is leaking and appears to have been for a number of years therefore a full roof replacement is required.
- ii) The fenestration is damaged and beyond repair, rotten timber windows and doors with glazing smashed. All windows would need replacement.
- iii) The external walls are in poor condition, brickwork damaged with defective pointing. Concrete flaunching cracked and weathered and pots damaged/ missing. Structural cracking on the rear elevation between the ground floor window lintel and first floor window sill. Concrete sills to window openings are cracked damaged and poor. Pointing is weathered, recessed and generally poor. Deteriorated gutters and downpipes.
- iv) Internally, the building is in very poor condition having been subject to prolong water penetration over a number of years with areas of the structure affected by dry rot. All internal finishes and the majority of the internal structure are beyond repair / salvage.

- v) Areas of the building have been vandalised and stripped out. The external areas are completely overgrown with vegetation and mature trees and shrubs making the areas inaccessible.

4.5.12 The report concludes that the building and external areas are in very poor condition having not been occupied for a number of years. The envelope of the building has been leaking for a number of years allowing prolonged water ingress. There is extensive internal damage to finishes and dry rot evident in a number of locations. Officers note that whilst it is undeniable that the building has been neglected there is no evidence to suggest that this has been by deliberate act. Indeed as back as the Local Plan 1997 the Council has sought to bring about a heritage led regeneration initiative for the site and the wider area but to no avail.

4.5.13 Further, given the previous uses of the site, the applicant also submitted a land contamination survey. This survey identifies the possible presence of potential contamination on or beneath the site originating from former activities on and off the site and current materials storage on the site. The main potential sources of contamination noted are the potential use of asbestos containing materials (ACM) used in the construction of the buildings. Given the date of construction this would be in the use of ACMs as insulation and fire-resistant materials in the building and in the fill used to level the site.

4.5.14 Given the above, Officers contend that the quantum of development required to facilitate the repair and reuse of the buildings would effectively result in the almost complete loss of the existing buildings and the creation of new buildings with little of the original historic value retained.

4.5.15 In conclusion, it is noted that although the buildings have some local historic value, they have little architectural interest being relevant functional buildings of early C20<sup>th</sup> date. The immediate historic context of the buildings has all but disappeared although there is an historic link to the Cannock Extension Canal. However, given the extensive repairs required to make the buildings functional the 'reuse' of the buildings would effectively involve their demolition and rebuild.

4.5.16 Objections have been made by Little Wyrley Estates and Norton Canes Parish Council on the grounds that an offer has been made to the District Council to collaborate on the heritage-led regeneration of the Grove site through a joint masterplan. Officers would respond that although the offer is acknowledged it is merely that an offer. There is no specific scheme at hand that has been shown to be deliverable or policy compliant. Such a regeneration scheme would give rise to its own challenges given the site constraints of Green Belt and the potentially adverse impacts on the integrity of the Cannock Extension Canal SAC.

4.5.17 It is also noted that the aspiration of a regeneration led scheme for this area dates back to at least 1997 when it was subject to Policy TRP2 "Tourism, Leisure and Recreational Development- Former Grove Colliery. It is also noted that this policy was not brought forward into the current Local Plan (2014). Instead it was somewhat relegated to the status of supporting text. This is understood to be on the basis that between 1997 and 2014 the Cannock Extension Canal was designated a SAC and the aspiration to connect the

Cannock Extension Canal with the Hatherton Canal was dropped due to the potential adverse impacts the proposal would have on the integrity of the SAC..

4.5.18 The uncertainties surrounding the impact of an regeneration led scheme, with or without enabling works on the integrity of the SAC, in itself means that little or, no weight can be given to this issue as a material consideration.

4.5.19 Given the above, it is noted that although the proposal would entail the demolition of the existing buildings, and therefore the complete loss of the undesignated heritage assets, only very limited weight should be attributed to this harm.

#### 4.6 Impact on the Character and Appearance of the Area

4.6.1 In respect to issues in relation to design Policy CP3 of the Local Plan requires that, amongst other things, developments should be: -

- (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
- (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

4.6.2 Policy CP14 should be considered with regards to landscape character.

4.6.3 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.6.4 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to

create attractive, welcoming and distinctive places to live, work and visit;

