

Please ask for: Mrs. W. Rowe
Extension No: 4584
E-Mail: wendyrowe@cannockchasedc.gov.uk

4 August, 2020

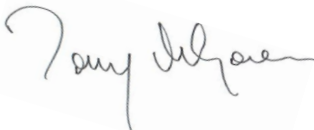
Dear Councillor,

**PLANNING CONTROL COMMITTEE
3:00 PM, WEDNESDAY 12 AUGUST, 2020
MEETING TO BE HELD REMOTELY**

You are invited to attend this remote meeting for consideration of the matters itemised in the following Agenda. The meeting will commence at 3.00pm via Zoom. Instructions on how to access the meeting will follow.

Instructions on how the public can access the meeting will be posted on the Council's website.

Yours sincerely,



**T. McGovern
Managing Director**

To Councillors:-

Cartwright, Mrs. S.M. (Chairman)
Startin, P. (Vice-Chairman)

| | |
|-----------------------|---------------------|
| Allen, F.W.C. | Pearson, A.R. |
| Dudson, A. | Smith, C.D. |
| Fisher, P.A | Stretton, Mrs. P.Z. |
| Fitzgerald, Mrs. A.A. | Thompson, Mrs. S. |
| Jones, Mrs. V. | Todd, Mrs. D. |
| Layton, A. | Witton, P. |
| Muckley, A. | |

AGENDA

PART 1

1. Apologies

2. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

3. Disclosure of details of lobbying of Members

4. Minutes

To approve the minutes of the meetings held on 22 July, 2020 (enclosed).

5. Members' Requests for Site Visits

6. Report of the Development Control Manager

Members wishing to obtain information on applications for planning approval prior to the commencement of the meeting are asked to contact the Development Control Manager.

Finding information about an application from the website

- On the home page click on planning applications, listed under the 'Planning & Building' tab.
- This takes you to a page headed "view planning applications and make comments". Towards the bottom of this page click on the text View planning applications. By clicking on the link I agree to the terms, disclaimer and important notice above.
- The next page is headed "Web APAS Land & Property". Click on 'search for a planning application'.
- On the following page insert the reference number of the application you're interested in e.g. CH/11/0001 and then click search in the bottom left hand corner.
- This takes you to a screen with a basic description - click on the reference number.
- Halfway down the next page there are six text boxes - click on the third one - view documents.
- This takes you to a list of all documents associated with the application - click on the ones you wish to read and they will be displayed.

PLANNING APPLICATIONS

| <u>Application Number</u> | <u>Application Location and Description</u> | <u>Item Number</u> |
|---------------------------|--|--------------------|
| 1. CH/20/161 | <i>31 Littleworth Hill, Littleworth, Cannock WS12 1NS</i> – Retention of works to the rear garden and retention of fence | 6.1 – 6.12 |
| 2. CH/20/165 | <i>Unit 33 Martindale Trading Estate, Martindale, Hawks Green, Cannock WS11 7XN</i> – Re-submission – variation of Condition (4) of Planning Permission (CH/99/0539) to allow movement of vehicles Mon-Fri 4am-6pm, Sat 8am-2pm, all other operations from 8am onwards | 6.13 – 6.31 |
| 3. CH/20/198 | <i>Land off Stokes Lane, Norton Canes, Cannock, WS12 3HJ</i> – change of use of land to use as a residential caravan site for 4 gypsy families each with 2 caravans (1x static), layout of hardstanding, erection of a dayroom, 3 no. utility buildings | 6.32 – 6.86 |

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
PLANNING CONTROL COMMITTEE

HELD ON WEDNESDAY 22 JULY, 2020 AT 3:00 P.M.

VIA REMOTE ACCESS

PART 1

PRESENT: Councillors Cartwright, Mrs. S. (Chairman)
 Startin, P. (Vice-Chairman)

| | |
|-----------------------|---------------------|
| Allen, F.W.C. | Muckley, A. |
| Dudson, A. | Pearson, A.R. |
| Fisher, P.A. | Smith, C.D. |
| Fitzgerald, Mrs. A.A. | Thompson, Mrs. S.L. |
| Jones, Mrs. V. | Todd, Mrs. D.M. |
| Layton, A. | Witton, P. |

(This meeting could not be held at the Civic Centre due to the Coronavirus (Covid-19) pandemic. It was therefore held remotely).

18. Apologies

Apologies for absence were submitted for Councillor Mrs. P.Z. Stretton.

19. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

None disclosed.

20. Disclosure of Lobbying of Members

Nothing declared.

21. Members' Requests for Site Visits

None

(At this point in the proceedings the Chairman agreed to change the order of the Agenda).

22. Application CH/20/165 - Unit 33 Martindale Trading Estate, Martindale, Hawks Green, Cannock WS11 7XN – Re-submission – variation of condition (4) of Planning Permission (CH/99/0539) to allow movement of vehicles Mon-Fri 4am-6pm, Sat 8am-2pm, all other operations from 8am onwards

Consideration was given to the report of the Development Control Manager (Item 6.157 – 6.173 of the Official Minutes of the Council).

The Development Control Manager provided a presentation to the Committee outlining the application showing photographs and plans of the proposed development.

Representations were made by both Paul Outhwaite, objector and Councillor Christine Mitchell, Ward Councillor who were objecting to the application. A further representation was made by Louise Jackson speaking in support of the application.

It became apparent during the discussion that three separate companies were being operated at the site. The Development Control Manager was asked whether this had any implications for the determination of the application. The Development Control Manager stated that on the basis of the current evidence he was unable to make a judgement on that and requested that the application was deferred to allow him to establish the facts and make a judgement as to whether this had any material bearing on the case.

Councillor Smith requested whether it would be possible to undertake independent monitoring. The Development Control Manager stated that he would raise the issue with the Environmental Health Officer (EHO).

RESOLVED:

That the application be deferred in order to allow Officers to assess whether the operation of three companies from the site had resulted in a material change of use and whether this would have any impact on the officer recommendation, and to ask the Environmental Health Officer whether they would undertake independent monitoring of the site.

- 23. Application CH/19/201 - Rugeley B Power Station, Power Station Road, Rugeley, WS15 2HS – Outline planning application for the creation of development platform and the demolition of existing office building, and environmental centre, and security gatehouse, site clearance, remediation and phased mixed-use development comprising: up to 2,300 new dwellings and residential units (use classes C3 and C2); up to 1.2 ha of mixed-use (use classes A1, A2, A3, A4, A5, C1, C2, C3, D1 and D2); up to 5 ha of employment (use classes B1a, b, c and B2); a school (All Through School or 1 no. 2 Form Entry Primary School (use class D1)); formal and informal publicly accessible open space; key infrastructure including new adoptable roads within the site and the provision of a new primary access junction on to the A513; ground and roof mounted solar panels and 2 no. existing electricity substations (132 KV and 400 KV) retained (All Matters Reserved Except Access)**

Consideration was given to the report of the Development Control Manager (Item 6.1 – 6.144 of the Official Minutes of the Council).

Prior to consideration of the application the Principal Solicitor advised that only those Members who took part in the organised site visit, which took place on 15 January 2020, before the committee meeting on that day, would be able to take part in the consideration of the application. As an amended application was on the agenda for the meeting, and in view of the fact that unfortunately site visits were not taking place at present because of the coronavirus pandemic, only those

members who visited the application site in January would be able to take part in considering the amended application. Those Members unable to take part in respect of this application were:

Councillor P.A. Fisher
Councillor Mrs. D.M. Todd
Councillor P. Witton

The Development Control Manager provided a presentation to the Committee outlining the application showing photographs and plans of the proposed development.

The Development Control Manager then provided the following update which had been circulated to the Committee in advance of the meeting:-

“AMENDED PLANNING CONDITIONS

1.1 A range of conditions were included in the Original Officers Report to Committee Members with the Committee Papers dated 14 July 2020. Since this time discussions with both the applicant’s representatives and Lichfield District Council have occurred to further refine the conditions wording proposed.

1.2 Minor changes to the following conditions are proposed to assure clarity and completeness. No further changes to the original Officer Recommendation are proposed aside from updated wording to the conditions to reflect that set out below:

- 3) The development authorised by this permission shall be carried out in complete accordance with the following approved plans and specifications except insofar as may be otherwise required by other conditions to which this permission is subject:

Site Boundary Dwg No. 01585_S-001 Rev P4

Parameter Plans:

Access and Movement Dwg No. 01585_PP_01 Rev P7

Land Use Dwg No. 01585_PP_02 Rev P6

Building Heights Dwg No. 01585_PP_03 Rev P8

Green Infrastructure Dwg No. 01585_PP_04 Rev P6

Density Dwg No. 01585_PP_05 Rev P7

Revised Junction Layout Dwg No. J32-2608-PS-111 Rev A

- 14) Before the development hereby approved is commenced within any relevant phase of development (as approved by Condition 5) that includes the ‘community square’, spine road or All-Through School, details of the following shall be submitted to and approved in writing by the Local Planning Authority and the approved details implemented prior to first use of the phase to which the measures relate:

- Bus layover facilities at “community square”, or All-Through School as mutually agreed in writing by the Local Planning Authorities and the

- applicant, to include passive electric charging infrastructure, shelter, flag, timetable case and Real Time Passenger Information display;
 - Bus stopping facilities along the rest of the spine road shall be road provided with shelter, flag, timetable case and bus markings;
 - Measures to restrict speed, on-street parking, loading and waiting on the spine road outside of the proposed All-Through School; and
 - Improved pedestrian facilities including guardrails outside of the accesses to the All-Through School.
- 17) Before the development hereby approved is commenced, within any relevant phase of development that includes buildings (as approved by condition 5), full details of the proposed foul water drainage system for the specific phase of development shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall thereafter be provided before the first occupation or use of any of the buildings in that phase.
- 27) The cycle parking for any apartments, commercial premises (including showers and lockers for B Class Uses), All-Through School or primary school, health facility or community hall shall be implemented, in accordance with the approved details pursuant to Condition 6, prior to the first occupation of those buildings and shall thereafter be retained for their designated purpose for the life of the development.
- 40) All phases of development (as approved by condition 5) that deliver Class C3 dwellings as defined in the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, shall deliver a minimum of 15% of the Class C3 dwellings as affordable housing, with an overall minimum provision site wide of 17.6%.
- 49) There shall be no more than a total of 150 Use Class C2 bedspaces provided across two campuses on the site (Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Prior to consideration of the application representations were made by Mr. Mark Sitch, speaking on behalf of the Applicant.