- 4.6.5 Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.
- 4.6.6 Finally, the Design SPD provides guidance on the design of new traveller sites. The approach to be taken to each site depends upon its size and intended occupants; however there are common features across all sites to be considered too e.g. provision of appropriate utility buildings and space around the caravans, No. of caravans should be restricted to 15, the site boundary must provide clear demarcation etc. Officers can confirm that the proposal adheres to the guidance set out within the Design SPD in this respect.
- 4.6.7 The wider area comprises of a varied settled/ industrial landscape of former mining villages, pockets of ancient settled farmland and areas of disturbed ground. The remaining farmland, used mainly for stock rearing, comprises small to medium sized hedged fields defined by irregular, mixed species hedgerows. The landform to the south of the A5 comprises of topography of a low plateau summit with a gently rolling 'upland' character. Opencast coal mining and deep mining are a feature throughout the Coalfield Farmlands and within the relatively flat topography to the south of the A5, spoil tips, including the former historic mine workings at Grove Colliery and Little Wyrley (No 3 tip), provides the only real variation in topography. The spoil heaps have typically revegetated with secondary woodland, disguising their landforms and adding to the well treed character of the landscape. Areas of open water, subsidence flashes, and wet grassland are also a characteristic feature of this area.
- 4.6.8 The Coalfield Farmlands was historically a landscape of mixed arable and pasture farming, made up of an irregular pattern of medium sized hedged fields with hedgerow oaks. Where this agricultural landscape remains, it often includes old estates and farm buildings from the pre-industrial era. The area to the south of the A5 contains the historic and well wooded Little Wyrley Estate, where the estate woodlands still provide a strong sense of enclosure.
- 4.6.9 The application site itself lies within the open countryside but within a linear strip comprising of mixed uses comprising industrial and residential. The linear strip of development is clearly defined along its eastern side by virtue of the canal. The application site lies adjacent a residential dwelling, opposite a pallet yard and within close proximity to a travelling showpersons site.
- 4.6.10 As such, it is considered that the scale and mass of the proposed buildings, and caravans both permanent and temporary, combined with the reuse of existing materials already available within the site would not be at odds when viewed in the wider context of the area. In addition given that the proposed development is single storey in nature and that the site would be screened by a close boarded

wooden fence it is considered that it would not form a prominent feature in the surrounding landscape.

4.6.11 Therefore, having had regard to Policies CP3 and CP14 of the Local Plan, the relevant section of the Design SPD and the above mentioned paragraphs of the NPPF it is considered that the proposal would be acceptable in respect to its impact on the character and form of the area.

#### 4.7 Impact on Nature Conservation Interests

4.7.1 Policy and guidance in respect to development and nature conservation is provided by Policy CP12 of the Local Plan and paragraphs 170, 174, 177, 179 of the NPPF. In terms of other relevant Local Plan policies, the proposal is in close proximity to the Cannock Chase Extension Canal SAC and a number of locally designated sites. In accordance with Policy CP12 the proposal should therefore demonstrate that there would be no adverse impacts upon this internationally protected site.

4.7.2 Policy CP12 of the Local Plan states that the District's biodiversity and geodiversity assets will be protected, conserved and enhanced by: -

'the safeguarding from damaging development of ecological and geological sites, priority habitats and species and areas of importance for enhancing biodiversity, including appropriate buffer zones, according to their international, national and local status. Development will not be permitted where significant harm from development cannot be avoided, adequately mitigated or compensated for;

- support for the protection, conservation and enhancement of existing green infrastructure to facilitate robust wildlife habitats and corridors at a local and regional scale (particularly to complement Policy CP16);
- supporting and promoting initiatives for the restoration and creation of priority habitats and recovery of priority species and the provision of new spaces and networks to extend existing green infrastructure;
- supporting development proposals that assist the delivery of national, regional and local Biodiversity and geodiversity Action plan (LBAP/GAP) targets by the appropriate protection, incorporation and management of natural features and priority species;
- the promotion of effective stewardship and management across the district to contribute to ecological and geological enhancements.'

4.7.3 Paragraph 170 of the NPPF states [amongst other things] that

- 'Planning policies and decisions should contribute to and enhance the natural and local environment by:
  - protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner

commensurate with their statutory status or identified quality in the development plan); [and]

- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

#### 4.7.4 Paragraph 174 of the NPPF goes on to state

“When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it a Site of Special Scientific Interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

#### Impacts on the Cannock Extension Canal SAC

4.7.5 Given that the site is in close proximity of the Cannock Chase Extension Canal SAC the Local Planning Authority must have regard to the provisions of the Conservation of Habitats and Species Regulations 2017. Under Regulation 63(1) a competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.



- 4.7.6 Regulation 63(2) goes on to state "a person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required" adding at subsection (3) "the competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies". Subsection (4) goes on to state "it must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate".
- 4.7.7 Subsection (5) states "In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be) adding at subsection (6) that "in considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given".
- 4.7.8 Officers note that the demolition of the existing buildings could give rise to air pollution which in turn could have an impact on the aquatic environment of the nearby Canal. During this stage of the development there could also be potential risk of spillage of dust and debris whilst materials are being removed from the site. In order to avoid these potential impacts the applicant has put forward a Construction Environmental Management Plan which would put in place a package of controls and measures to avoid potentially polluting activities. Officers consider that the measures proposed within the Construction Environmental Management Plan would adequately protect the integrity of the SAC and have submitted an "appropriate assessment" to Natural England. Having considered the assessment Natural England advised that they concur with the assessment conclusions and advise that the relevant planning conditions, to deliver the measures within the Construction Environmental Management Plan, are secured.
- 4.7.9 Objections have been received on the grounds that the measures outlined in the Construction Environmental Management Plan (CEMO) are not sufficiently detailed to ensure certainty that the measures specified will adequately mitigate the potential adverse impacts and therefore allow an appropriate assessment to be made. Officers note that the measures set out in the CEMP are not unusual but form part of standard procedures that are commonly used on demolition and construction sites. As such it is considered that they do provide the required level of certainty to ensure that there would not be adverse impacts on the integrity of the SAC, subject to conditions that enable the finer details to be approved. In respect to the reference to a further drain survey following demolition it is noted that this is in the nature of a precaution. There is no evidence to suggest that such drains are present on site and that the presence of drains on the site could only be definitively determined following demolition of the building. If such drains are found then the drainage strategy would be updated. This approach is no different to situations in which unexpected contamination conditions are attached to planning permissions and in the

circumstances of this application the approach is considered as a precautionary pragmatic measure. As stated above Natural England have considered the Appropriate Assessment undertaken by officers and have concluded that they “concur with the assessment conclusions and advise that the relevant planning conditions, to deliver the measures within the Construction Environmental Management Plan are secured.