RESOLVED:

That the application be approved subject to the amended conditions and :

(A) Subject to the owners/applicants first entering into a Section 106 Legal Agreement under the Town and Country Planning Act (as amended) to secure contributions/planning obligations towards:-

1. On-site affordable housing provision equivalent to 17.6% spread evenly across the site (approx. 405 dwellings total if 2300 dwellings delivered)
2. On-site Sports Provision (including changing facilities and management)

- and off site cricket (£120k) contribution
3. On-site Public Open Space Provision (including delivery of Riverside Park, retained and new allotments and public art)
 4. Delivery of All Through School or delivery of 2 form of entry primary school on site and secondary school contribution of £8 Million
 5. Highways and Transport Contributions (Off-site Highway Works costed to approximately £7.53 Million and subject to future review), off site linkage improvements, Trent Valley Station Improvements and canal towpath improvements
 6. Public Transport Contribution (approx. £3.145 Million subject to review) or equivalent similar provision of public transport
 7. Travel Plan Monitoring Sum £50,000
 8. Air Quality Mitigation Contribution towards Cannock Chase SAC (£2.325 Million)
 9. Provision of on-site Community Building and Healthcare Contribution to develop facilities at Brereton Surgery via CCG (£501k)

Note a separate Unilateral Undertaking relating to the payment of £221 per dwelling for the Cannock Chase SAC SAMM measures where dwellings provided exceed 20% affordable housing or are not CIL liable (e.g. self build)

(B) If the S106 legal agreement / Unilateral Undertaking are not signed/ completed by 2nd November 2020 or the expiration of any further agreed extension of time, then powers be delegated to officers to refuse planning permission based on the unacceptability of the development, without the required contributions and undertakings, as outlined.

(C) And delegated approval to Officers to make minor changes to conditions as may be required

24. Application CH/20/161 – 31 Littleworth Hill, Littleworth, Cannock - Retention of works to the rear garden and retention of fence

Consideration was given to the report of the Development Control Manager (Item 6.145 – 6.156 of the Official Minutes of the Council).

The Development Control Manager provided a presentation to the Committee outlining the application showing photographs and plans of the proposals.

At this point it was evident that the objector to the application, Mr. Whitehouse was unable to access the meeting.

RESOLVED:

That the application be deferred to the next meeting because the objector to the application, Mr. Whitehouse, was not able to access the meeting to address the committee.

25. Application CH/20/183 – 76 Hayfield Hill, Cannock Wood, WS15 4RS – Two storey rear extension

Consideration was given to the report of the Development Control Manager (Item

6.174 – 6.186 of the Official Minutes of the Council).

RESOLVED:

That the application be approved subject to the conditions contained in the report for the reasons stated therein.

The meeting closed at 5.15 pm.

CHAIRMAN

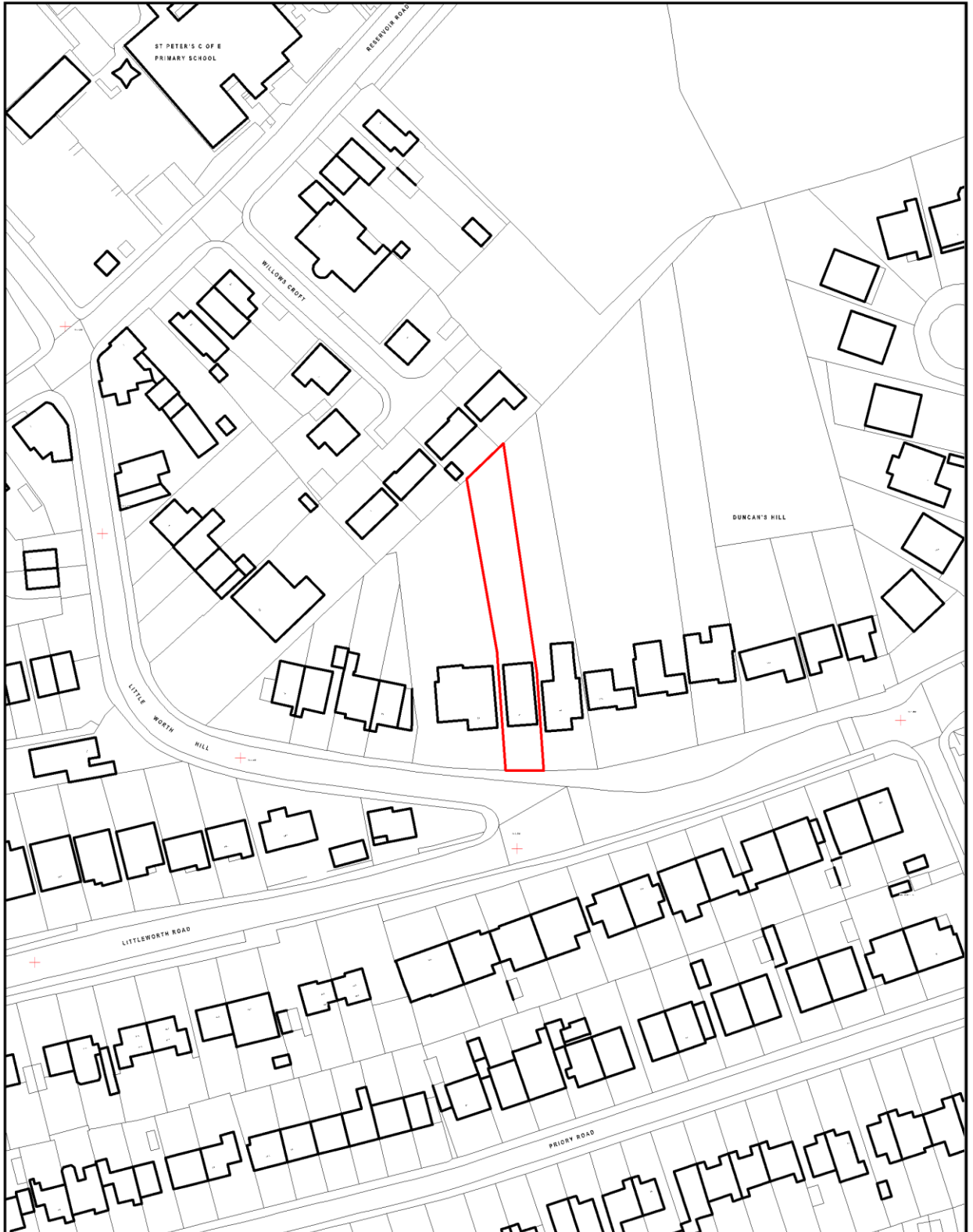


Application No: CH/20/161

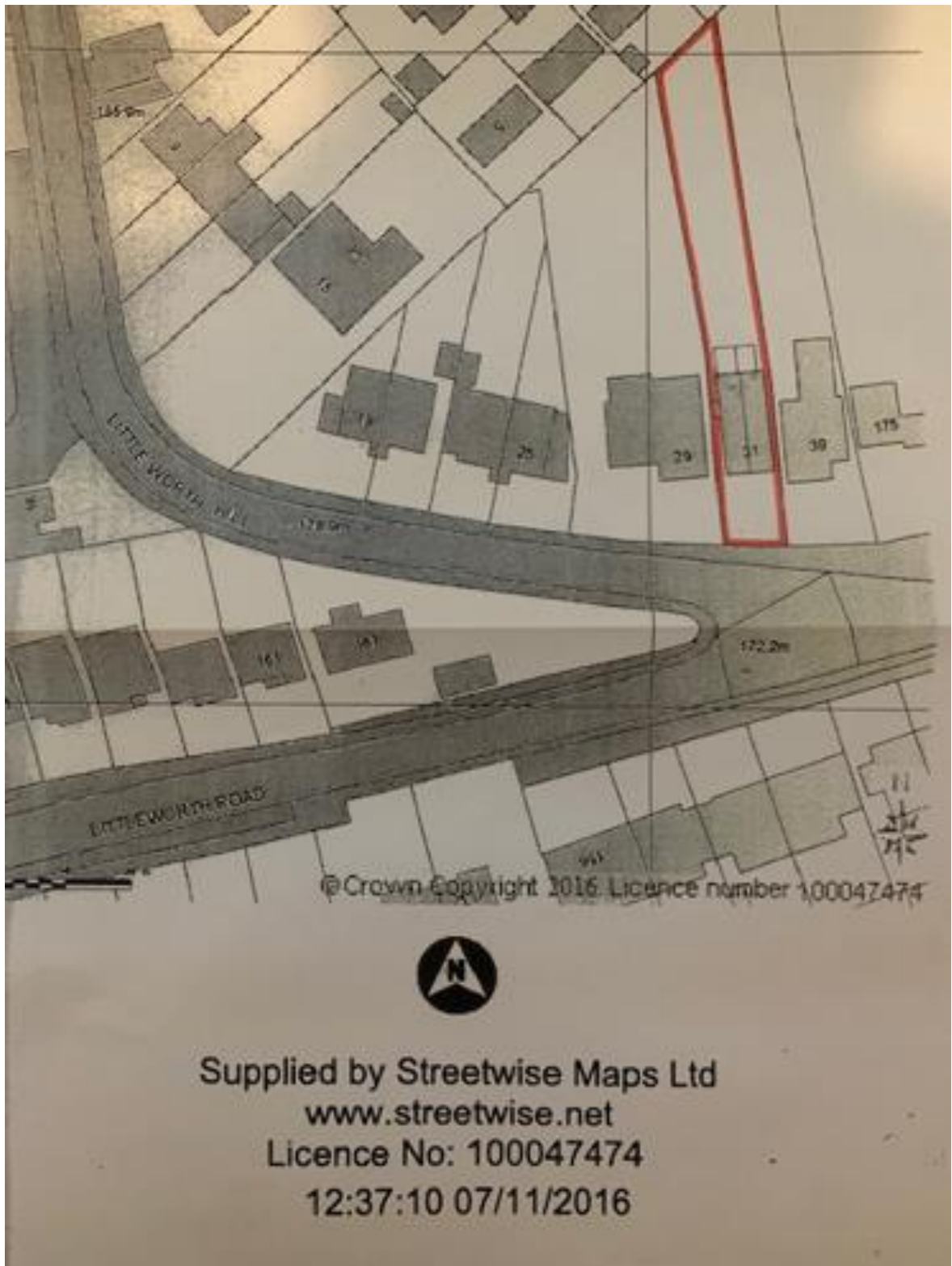
Location: 31, Littleworth Hill, Littleworth, Cannock, WS12 1NS

Proposal: Retention of works to the rear garden and retention of fence.

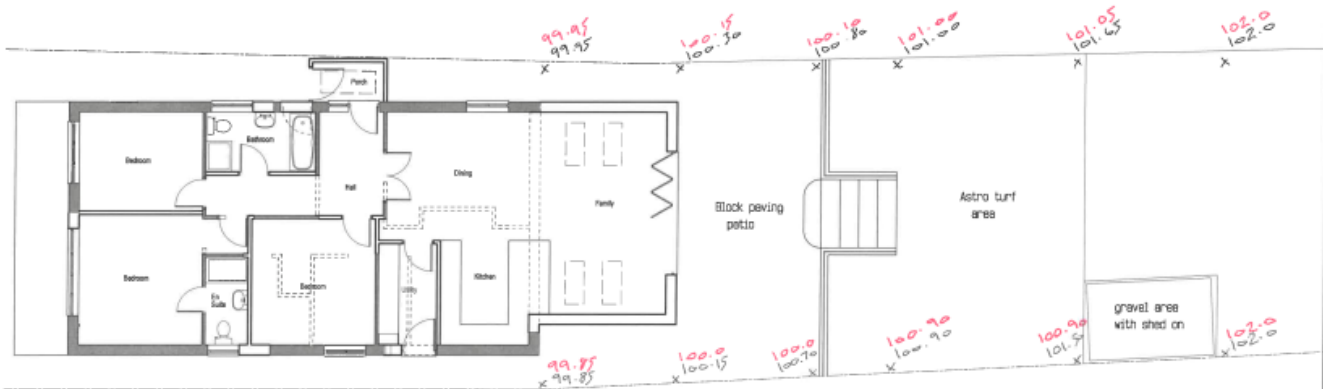
ITEM NO. 6.



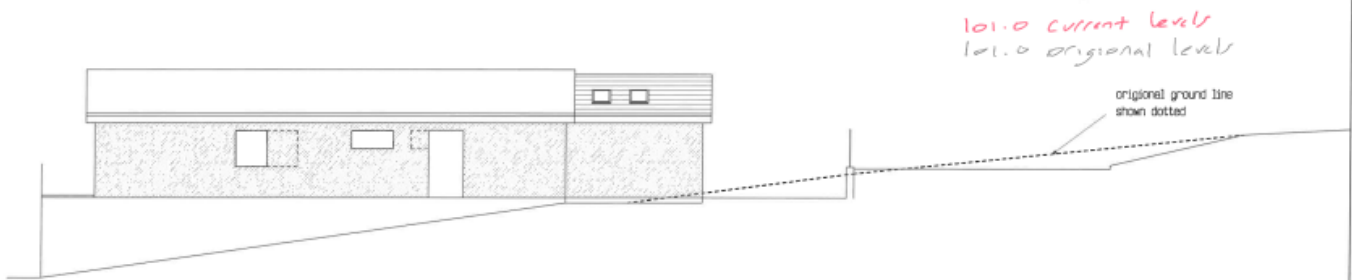
Block Plan



Levels Plan



FLOOR PLAN (PROPOSED)



SECTION SHOWING EXISTING & PROPOSED GROUND LEVEL

| | |
|-------------------------|-----------------|
| Contact Officer: | Claire Faulkner |
| Telephone No: | 01543 464337 |

| PLANNING CONTROL COMMITTEE | |
|------------------------------------|---|
| 12th August 2020 | |
| Application No: | CH/20/161 |
| Received: | 07-May-2020 |
| Location: | 31, Littleworth Hill, Littleworth, Cannock, WS12 1NS |
| Parish: | Hednesford |
| Description: | Retention of works to the rear garden and retention of fence. |
| Application Type: | Full Planning Application |

RECOMMENDATION:

Approve

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.

This application was deferred from the meeting on 22 July because the objector could not access the meeting.

There are no alterations within the remaining body of the report.

Consultations and Publicity

External Consultations -Hednesford Town Council

No objection.

Internal ConsultationsNone undertaken**Response to Publicity**

The application has been advertised by site notice and neighbour letter. One letter of representation has been received:

- A substantial part of this Retrospective Planning Application includes Decking. But due to the height of this decking it has infringed on the privacy at the rear of my home, a privacy that my family have enjoyed for several years.
- It is a retrospective planning application and to grant approval would persuade others to proceed in similar fashion and ignore planning permission legal requirements. For this Retrospective Planning Application to be rejected would not be unusual. Between the years of 2017 to 2019 the total number of retrospective planning applications submitted to UK local authorities was 39,214, with 4,758 being rejected. The loss of privacy due to decking was one of the main reasons for rejection. The total number of retrospective planning applications rejected in the West Midlands was 347 from a total of 3,178 submitted applications.

| |
|----------------------------------|
| Relevant Planning History |
|----------------------------------|

CH/16/442: Single storey rear extension, porch to side and other external alterations. Approved

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|--------------------------------|
| 1 Site and Surroundings |
|--------------------------------|

- 1.1 The application site comprises a modern 'bungalow' built into the slope of a hillside such that the garage is constructed as an undercroft at road level but the main living quarters is built one storey above which is level with the round level to the rear. The ground level continues to rise in the rear garden

towards the rear fence such that the properties to the rear are several metres higher than the floor level of the bungalow.

- 1.2 The dwelling has been extended to the rear which has resulted in the levelling of part of the garden. To the immediate rear of the dwelling is a patio area with steps up to an astro turfed area which in turn leads back to the original sloping garden.
- 1.3 The sides and rear of the gardens are enclosed by a combination of wall and fence, with an approx 1.6m high stone lattice-work wall supported on brick pillars running along the shared boundary with 29 Littleworth Hill and a closeboard fence running along the boundary with No.39 Littleworth Hill.
- 1.4 It is noted that there is a difference in levels between the neighbouring properties with the ground level of No 29 being approx 0.75m higher than the application site and a slight drop between the application site and No39.
- 1.5 The property to the immediate east of the application site is 39 Littleworth Hill, which is a similar split level bungalow with what appears to be a single storey outrigger/extension to rear with two windows facing the application site.
- 1.6 The site is undesignated and unallocated within the Proposals Maps of the Cannock Chase Local Plan (Part 1). The site is also within a Minerals Conservation Area (MCA) and falls within the low risk development boundary as designated by the Coal Authority.

2 Proposal

- 2.1 The applicant is seeking consent for retention of levelling works to the rear garden and retention of the rear boundary fence.
- 2.2 The applicant confirms that the re-levelling of the garden was carried out following the implementation of planning permission for a rear extension. Once the extension had been constructed the applicant had to lower the level of the surrounding ground to enable use of the doors. The ground to the immediate rear which now forms the patio was excavated to a lower level than the original land by approx. 0.7m at the deepest point. The boundaries to the side of the patio area comprise of close board fencing.
- 2.3 The second level, sits approx. 1m higher than the lower level of the patio by approx. 1m. Notwithstanding this, this is approx. 0.2m above the original

ground level at the front of this section and approx. 0.4m to the rear of this section (to the front of the shed). A 2m high close board fence runs along the shared boundary.

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

Relevant Policies within the Minerals Plan include:-

3.2 Safeguarding Minerals

3.3 National Planning Policy Framework

3.4 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.

3.5 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.