#### Impacts on Bats

4.7.10 In order to inform the application the applicant has submitted a bat survey report which confirms the presence of non-breeding roost sites used by common pipistrelle bats. The proposals require the demolition of the former colliery buildings in which the roost sites are situated therefore would result in the complete removal of the features concerned.

4.7.11 All species of native British bat are protected under the Habitat Regulations and the Wildlife and Countryside Act 1981 (as amended). Members are advised that the presence of a protected species is a material planning consideration.

4.7.12 Furthermore, members should note that under Regulation 9(1) of the Habitats Regulations an “appropriate authority, the nature conservation bodies and, in relation to the marine area, a competent authority must exercise their functions which are relevant to nature conservation, including marine conservation, so as to secure compliance with the requirements of the Directives.

4.7.13 In this respect it should be noted that: -

- (i) Regulations 55(i) states “Subject to the provisions of this regulation, the relevant licensing body may grant a licence for the purposes specified in paragraph (2)”, which includes the purposes of “preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment” and
- (ii) Regulation 55(9) states “relevant licensing body must not grant a licence under this regulation unless it is satisfied—
  - (a) that there is no satisfactory alternative; and
  - (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

4.7.14 In effect the local planning authority should in the exercise of its duty should have regard to whether

- (i) There are issues of “preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment; and

- (ii) that there is no satisfactory alternative; and
- (iii) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

4.7.15 The applicant submitted further details outlining a potential bat mitigation plan. The Council's Ecologist was consulted on the proposed measures and has stated "that the measures set out represent the minimum mitigation measures likely to be necessary in order to obtain a licence from Natural England. The type of proposed bat box is not specified but these often represent poor replacements for the loss of building roosts and are not ideal. However, I would advise that the measures are likely to be accepted by Natural England."

4.7.16 The Ecologist has also commented that: -

- (i) that it is for Cannock Chase Council to decide if the application can pass the imperative overriding public interest test and be confident that there are no less damaging alternatives available. In the event that it is minded to approve this application; and
- (ii) any approval should be subject to a condition requiring the submission of a detailed lighting plan in order to ensure that light pollution is prevented or reduced to the minimum possible level as the canal corridor is used by a number of bat species that are capable of being adversely impacted by light pollution.

4.7.17 In respect to issues of overriding public interest it is noted that the site constitutes a previously developed site which is now in a state of dereliction. The redevelopment of such sites, either by partial and complete redevelopment or reuse is regarded as being in the public interest, so much so that they are given special status even within the Green Belt. The reuse of the site to provide new dwellings is therefore a matter to which significant weight should be attributed to. Furthermore, the provision of accommodation for the gypsy and traveler community for which there is an objectively assessed need which has not to-date been met adds additional to weight to this factor.

4.7.18 In respect to the presence of satisfactory alternative case the existing building is in a very poor structural state, and even if renovated for any use would require substantial demolition and rebuild such that any bats roosts present would be destroyed. To leave the building in situ would result in its continual decline and ultimate collapse which again would result in the loss of the roosts. Furthermore, to make good the building so that it could continue to function as a bat roost or for some cultural use (such as a museum), whilst being made structurally sound (so that it does not present a danger to the public) would also result in the loss of the existing roosts as it would again entail substantial demolition and rebuild.

4.7.19 In respect to the maintenance of the population of the species of bats concerned at a favourable conservation status in their natural range the applicant has proposed that the roosts be replaced in mitigation with bat boxes. The mitigation proposes the location of "3 x Schweigler 2F bat boxes, or similar specification, attached at about 3-4m on the sycamore at the site". This is a general purpose

box suitable for small non-breeding roosts as present on the site. Although not ideal officers consider that the proposed mitigation is adequate and would be sufficient to ensure that the maintenance of the population of the bats at a favourable conservation status in their natural range'

4.7.20 As indicated by the Council Ecologist a lighting condition should be used to allow avoidance of potential significant impacts from lighting on bats. This can be secured by condition.

4.7.21 Via these two actions, it is demonstrated that the development is not therefore 'detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

4.7.22 In conclusion it is considered that

- (i) The public benefits of bringing the site into a positive use for housing and in particular to meet the objectively assessed needs of the travelling community outweighs the harm to the destruction of non-breeding bats roosts for the common species of bat concerned.
- (ii) there is no satisfactory alternative as all alternatives would require loss of the existing bat roosts; and
- (iii) with the provision of 3 bat boxes in the site 'the proposal would not be detrimental to the maintenance of the population of the bat species concerned at a favourable conservation status in its natural range.

#### Other Biodiversity Issues

4.7.23 The proposal provides an opportunity to increase the biodiversity of the site through the creation of new habitats. The proposal includes new tree and hedgerow planting which is indicated on the landscaping plans. The proposal could enhance opportunities for wildlife further by the inclusion of bird nest boxes, which would be incorporated into the landscaping. It is recommended that any permission granted is subject to a condition for the inclusion of bird nest boxes. Subject to the above conditions it is considered that the proposal would result in an increase of biodiversity within the site.

4.7.24 The comments of the objectors are noted in terms of the various species of wildlife that is purported to use the site, including the Great Crested Newt, which benefits from European protection. However, there is no breeding habitat for this species on site (it prefers medium sized, fish free water bodies) the nearest being to the south west at a distance of over 250m (the canal is discounted as such water body types are unsuitable for this species. Furthermore no evidence has been provided to support the claim that the species is to be found on the application site. As such further assessments were requested by the Council's Ecologist and it is considered that there is no demonstrable need to require the applicant to undertake a survey for this species.

#### Impacts of Cannock Chase Special Area of Conservation

4.7.25 Under Policy CP13 development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network and the effects cannot be mitigated. Furthermore, in order to retain

the integrity of the Cannock Chase Special Area of Conservation (SAC) all development within Cannock Chase District that leads to a net increase in dwellings will be required to mitigate adverse impacts. As the proposals are for change of use and there is no additional floorspace constituting a dwelling (C3 use class) the scheme is not CIL liable. Any site specific requirements may be addressed via a Section 106/278 if required, in accordance with the Developer Contributions and Housing Choices SPD (2015) and the Council's most up to CIL Regulation 123 list.

4.7.26 Permanent traveller pitches are regarded as residential development for the purposes of the Habitat Regulations (see 'Cannock Chase SAC Partnership FAQs', updated May 2018). As per the Cannock Chase SAC Guidance to Mitigate the Impact of New Residential Development (2017), the development would therefore be required to mitigate for its impact upon the Cannock Chase SAC via the current standard charge of £221 per dwelling. This charge would be applied to each permanent pitch proposed by the development.

#### 4.8 Impact on Residential Amenity

4.8.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes onto include [amongst other things] the protection of the "amenity enjoyed by existing properties". This is supported by the guidance as outlined in Appendix B of the Design SPD which sets out guidance in respect to space about dwellings and garden sizes.

4.8.2 Although the Design SPD sets out guidance in respect to space about dwellings it does not contain guidance in respect to space about other uses. Of particular significance in this respect is the relationship between the application site and the residential properties to north.

4.8.3 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

4.8.4 Policy C of PPfTS states that in assessing sites, Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community. In this instance the nearest settled community is Little Wyrley which is located approx. 750m to the south west of the application site; a second settled community is Brownhills West being 1.2km to the east.

4.8.5 Notwithstanding, there are two residential properties to the immediate north and a travelling showperson site to the south (approx. 87m distant) with a residential mooring yard beyond. With regard to the residential dwellings to the north, the comments of the neighbours are noted. The nearest dwelling is No.143 Lime Lane. This property would be separated from the application site by a 2m high close board fence and a new native hedgerow. It is therefore considered that a proposal for 3 families would not dominate any of these communities.

4.8.6 The dwelling at No.143 is sited along their northern boundary with the garden located between this dwelling and the shared boundary of the application site. The main principle windows of No. 143 face out onto the garden and towards the

application site. The nearest mobile home would be positioned approx. 3.5m from the shared boundary with No.143. Due to the siting of the nearest proposed mobile home (single storey), it is considered that the proposal would not have a significant detrimental impact to the occupiers of the nearest neighbour in terms of daylight / outlook and privacy.

- 4.8.7 To the south east of the site lies an established pallet company. Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 4.8.8 In this respect the comments of the neighbouring uses are noted. Environmental Health Officers were consulted on the application and raised no objections in terms of noise nuisance or impact on existing businesses.
- 4.8.9 It is noted that the hours of operation for the existing pallet business are restricted to 08:00hrs to 18:00hrs Mondays to Fridays, 08:00 hrs 13:00hrs on Saturdays and at no time on Sundays. It is considered that these hours are not unreasonable to operate in close proximity to residential properties. The comments of the pallet company in terms of using the application site for manoeuvring vehicles are noted. However, the land is not within their ownership and the use of the land for their business is trespass and as such a civil matter.
- 4.8.10 Beyond the pallet business is located a parcel of land currently occupied by travelling showpersons. In this respect it is noted that this site has benefitted from several temporary permissions with the planning history dating back to 1995. However, the latest permission relating to this site expired on 24<sup>th</sup> April 2016 and, in accordance with condition 1 of the planning permission (CH/13/0015) this use should have ceased. Nevertheless as two residential uses it is considered that they would constitute compatible land uses.
- 4.8.11 Given the above, it is concluded that the proposed layout of the site, the boundary treatments and new landscaping would ensure there is no significant detrimental impact to the occupiers of the adjacent dwellings. As such it is concluded that the proposal would protect the "amenity enjoyed by existing properties" and would maintain a high standard of amenity for existing and future users and therefore comply with Policy CP3 of the Local Plan and paragraphs 127(f) and 180 of the NPPF.