3.6 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 |
| 212, 213 | Implementation |

3.7 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

4 Determining Issues

4.1 The determining issues for the proposed development include:-

- i) Principle of development
- ii) Design and impact on the character and form of the area
- iii) Impact on residential amenity.

4.2 Principle of the Development

4.2.1 The application site is on undesignated land within a residential curtilage in Hednesford. The proposal is for the retention of works within the rear garden of the existing dwelling. As such, the proposal is acceptable in principle subject to the considerations listed below.

4.3 Design and the Impact on the Character and Form of the Area

4.3.1 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;

4.3.2 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.

4.3.3 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;

4.3.4 Finally 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.

4.3.5 The construction of patio areas and the levelling of gardens to provide an occupier with useable space is not uncommon within a residential curtilage. Also the works carried out are to the rear of the dwelling and therefore not visible from within the street scene.

4.3.6 Therefore, having had regard to Policy CP3 of the Local Plan and the above mentioned paragraphs of the NPPF it is considered that the proposal would be well-related to existing buildings and their surroundings, successfully integrate with existing features of amenity value, maintain a strong sense of place and visually attractive such that it would be acceptable in respect to its impact on the character and form of the area.

4.4 Impact on Residential Amenity

4.4.1 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 on to include [amongst other things] the protection of the "amenity enjoyed by existing properties".

4.4.2 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.

4.4.3 The main issue with regard to the application relates to the overlooking of the adjacent property and in this respect the comments of the neighbour are

noted. The property at No.29 Littleworth Hill is sited on higher ground than that of the application site and is separated by 2 closeboard fences; one on the application site, and one on the higher ground of the adjacent property. It is noted that the original ground level has been excavated down immediately adjacent this boundary. As such, there are no issues of overlooking of No.29 Littleworth Hill.

- 4.4.5 With regard to No.39; this dwelling is sited on lower ground than the application site and benefits from two side facing windows which look towards the side elevation of the dwelling. It is noted that a view of part of the side elevation and windows of this adjacent property is visible from the astro turf level / steps however, the distance to the neighbours side facing windows is approx.. 10.5m distant and screened by the intervening boundary treatment and wooden structure. Also, when compared to the original level of this part of the garden, the overlooking created as a consequence of the alterations in levels is not significant in planning terms.
- 4.4.6 A close board fence runs along the shared boundary with No.39 which follows the levels of the land. The applicant has (under permitted development) erected a wooden structure immediately adjacent the boundary with No.39 Littleworth Hill which further reduces the potential for overlooking of this adjacent property.
- 4.4.7 Whilst officers acknowledge that some degree of overlooking can occur as a consequence of the works carried out, the additional degree of overlooking that has occurred is marginal and insufficient to warrant refusal given the overall ground levels throughout the rear garden of the application property.
- 4.4.8 Given the above, it is considered that on balance, the works carried out to the levels of the rear garden are acceptable and have not resulted in a significant detrimental impact to the privacy of the adjoining occupiers. Therefore, the development as carried out is considered to be in accordance with Policy CP3 of the Local Plan and the relevant paragraphs of the NPPF.

4.5 Mineral Safeguarding

- 4.5.1 The site falls within a Mineral Safeguarding Area (MSAs). 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.
- 4.5.2 Notwithstanding this, the advice from Staffordshire County Council as the Mineral Planning Authority does not require consultation on the application as

the site falls within the development boundary of an urban area and is not classified as a major application.

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

4.6. Ground Conditions and Contamination

4.6.1 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.

4.7. Drainage and Flood Risk

4.7.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps. In this instance, the host dwelling already exists with the proposal being the retention of alterations to the levels of the garden. As such, the proposal has not created additional flood risk over and above the current situation.

4.8.1 Objections received not already covered above:

4.8.1 The objector stated that has this is a retrospective planning application to grant approval would persuade others to proceed in similar fashion and ignore planning permission legal requirements. The objector continued that for this Retrospective Planning Application to be rejected would not be unusual. However, officers would advise that whether an application is retrospective or not does not influence the way in which an application is assessed. It is therefore not appropriate to refuse an application merely because the application is retrospective. To do so would render the ability to lawfully submit a retrospective application otiose.

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.

Equalities Act 2010

- 5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equalities Act.

6 Conclusion

- 6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved.

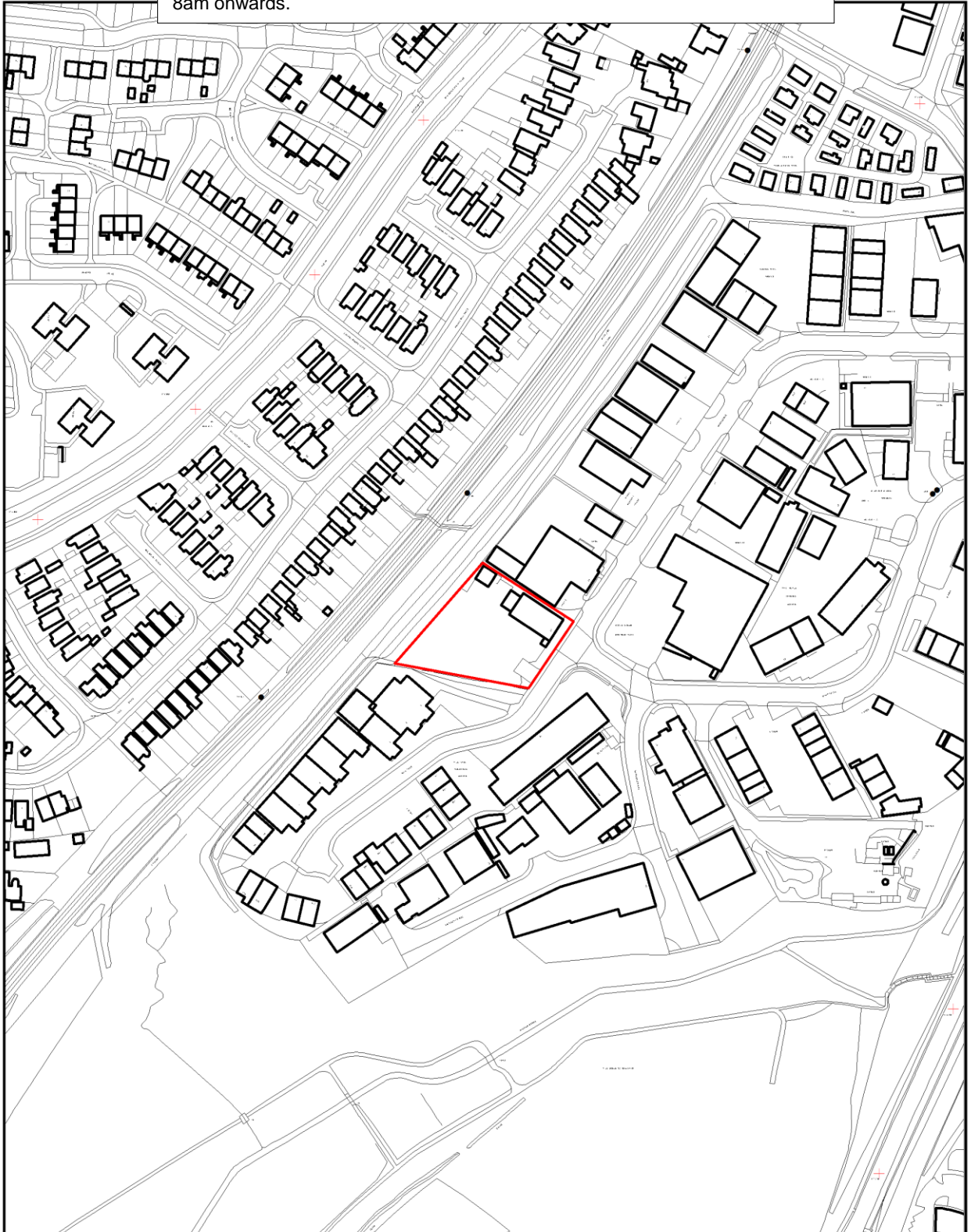


Application No: CH/20/165

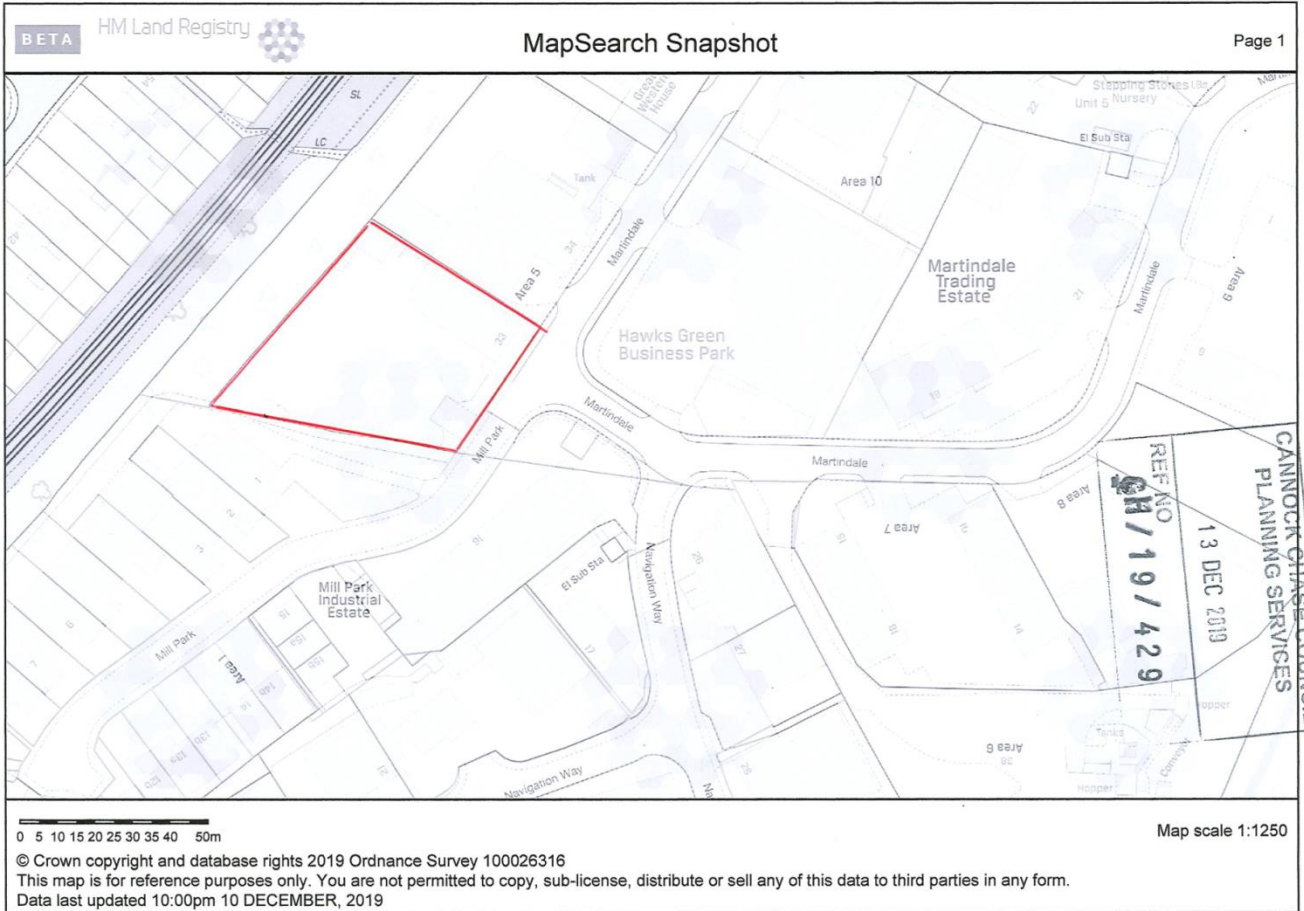
Location: Unit 33, Martindale Trading Estate, Martindale, Hawks Green, Cannock, WS11 7XN

Proposal: Re-submission - Variation of Condition (4) of Planning Permission (CH/99/0539) to allow movement of vehicles Mon-Fri 4am-6pm, Sat 8am-2pm, all other operations from 8am onwards.

ITEM NO. 6.13



Location Plan



| | |
|-------------------------|-----------------|
| Contact Officer: | Claire Faulkner |
| Telephone No: | 01543 464337 |

| PLANNING CONTROL COMMITTEE 12 th August 2020 | |
|---|---|
| Application No: | CH/20/165 |
| Received: | 14-May-2020 |
| Location: | Unit 33, Martindale Trading Estate, Martindale, Hawks Green, Cannock, WS11 7XN |
| Parish: | Non Parish Area |
| Description: | Re-submission - Variation of Condition (4) of Planning Permission (CH/99/0539) to allow movement of vehicles Mon-Fri 4am-6pm, Sat 8am-2pm, all other operations from 8am onwards. |
| Application Type: | Full Planning Application |

RECOMMENDATION:

Approve Subject to 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. On no occasion between the hours of 04:00 and 07:00 shall the noise from the site be greater than the background noise at the nearest domestic property.

Reason

To ensure the continued protection of the nearby residential amenity.

3. This permission grants approval for 1 vehicle to leave the site between the hours of 04:00 - 07:00 and for a further 3 vehicles to leave the site between the hours of 07:00 - 08:00 Monday to Friday only.

The business shall be open for all other operations between the hours of 08:00 - 18:00 Monday - Fridays, 08:00 - 14:00 on Saturday and at no time on Sundays or public or Bank Holidays.

There shall be no vehicle movements on the site between the hours of 18:00 and 04:00hrs on any day

Reason

In order to protect the amenity of nearby residents.

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

Noise Impact Assessment
KCG Noise Policy / Good Neighbour Policy
Covering Letter

Reason

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

The application was deferred at planning committee on 22nd July to allow Officers to establish what and how additional companies operate at the application site and whether a material change of use or the splitting of the planning unit has occurred.

In this instance, the applicant has confirmed that the additional businesses that operate from the property are as follows:-

- 1) Kingscroft Concrete & Grab Hire Ltd – Director Wayne Perry – stores materials for delivery to customers (applicant business)

- 2) Hydroline Engineering – Director Chris Bevington- installation and repair hydraulic systems, delivery/repair service to customers.
- 3) R & R Transport – Director Gary Roberts – parking vehicles over night (leased parking space)

All of the above uses fall within the B8 Use Class of the application site and whether sub-division of the site has occurred is a matter of fact and degree.

In this instance R & R Transport lease a parking space from the applicant and Hydroline Engineering use a storage container in the corner of the site. As such, it is considered that the use of the site has not resulted in the sub-division of the planning unit and no further action is recommended in this respect.

At the committee meeting of the 22nd July, Cllr Smith also queried whether Environmental Health Officers had undertaken any monitoring of the site and if not could they undertake an independent survey ?

In response to this query, the Councils Environmental Health Officers state that:-

“It is usual practice for the applicant to provide the supporting data for a planning application rather than Environmental Protection, so we (EHO) have not undertaken any noise survey work and we (EHO) would only intervene with our own survey if doubtful of the data provided. In this case the application early morning starts (0400 to 0800), whereby the only site activity will be vehicle movement off site. The monitoring undertaken for the noise report submitted with the application reflected this, and not on any other noise associated with the usual day time activities:

- Background data was provided, when other activities were not taking place. I don't see that this data is in any way doubtful or the value of repeating the exercise.
- Sound levels were taken close to the moving vehicles in order to inform a simple modelling calculation to determine the predicted sound level at domestic properties. The measured values appear realistic and the distance attenuation calculation methodology is standard. So the only value of monitoring would be to validate the predicted values at residential properties. This would entail simulating the activity in the early hours in cooperation with the applicant, whereby vehicle movements take place under early morning background noise conditions. This is an onerous undertaking on our behalf, and in my view (EHO), there is little technical merit in it.

If Cllr Smith is directing his comment at normal daytime activity, I (EHO) am not sure what the value would be, as it would not represent the scenario of the planning application.

Furthermore, the critical proposed condition (in terms of impact on residents) is for noise from the vehicle activity not to exceed background noise at the residential properties during this time period. This was recommended on the basis of the noise survey submitted by the applicant, so should be achievable. The result would be that any audible noise would not be pronounced and therefore of no significance. If the applicants fail to achieve this standard, they will be in breach of the planning condition, and presumably subject to planning enforcement action as a result. So there would be no benefit to the applicant in manufacturing such a conclusion if it can not be achieved”.

There are no other updates / alterations within the remaining body of the report.

Consultations and Publicity

EXTERNAL CONSULTATIONS

None undertaken.

INTERNAL COMMENTS

Environmental Protections

Thank you for referring this matters for consideration. No adverse comments are offered from Environmental Protection in respect of the proposed variation.

RESPONSE TO PUBLICITY

The application was advertised by site notice and adjacent occupiers were notified. With 12 letters of representation received and 1 petition with 49 signatures. The representations are summarised as follows:

- Residents have been in correspondence with your department, regarding breaches of working hours and excessive noise levels from this site for a number of months;
- The new proposals relating to the changes in working hours is totally unacceptable as the residents are directly affected by noise due to vehicle movements on this site.
- The Pebble Mill Drive houses were constructed prior to the factory units and any application for the units took into account the need to respect the right of the existing residents to enjoy not only their homes, but their gardens and conservatories etc.
- The other factory units backing onto the railway have strict working hours and noise level restrictions as follows:
 - Working hours restricted to 7am-7pm Monday to Friday, 7am-1pm Saturday and no working on Sundays and Bank Holidays
 - 2 Maximum noise level at boundary with railway of 7SDb
- I feel that their general working hours should be restricted to the same as those at 1 above, in line with the other units on the estate, to protect the existing residents. This should not mean that they arrive on site at 6.30 and check their vehicles over and then leave at 7am, as their checking procedure involves metallic noises as inspection hatches and doors etc are closed and engines are running, which is clearly heard on our side of the railway.
- The use of their site based machine should remain at 8am as the original approval. The noise from this machine, metal scraping on concrete together with banging and other noises from deliveries, causes great nuisance throughout the day and would be in breach of the 7SDb limits imposed on the other factory units.
- There is no need for this to start any earlier than 8am as the concrete wagons are loaded up each evening, so that they are ready to go first thing the next day, and they do not return to the yard for fresh supplies until after 10am most days.

- A maximum noise level at the railway boundary should also be imposed, in line with the other factories, as their type of noise is far more disruptive.
- The location of the storage areas, adjacent to the railway boundary, also intensify the noise levels for the residents and this problem could be greatly reduced if the storage was relocated away from this boundary.

Relevant Planning History

CH/99/0639 Change of use from general industrial (b2) to storage and distribution including packaging (b8).