#### 4.9 Crime and the Fear of Crime

- 4.9.1 In addition to the above paragraph 127(f) of the NPPF states planning policies and decisions should ensure that development create places which [amongst other things] create places that are safe and where crime and disorder, and the fear of crime, do not undermine quality of life, social cohesion and resilience.
- 4.9.2 Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can

do to prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment'.

4.9.3 It is noted that the site would be surrounded by a 2m high close boarded wooden fence and have one entrance with all caravan arranged around the perimeter given a high level of surveillance of the site. It would be a separate unit form all other properties within the immediate area.

4.9.4 In respect to the objective of securing good community relations between the gypsy community and the established community within the immediate vicinity the comments of Staffordshire Police are noted and accepted. It is also noted that the proposal is for a small site of 3 pitched to accommodate a single extended family. In this respect the proposal meets the relevant guidance and is considered acceptable.

4.9.5 Given the above it is considered that the proposal would provide a safe and secure environment for the occupiers. As such it is considered that the proposal would meet the requirement of paragraph 127(g) of the NPPF.

#### 4.10 Impact on Highway Safety

4.10.1 Paragraph 109 of NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.10.2 The comments from the objectors are noted in respect of the unlit road with no pedestrian access, lack of parking for visitors to the site as well as the visitors who currently park in the area to gain access to local walks and the marina. The concerns raised regarding the layout and width of Lime Lane which could potentially restrict the ability of HGVs and the travelling showpeople to pass down the lane leading to vehicle damage and to the safety of children are noted.

4.10.3 Your Officers acknowledge that the access along Lime Lane has the potential to be busy at times. However, Staffordshire County Highway Authority has been consulted on the application and has raised no objection to the proposal in terms of highways safety and access to the site, subject to conditions.

4.10.4 The Highway Authority assessed the visibility splays demonstrated on Dwg.No. RC02 V2 and were satisfied the provision was adequate in relation to the proposal. The Highway Authority considered the siting of the two mature trees to the front of the application site within the highway verge would not impede visibility and as such could be retained. Notwithstanding this, other existing frontage vegetation shall be removed in order to maximise the visibility splays.

4.10.5 The Highway Authority note that the proposed parking spaces have adequate proportions and although the parking area is not large enough to accommodate the delivery of the static caravans there is adequate circulatory space on the gravel to allow vehicles to enter and exit for this purpose. Your Officers confirm that it is not for the applicant to provide parking provision for other users of the area.

4.10.6 Given the above, it is therefore considered that the proposal would not have a detrimental impact upon highway or pedestrian safety in accordance with paragraph 109 of the NPPF.

#### 4.11 Drainage and Flood Risk

4.11.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps. Concerns regarding the drainage of the site have been raised by neighbours and these have been noted.

4.11.2 In this respect it is noted that paragraph 155 of the NPPF states 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future)' adding 'where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.

4.11.3 In this instance, the applicant has submitted a drainage strategy to demonstrate how drainage has been designed to avoid any drainage into the canal. The strategy proposes that the site drains into the sewer that runs downhill along the Council owned access road to the west of the site and feeds into the stream that runs on the north side of Gorsey Lane. Natural England was consulted on the application with specific regard to the impact on the canal and they raised no objection subject to appropriate conditions. Also, Severn Trent was consulted on the application and raised no objections to the proposal subject to the recommended condition. AS such it is deemed that the proposed drainage strategy is acceptable.

#### 4.12 Air Quality

4.12.1 The proposal by its very nature together with the traffic that it would generate has the potential to impact on air quality. In this respect it should be noted that Paragraph 181 of the NPPF states:-

'Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.'

4.12.2 The site is located near, but outside of the A5 Air Quality Management Area (AQMA). Environmental Health Officers were consulted on the application and raised no objection to the proposal in terms of the A5 AQMA. Given the location of the site and the scale of development proposed with regard to traffic



generation your Officers conclude that the impact on the A5 AQMA would be negligible in this instance.

4.12.3 As such, it is considered that the proposal would have no impact on air quality and therefore accords with paragraph 181 of the NPPF.

#### 4.13 Mineral Safeguarding

4.15.1 The site falls within a Mineral Safeguarding Area (MSAs) for Coal and Fireclay. Paragraph 206, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 – 2030), both aim to protect mineral resources from sterilisation by other forms of development.

4.15.2 Policy 3.2 of the new Minerals Local Plan states: -

“Within a Mineral Safeguarding Area, non-mineral development except for those types of development set out in Appendix 6, should not be permitted until the prospective developer has produced evidence prior to determination of the planning application to demonstrate:

- a) the existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and
- b) that proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

4.13.3 The application site is located within a Mineral Safeguarding Area. Notwithstanding this, the advice from Staffordshire County Council as the Mineral Planning Authority does not require consultation on the application as the proposal is not classified as a major application.

4.13.4 As such, the proposal would not prejudice the aims of the Minerals Local Plan.

#### 4.14 Waste and Recycling Facilities

4.14.1 Policy CP16(1) (e) 'Climate Change and Sustainable Resource Use' of the Cannock Chase Local Plan states that development should contribute to national and local waste reduction and recycling targets according to the waste hierarchy'. One of the ways of achieving this is by ensuring development can be adequately serviced by waste collection services and that appropriate facilities are incorporated for bin collection points (where required).

4.14.2 Officers can confirm that there is adequate provision within the site for the storage of waste and recycling facilities.

#### 4.15 Ground Conditions and Contamination

4.15.1 The site is located in a general area in which Coal Authority consider to be a development low risk area. As such, the Coal Authority does not require consultation on the application.

4.15.2 The application site is near to a historic landfill site. In this respect the applicant has submitted a Phase 1 Land Contamination Assessment Ref: QA No.QA 18/045. The report identifies the possible presence of potential contamination on or beneath the site originating from former activities on and off the site and current materials storage on the site. The main potential sources of contamination noted are the potential use of asbestos containing materials (ACM) used in the construction of the buildings. Given the date of construction this would be in the use of ACMs as insulation and fire-resistant materials in the building and in the fill used to level the site.

4.15.3 The report also refers to the proximity of shafts and the mine explosion of 1930 meaning there may be a potential for mine gas. The report states that when considering the potential future use of the site the above ground nature of the structures would reduce from any mine gas leaking to the surface. It would then be expected that the mine gas risk would be from an isolated area and is unlikely to pose a significant risk to the proposed future use of the site.

4.15.4 Environmental Health Officers were consulted on the application and raised no objection to the proposal or the findings of the land contamination report.

#### 4.16 Availability of Other sites

4.16.1 Objections have been raised by Shakespeare Martineau, on behalf of Wyrley Estates on the grounds of the "availability of alternative sites" namely a site off Lime Lane which would act "as an extension to the existing well-populated and popular Gypsy and Traveller Site".

4.16.2 Officers can confirm that the availability of other "available" sites is a material planning consideration and therefore a comparison should be made between the application site and the "alternative" site to determine what weight should be afforded to this material consideration.

4.16.3 The alternative "available" site put forward by Wyrley Estate in their representation to the Local Plan Issues and Options Consultation relates to a an area comprising several arable fields between Lime Lane and Lichfield Road being bound to the east by the Wyrley and Essington Canal ( which in turn connects to the Cannock Extension Canal).

4.16.4 The Wyrley Estates submission acknowledges that the land parcel is partially divided by two administrative boundaries, is designated as Green Belt land, is graded as good to moderate (Grade 3) agricultural land, is "not well connected to Brownhills" and" is located as an island within Green Belt areas of CCDC and Walsall Council". However, it should be recognised that the land parcel is mainly put forward as a residential site with only part proposed as an extension to the gypsy site off Lime Lane.

4.16.5 It is clear that as a gypsy and traveller site, or indeed as a wider residential development on an open greenfield the "alternative" proposal would constitute inappropriate development in the Green Belt

4.16.6 It is also noted that the Wyrley Estate submission does not contain any supporting technical information with which a direct comparison could be made

with the current application site. This includes a lack of technical information in respect to whether it would have an adverse impact on the integrity of the Cannock Extension Canal. This particularly important given that the site abuts the Wyrley and Essington Canal which connects to the Cannock Extension Canal and that the site contains several field-drains which may run directly into the Cannock Extension Canal or via the Wyrley and Essington Canal. As such there is no certainty as to the adverse impact that the alternative site poses to the integrity of the SAC, and whether those impacts could be mitigated.

4.16.7 In addition to the above the comments of the Policy Officer are noted that

“the outcome of the Local Plan process can not be pre-judged, particularly at this early stage of the plan making process. The next stage of Local Plan consultation (Preferred Options) is not scheduled until summer 2020. Adoption of the Local Plan is not anticipated until July 2022.”

4.16.8 In comparison the application proposal does not constitute inappropriate development in the Green Belt, constitutes previously developed land, has been subject to consultation and notification, would comprise a small stand alone development for one extended family rather than the extension of an existing site and it has been subject to an appropriate assessment that has been supported by Natural England and which has demonstrated that the mitigation can be secured by appropriately worded conditions.

4.16.9 At best the “alternative” site/ proposal is an aspiration rather than an objectively assessed deliverable scheme which is unlikely to come forward before 2022 (assuming that the Local Plan time-table is met). As such little weight should be afforded to this issue as a material consideration.

#### 4.17 Other Issues Raised by Objectors

4.17.1 An objector has raised concern regarding the public right of way which passes through the site. The objector states that the Timberland trail inaugurated in 2003 passes through the Grove Colliery in appreciation of the former colliery buildings of which the proposal plans to demolish. The objector continues that the walking instructions featured on the Forest of Mercia website states that walkers should “enter the site of the former Grove Colliery” and a wooden wayfinding post is present near the site, pointing in its direction. The objector concludes that this is a unique feature of the area and something that residents of the District are fortunate to have in Norton Canes. The Forest of Mercia trails give an insight into the natural beauty and colourful history of our area which could be impinged on by this development. Your Officers confirm that whilst there is a public right of way through the site, the designated footpath runs along Lime Lane before cutting across the wider site which is to the south of the application site.