1 Site and Surroundings

- 1.1 The KCG site is part of the Martindale Industrial Estate, and is located on the north-western edge of the industrial estate.
- 1.2 The application covers an area of 2,911m² and accommodates an office building, staff parking area and the industrial yard. The yard is used to store the aggregates and is where the loading of the vehicles takes place. Access into the site is from Martindale to the south-east.
- 1.3 The application site is bound on two sides by industrial uses; including, to the immediate south-west, a haulage company which utilises heavy good vehicles and operates on a 24 hour basis.
- 1.4 The nearest residential properties are sited to the north of the application site approx..60m distant (40m to the rear boundary of the gardens). These dwellings are separated from the application site by the railway line which lies in an elevated position to the immediate rear of the residential boundaries and approx. 28m from the rear boundary of the site. The raised railway line serves trains between Rugeley and Birmingham with a total of approx.. 80 trains passing per day between the hours of 06:00hrs and 23:00hrs Monday to Saturday and a reduced service on Sundays. There is an 18m deep

intervening landscape buffer between the application site and the adjacent railway line which comprise of mature tree planting and shrubbery.

- 1.4 The application site is located within a Mineral Safeguarding Area and the Coal Authority consider it to be within a Low Risk Development boundary. The application site also falls within a landmark contaminated land boundary.

2 Proposal

- 2.1 The proposal is for the variation of condition (4) of planning permission CH/99/0539 which read as follows:

“no movement of commercial vehicles to or from the site shall take place outside the hours of 08:00 and 18:00”.

- 2.2 The application seeks to vary the condition to allow movement of vehicles Mon-Fri 4am-6pm, Sat 8am-2pm and all other operations from 8am onwards.

- 2.3 The applicant has confirmed the extension to the hours would be to facilitate the occasional movement of 1 vehicle that is required to leave the site by 04:30hrs and a further three vehicles between 07:00hrs and 08:00hrs.

- 2.4 The applicant has confirmed that there would be no other operations taking place within the site e.g. loading / unloading of vehicles, movement of aggregates during this time. The applicant has confirmed that the loading of the vehicles to leave the site early is carried out the day before.

- 2.5 The following documents have been submitted:

Noise Assessment

Good Neighbour Policy

Supporting Statement

3 Supporting Information

3.1 The applicant has submitted the following statement in support of the application:-

“Following a noise complaint received from the council 12th November 2019 our organisation made immediate changes with the way we operate on a daily basis. Whilst we have a business to run, we still appreciate that the daily routine must be done with minimal disruption.

The main issues listed in resident’s diary and stated in objections emailed against our application are listed below-

Banging/Tipping - this happens when Gravel/ Sand is delivered. The tail gate falls shut when the material has been tipped. I have grouped these 2 complaints banging and tipping together as they are connected and happen at the same time. This is now resolved as our suppliers send in trucks with sound reducing gates to muffle any offensive bangs. We have also restricted these deliveries between the hours of 08:00 and 15:00.

For information purposes. KCG receive 2-4 of these deliveries per day and last no more than 1 minute 10 seconds per vehicle to unload from start to finish. Total 4minutes 40 seconds per day. The closer/bang of the tail gate 3 seconds per load. Total 12 seconds

Scraping - this happens only when Gravel loads have been spilled out of the bay and into the yard. A forklift with large brush has now been purchased to clear up any spillages. This will be the alternative to scraping the floor it will be swept instead.

Hammer - A hammer drill is sometimes operated for maintenance, but this is only on odd occasions and takes place between 08:00 and 18:00.

Since the Noise complaint received here is a list of the new measures we have put into place:

- No Noise Policy- attached document Ref:1 EMP-POL-104
- No reverse Beepers - all vehicles have had the beepers removed
- No loading of vehicles using plant before 08:00 or after 18:00
- No deliveries of Sand/Gravel before 08:00 or after 15:00
- Forklift in operation to sweep spillages instead of scraping

The complaints received are all regarding operations in the summer before we were made aware that our daily routines were causing upset to local residents in Pebble Mill Drive the new measures now in place are covering the complaints received.

We would also like to add that we were operating from this site since 2009 until July 2017 doing exactly the same operations that as we do now. We have never had any complaints before and worked here for 8 years previously. Nothing in our work pattern has changed. Where the sand and gravel bay is situated has not changed. Our operating times and our customers demand have not change.

Not all the noises on Martindale are from KCG MD Haulage in yard next to us, HGV Auto Commercials repairs grabs, concrete mixers, HGV's of all kinds. Cannock Gates. The MD Haulage & HGV Auto commercials company next door to us also moved in at the same time as we did. Maybe the noise is coming from them? The company next to us is an auto electrical company which fixes HGVS all day, several grab lorries and concrete mixers and arctic lorries drive in and out next doors yard every day. Cannock Gates opposite us is open from 6am most mornings and they have forklifts and lifting equipment with reverse beepers driving around Martindale from early hours. Deliveries and bins emptied.

If the planning alterations are accepted, we are NOT altering our new instructions to keep the scope of our works after 8am. We just simply need the opportunity for our trucks to leave the yard before those times as most builders require their concrete to arrive onsite between 7:30 and 8am so that they have all day to use it and time for it to set.

Our main aim is to ensure that we are not impacting any of our neighbours as we continue with our business. We are a just a small local family company with no more than 5 vehicles and since being made aware of the issues that our neighbouring residents are facing, we are taking this very seriously and doing all that we can to avoid disturbing them throughout the day. We want to work with our council to make sure that we are keeping noise pollution to a minimum but also keeping ourselves in a position where we can look after our employees and local customers too.”

4 Planning Policy

- 4.1 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.
- 4.2 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

CP8 – Employment Land

CP9 – A Balanced Economy

Relevant Policies within the Mineral Plan include:-

3.2 Safeguarding Minerals

4.3 National Planning Policy Framework

- 3.4 The NPPF (2018) 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 a “presumption in favour of sustainable development” and sets out what this means for decision taking.
- 3.5 The NPPF (2018) 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.
- 3.6 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 |
| 180 | Impact from noise |
| 212, 213 | Implementation |

3.7 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

4 Determining Issues

- 4.1 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. However, new issues may arise after planning permission has been granted, which require modification of the approved proposals. Where these modifications are not fundamental or substantial, but still material in nature, a developer may seek to obtain approval for the changes through the provision of Section 73 of the 1990 Town and Country Planning Act.
- 4.2 An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied (Paragraph: reference ID: 17a—013-20140306 of the Planning Practice Guidance).
- 4.3 Section 73(2) of the 1990 Act states: —

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

4.4 The determining issues for the proposal are therefore whether the proposed variations to conditions to change hours of operation would be acceptable in respect of their impact on: —

- (i) The standard of amenity in the locality

4.5 Impact of the Standard of Amenity

- 4.5.1 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 on to include [amongst other things] the protection of the "amenity enjoyed by existing properties".
- 4.5.2 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.
- 4.5.3 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. In doing so (amongst others) (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 4.5.4 In this instance, it is noted that there is a raised railway line between the application site and the residential properties within Pebble Mill Drive. A distance of 60m (40m to the rear boundary of the gardens) and an 18m deep mature landscape buffer separate the application sites and the residential properties. Notwithstanding this, it is acknowledged that the landscape buffer would be less effective as a barrier to noise during the winter months when there are no leaves on the trees.

- 4.7.6 It is also noted that the north-western boundary of the wider industrial estate that abuts the landscape buffer then railway, measures some 400m and comprises of a variety of uses. Several of the neighbouring uses including the sites that immediately abut the application site are not restricted in hours of operation and already operate on a 24 hour basis.
- 4.7.3 The main issues arising from the proposed variation of hours is noise and this is also noted from the neighbour consultation responses received. As such, the applicant has submitted a Noise Assessment with which to inform the application. The normal method of assessing new sources of industrial noise is contained within British Standard BS4142:2014. The noise assessment submitted therefore considers the noise generated as a consequence of the proposed extended hours of operation only i.e. that is the potential noise generated from 1 vehicle movement between the hours of 04:00hrs to 07:00hrs and the 3 further vehicle movements between 07:00hrs and 08:00hrs.
- 4.7.4 The Noise Assessment concluded that the noise levels from the additional vehicular movements between 04:00hrs and 08:00hrs have been predicted to be 1dB and 4dB below the existing representative background noise level in the night period and day period respectively; this is a positive indication that the noise impact is low.
- 4.7.5 The Council's Environmental Health Officer (EHO) was consulted on the application and Noise Assessment and raised no objection to the proposed variation of condition subject to the imposition of conditions.
- 4.7.6 The EHO has gone on to state: -

"The noise report provided by the applicant sets out to demonstrate this point as evidence that the event noise (in this case vehicle movement) will not be so distinctive against the background as to cause disturbance. So I would say it passes the test of reasonableness on the basis that the applicant claims it to be the case.

It is certainly enforceable and testable to testable too. We are only ever likely to investigate this condition if a complaint is received, and therefore able to gain access to the resident's property to monitor. As this would apply to the nearest property as a worse case scenario, it would also apply to any other properties further away too. Measuring both background and site activity is easily enough done.

It is also important that they do not prolong their activities at sensitive times by idling engines for prolonged periods. Vehicle checks and preparation should all be done the day before, so I would keep the averaged values as follows. It allows for more activity between 0700 and 0800, but encourages them to avoid more disruptive activities such as aggregate handling, etc.. Please note that on reflection of the noise report I have adjusted the values to allow for the 5dB attenuation provided by the railway elevation and have adjusted the parameters to both being a 1 hour average, so is slightly more relaxed than my previous recommendation.