4.17.2 An objector claims that there is no mains sewerage for the area, , which leads on to concerns over the use of the sewage treatment plant proposed, and risk of local surface water pollution to both the stream and canal an area designated as of significant scientific interest. Your Officers confirm that both Natural England and Severn Trent have been consulted on the application and are satisfied that subject to conditions, the proposal would not impact on the nearby watercourses

and that surface water and foul water can be adequately dealt with via conditions.

- 4.17.3 An objector states that the area is accessed by gates which are padlocked to protect them (residents of the wider area) from unwanted visitors walking or driving around. Your Officers note the siting of the gates and confirm that they would be retained to the south of the access into the application site. As such, there would be no additional persons coming or going through the gates than currently do.
- 4.17.4 A resident of the wider site has stated that the main electricity board for nearby units, is just outside the gates on Lime Lane. The resident has concerns that this will become part of the site and queries what the implications of this would be. Your Officers confirm that the electricity board is shown on the plans (adjacent the northern boundary to Cannock Pallets) however it is not included in the red line boundary of the application site.
- 4.17.5 Objectors state that the many businesses that are presently at Lime Lane will have to move site, if this application goes ahead. Your Officers confirm that this is not a material consideration for the determination of this application and applications can not be determined by what may or may not happen in the future.
- 4.17.6 Concern has been raised regarding the potential disruption during the demolition and construction work if not carried out by a competent contractor. Your Officers confirm that whilst there would be noise and disturbance created as a consequence of the proposed development, this would be short term only and it would not be reasonable to refuse an application on this basis. Conditions can be recommended to protect the amenity of existing users are retained as far as is practicably possible throughout the course of the construction/ demolition. Furthermore, should breaches of planning occur the Council could take enforcement action if it considered that it is expedient to do so.
- 4.17.7 The owner of Cannock Pallets states that for the last 16 years and for some 11 years before them, both this business and predecessors (Pelsall Pallets), have used the proposed site for the loading, unloading parking and turning of their and their suppliers' lorries as part of our pallet recycling business. The objector therefore concludes that the land that forms part of the application site is an extension of the pallet business. The land to the front of the application site has also been used by Pelsall Pallets for the parking of two vehicles without permission. The objector states that by virtue of the long use of the proposed site(which can be shown to be for over 20 years), by Cannock Pallets, they have acquired legal right over it, which the owner of Cannock Pallets hereby assert will proceed to register against the respective titles. However, officers would state that this is a private civil matter between the Council as land owner and he party laying the claim. The grant of planning permission would not negate the rights of the part who has control over the land.
- 4.17.8 An objector has stated that with a little vision, a lottery fund appeal and some voluntary help from enthusiasts the existing building and its site has the potential be a wonderful addition to the adjacent S.S.S.I. and as such an important educational resource for local school children - a living museum. Your Officers

confirm that whilst the above could potentially be a use for the site, the objector could have made a bid on the site and submitted an application for this use. However this was not the case and the application presented to Members is the application for consideration on its own merits.

- 4.17.9 An objector has raised concern that insurance premiums might go up if the site gets approval. Your Officers confirm that this is not a material consideration for the determination of the application.
- 4.17.10 The adjacent occupier at the travelling showperson site states that the applicant, like himself needs somewhere to live on a permanent basis. The objector suggests he has been talking to Cannock's planning department for around twenty four years, to seek a permanent base in the Norton Canes area. However, the objector states that he has been told that there is no land available. However, Officers confirm that the property was put up for sale on the open market by Andrew Dixon & Company acting on behalf of the Council. After an initial period of exposure to the market written offers were invited. Several bids were received and the Leadership Team approved the sale of the property to the successful bidder subject to contract and planning. Notwithstanding this, the objector did not submit a bid for this site. In any case the issue is not a material consideration in the determination of this particular application.
- 4.17.11 Comments have been received in respect to perceived cultural tensions between travellers and travelling showpeople. Officers advise that although there may cultural tensions between different social groups an objective of the NPPF is to promote 'mixed and balanced communities' which is not achieved through segregating communities on the base of their ethnicity or other social typology.

## **5 Human Rights Act 1998 and Equalities Act 2010**

### ***Human Rights Act 1998***

- 5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.
- 5.2 Dismissal of the application could make one of the prospective occupiers homeless and could deprive the prospective occupants of the possibility of establishing a home on the application site, the children settling into education, and of living in the family or community environment that they inspire to do. It is also likely that one of the prospective occupiers does not have a lawful home at present and refusal of the application could represent an interference with their rights under Article 8 of the First Protocol of the European Convention on Human Rights.
- 5.3 The comments of the neighbour in respect to his rights under the Human Rights Act 1988 are noted. The European Convention on Human Rights (included in UK law by the Human Rights Act 1988) confers rights on the settled community

as well as on travellers. The two Convention rights which are seen as of most particular relevance to travellers are:

- Articles 8 (“The right to respect for private and family life, home and correspondence”) and
- Article 14 (which outlaws discrimination on a variety of grounds including race).