- 4.7.6 As such, the proposed variation of condition is considered to accord with Policy CP3 of the Cannock Chase Local Plan and the relevant paragraphs of the NPPF. However, the EHO has advised that the applicant should note that the EHO would still consider the use of Statutory Nuisance legislation if noise (or other nuisance matters) impacted on those living or working nearby.

4.8 Objections raised not covered above:-

- 4.8.1 Objections have been submitted based on the breaches of working hours and excessive noise levels from this site for a number of months. Your Officers confirm that the complaints received have led to the applicant submitting the current application in order to regularise the development.
- 4.8.2 An objector has stated that the Pebble Mill Drive houses were constructed prior to the factory units and any application for the units took into account the need to respect the right of the existing residents to enjoy not only their homes, but their gardens and conservatories etc. Your Officers confirm that any application submitted would consider the impact on the nearby residential properties in accordance with National and Local Planning Guidance.
- 4.8.3 Objectors have referred to the other factory units backing onto the railway having strict working hours and noise level restrictions. Your Officers confirm that whilst a planning condition was imposed on the original planning permission subsequent planning permissions for individual units did not include such a condition and therefore a number of units, including the two adjacent units, do not have restrictions on the hours of operation.

- 4.8.4 An objector has suggested that a maximum noise level at the railway boundary should also be imposed, in line with the other factories, as their type of noise is far more disruptive. Your Officers agree and a condition has been recommended accordingly.
- 4.8.5 An objector has stated that the location of the storage areas, adjacent to the railway boundary, also intensify the noise levels for the residents and this problem could be greatly reduced if the storage was relocated away from this boundary. Your Officers confirm that the application seeks to vary the hours of operation and the case before members must be determined on its own merits and based on the current situation.
- 4.8.6 An objector stated that the use of their site based machine should remain at 8am as the original approval. The noise from this machine, metal scraping on concrete together with banging and other noises from deliveries, causes great nuisance throughout the day and would be in breach of the 7Sdb limits imposed on the other factory units. Your Officers confirm that the application seeks consent to allow an earlier start for vehicle movements from the site. The applicant has confirmed that machinery would not be operated during the extended hours as the lorries are loaded up the evening before.

5 Human Rights Act 1998 and Equalities Act 2010

5.1 Human Rights Act 1998

- 5.1.1 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 Equalities Act 2010

- 5.2.1 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.
- 5.2.2 By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- 5.2.3 It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.
- 5.2.4 Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would make a neutral contribution towards the aim of the Equalities Act.

| |
|---------------------|
| 6 Conclusion |
|---------------------|

- 6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.

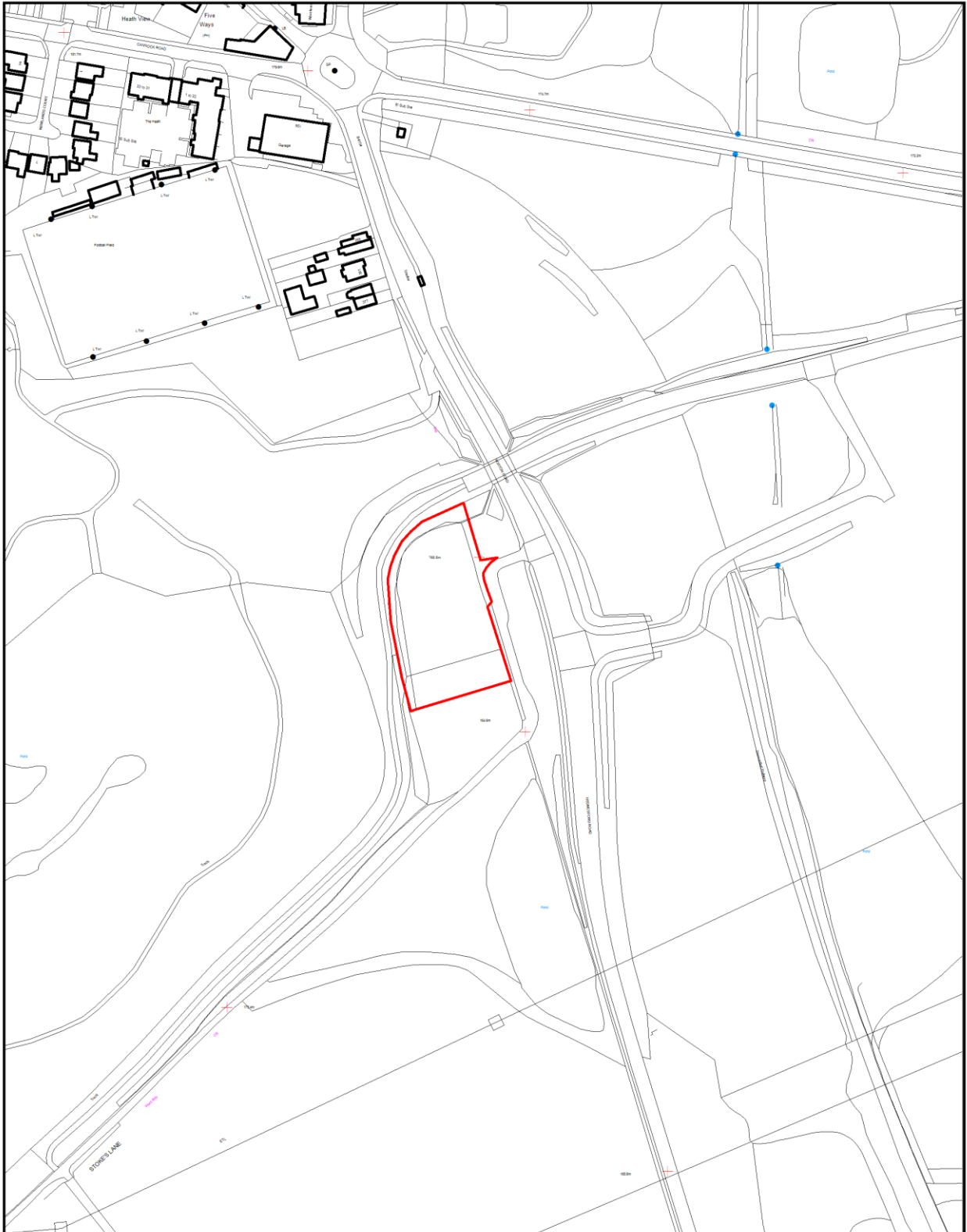
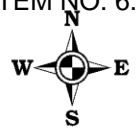


Application No: CH/20/198

Location: Land off Stokes Lane, Norton Canes, WS12 3HJ

Proposal: Change of use of land to use as a residential caravan site for 4 gypsy families each with 2 caravans (1xstatic), layout of hardstanding, erection of a dayroom, 3 no. utility buildings