5.4 Article 8 recognises that the applicant also has a right to a home and family life. The article is a qualified right and may be interfered with in accordance with the law, in pursuance of a legitimate aim and as necessary in a democratic society. Any interference with the right must be proportionate and necessary.

5.5 Article 14 does not provide for a free standing right to non-discrimination but requires that people are able to secure all other rights in the Convention without discrimination. Discrimination happens when a public authority, policy, practice or person:

- treats a person less favourably than others in similar situations on the basis of a particular characteristic
- fails to treat people differently when they are in significantly different situations, or
- applies apparently neutral policies in a way that has a disproportionate impact on individuals or groups.

5.6 In this respect officers can confirm that the competing rights of the different individuals has been taken into in reaching a balanced and proportionate recommendation such that any decision in accordance with the recommendation would not contravene the provisions of the act.

### ***Equalities Act 2010***

5.7 The Equality Act 2010 requires public bodies (like local councils) to consider how their decisions and policies affect people with different protected characteristics. The public body also should present clear evidence to indicate how it has done this when making its decision.

5.8 Protected Characteristics include the following:

- a) age;
- b) disability;
- c) gender reassignment;
- d) marriage and civil partnership;
- e) pregnancy and maternity;
- f) race;
- g) religion or belief;
- h) sex;

5.9 Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have regard to protected characteristics and how their decision will affect the following.

“In particular a public authority must, in the exercise of its functions, have due regard to the need to—

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

5.10 In the case of the current application it is considered the proposed development would directly benefit each of the matters referenced in Para 149 of the Equality Act 2010 in that it would address, in part, the objectively assessed housing needs and the present short fall in gypsy sites within the District. This proposal would help to remedy this deficiency and provide a 3 pitch site for use by an extended family.

5.11 Given the positive duty conveyed by the Equality Act 2010, to advance equality of opportunity, to eliminate discrimination and to foster good relations between those with protected characteristics and the wider community, your officers consider the proposals offer an opportunity to fulfil the ambition set out in Para 149 of the Equalities Act 2010.

## **6 Conclusion**

6.1 The applicant is seeking full planning permission for the demolition of the buildings and the change of use of the land to a gypsy and traveller residential site. The proposed development would have a layout in the form of an extended family site rather than individual pitches.

6.2 The site is in the West Midlands Green Belt wherein there is a presumption against inappropriate development. The proposal comprises the redevelopment of a previously developed site that would not have a material impact on the openness of the Green Belt. The proposal therefore does not constitute inappropriate development meeting as it is in accordance with paragraph 145 of the NPPF.

6.3 The proposal would result in the loss of an undesignated heritage asset however, it is clear that the quantum of works required to facilitate any reuse of the building would leave very little of the original building and that the wider historic importance has since been removed. As such although this weighs against the proposal only limited weight should be afforded to the loss of this heritage asset.

6.4 The Cannock Chase District Local Plan (Part 1) Policy CP7 identifies a need for 41 gypsy and traveller pitches from 2012-2028, although the recently updated

- evidence base for Gypsy and Traveller needs as part of the Local Plan Review process as reduced this need to 26 pitches for the period 2018-2036.
- 6.5 Despite a reduced need being identified in the updated evidence, the fact that no additional pitches have been identified remains the case.
- 6.6 The current search area for gypsy and traveler sites largely encompasses the southern part of the District which lies below the Cannock / Lichfield Road (A5190) and constitutes Green Belt land in the main.
- 6.7 The proposal would contribute towards meeting the current unmet objectively assessed need for gypsy and traveller sites in the general area of search for such sites. Furthermore, it should be taken into account that currently there is no firm proposal, either currently within the planning system, at pre-application stage or approved that would contribute towards meeting this need. These factors taken in combination should be given substantial weight in the determination of this application.
- 6.8 The application site is located in open countryside but within an area comprising residential development and industrial uses. The design and layout of the buildings would not result in a detrimental impact to the character and appearance of this location nor would the introduction of a further residential use have a significant adverse impact on the existing occupiers of the residential and business uses already sited in the wider locale.
- 6.9 Impacts on the Cannock Chase SAC and Cannock Extension Canal have been subject to appropriate assessment and subject to the attached conditions it is considered that the proposal would not have a significant impact on the integrity of these sites.
- 6.10 Although a small number of common species of bats are known to have used the building as a non-breeding roost, it is considered that there are matters of overriding public interest, that there are no satisfactory alternatives and that subject to mitigation the proposal would not be detrimental to the maintenance of the population of the bat species concerned at a favourable conservation status in its natural range.
- 6.11 The proposal is considered acceptable in all other respects.
- 6.12 Ultimately, it is considered that the benefits of providing 3 pitches to meet the objectively assessed needs of the travelling community outweighs the limited weight arising from the harm resulting from the loss of the undesignated heritage asset.
- 6.13 It is therefore recommended, on balance, that the proposal is approved subject to the completion of a section 106 agreement and the attached conditions.