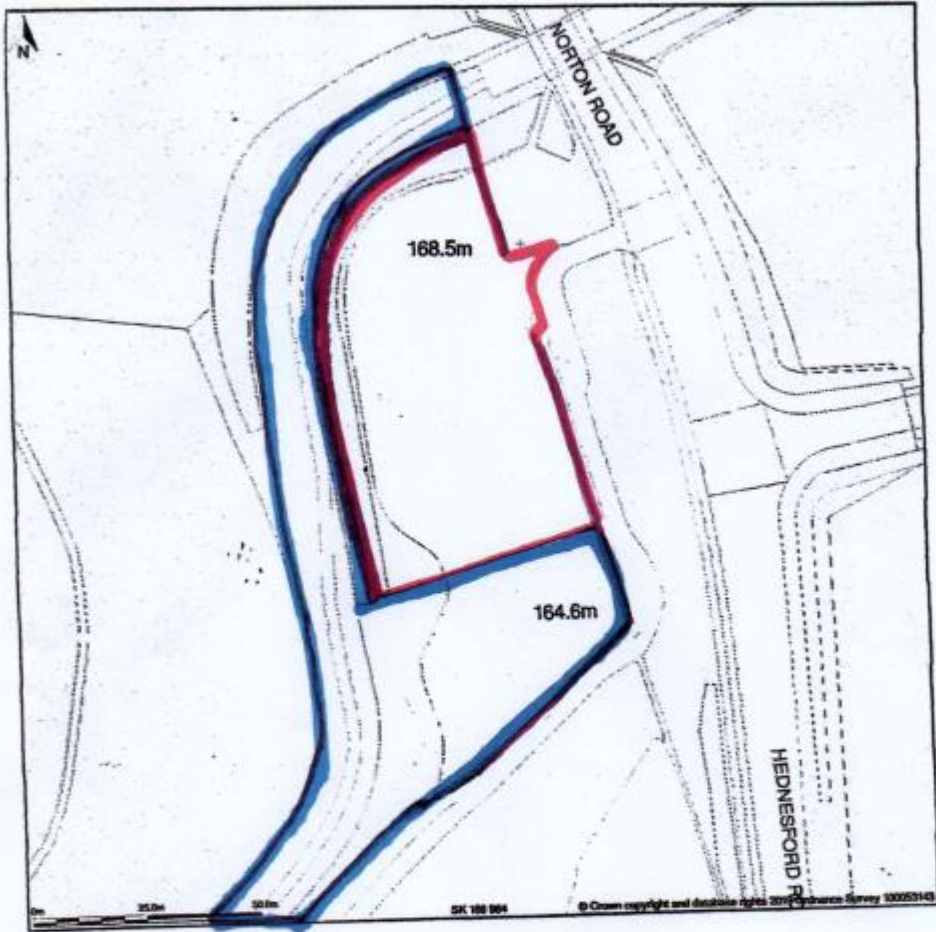
ITEM NO. 6.32



Location Plan



Stokes Lane, Cannock, Staffordshire, WS12 3HJ



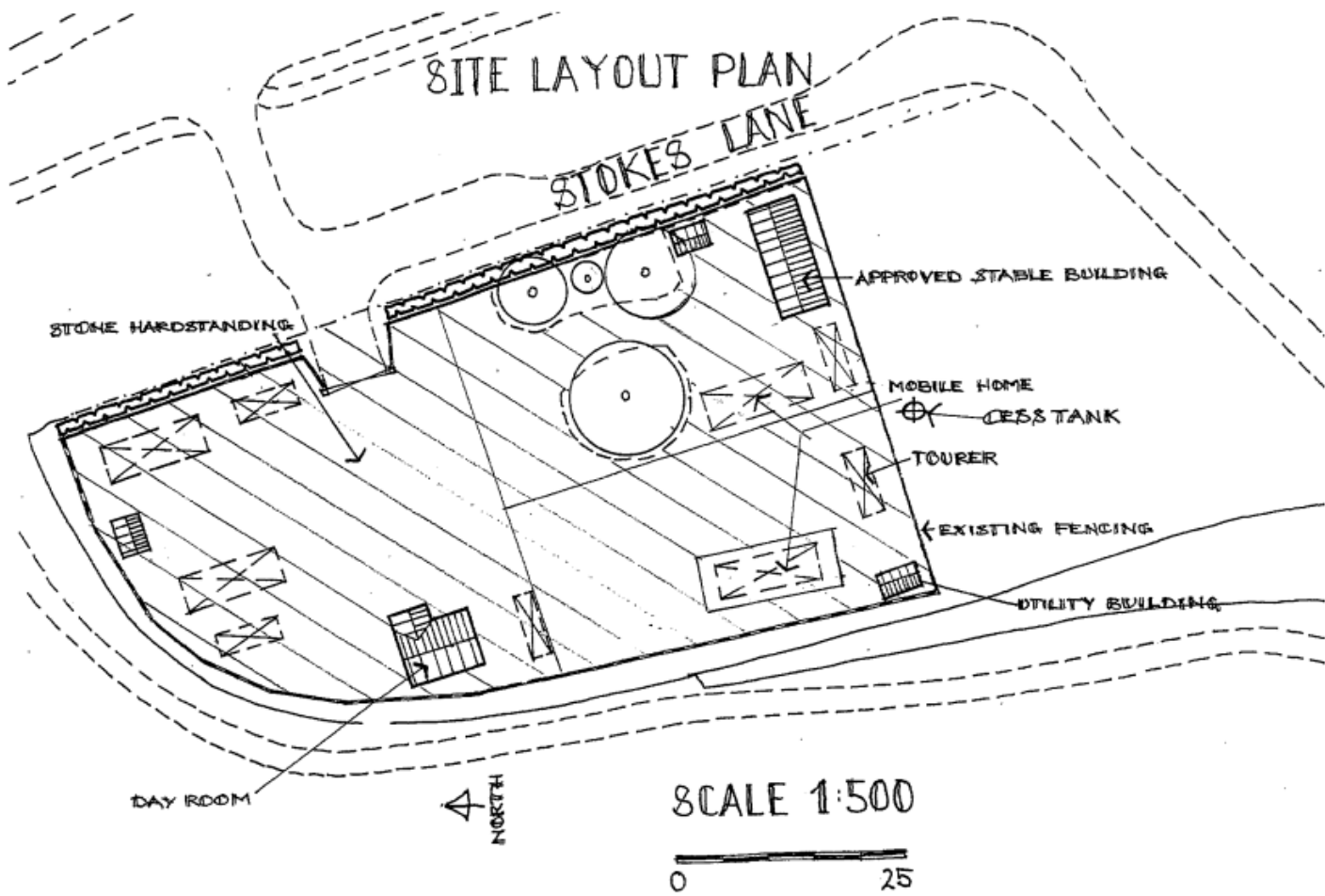
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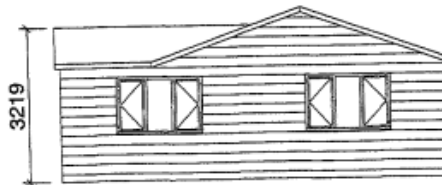
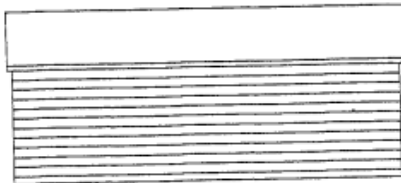
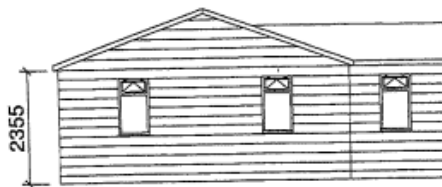
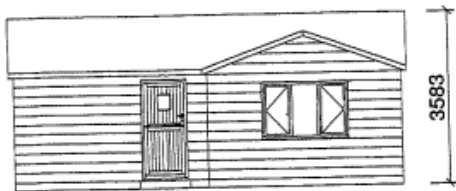
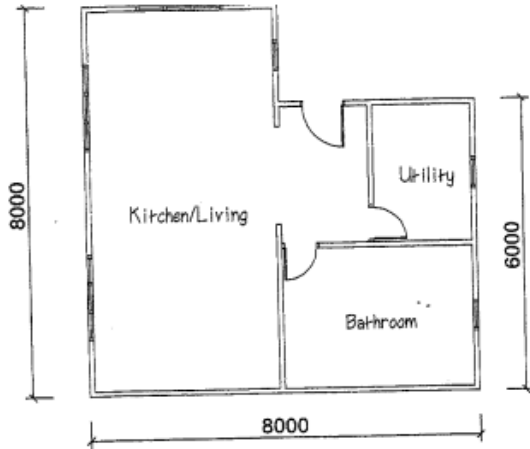
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| CANNOCK CHASE COUNCIL PLANNING SERVICES | |
| 11 MAR 2020 | |
| REF NO | |

Site Plan



Amenity Building Plans



| Date | Revisions |
|------|-----------|
| | |

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 Tel: 01788 570691
 Email: phil@pbrownassociates.co.uk

Client

Job Title

Amenity Building

| | | | |
|-------|-------------|----------|--------------|
| Scale | 1:100 | Sheet | A4 |
| Date | January '20 | Drawn by | Samuel Brown |

| | |
|-------------------------|----------------|
| Contact Officer: | Richard Sunter |
| Telephone No: | 01543 464481 |

| PLANNING CONTROL COMMITTEE | |
|------------------------------------|---|
| 12th August 2020 | |
| Application No: | CH/20/198 |
| Received: | 11-Jun-2020 |
| Location: | Land off Stokes Lane, Norton Canes, WS12 3HJ |
| Parish: | Heath Hayes Norton Canes |
| Description: | Change of use of land to use as a residential caravan site for 4 gypsy families each with 2 caravans (1x static), layout of hardstanding, erection of a dayroom, 3 no. utility buildings. |
| Application Type: | Full Planning Application |

RECOMMENDATION:

Approve subject to the completion of a unilateral undertaking to secure mitigation for impacts on Cannock Chase SAC and the attached conditions.

Reason(s) for Recommendation:

Approve subject to the attached conditions and completion of a unilateral undertaking to secure mitigation against the impacts of visitor pressure on Cannock Chase SAC

Conditions (and Reasons for Conditions):

1. The occupation of the 4 residential pitches shown on the approved site layout planshall be carried out only by the following persons and their resident dependents: John and Marie Lee, Tyson and Kizzy Lee, Monty and Mary Lee and Drewy and Kylie Lee.

Reason

The granting of this planning permission is based on, at least in part, on the personal circumstances of the Lee family.

2. There shall be no more than 4 permanent residential pitches, as shown on the approved Site Layout Plan. On each of those pitches there shall be no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 stationed at any time and no more than 1 caravan on each of those pitches shall be a static caravan.

Reason

For the avoidance of doubt as to what hereby has been permitted.

3. The proposed Amenity building shall be built in accordance with the submitted drawing called "Amenity Building" and dated January '20 and in accordance with details of external materials to be submitted to and approved in writing by the Local Planning Authority before construction commences.

Reason

In the interest of protecting the character and form of this rural location in accordance with Policy CP3 of the Cannock Chase Local Plan.

4. No commercial activities shall take place on the land, including the storage of materials.

Reason

In the interest of protecting the character and form of this rural location in accordance with Policy CP3 of the Cannock Chase Local Plan.

5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason

In the interest of protecting the character and form of this rural location in accordance with Policy CP3 of the Cannock Chase Local Plan.

6. Within 3 months of the date of this decision, or such other period as the Local Planning Authority may agree in writing, a scheme shall be submitted in writing to the Local Planning Authority for its written approval. The scheme shall include details of the following:
 - (i) the internal layout of the site, which shall accord with the approved Site Layout Plan drawing,
 - (ii) areas of hardstanding and for vehicle parking;
 - (iii) fencing, gates and other means of enclosure;
 - (iv) external lighting on the site, boundaries and within the site;
 - (v) the means of foul and surface and surface water drainage of the site;
 - (vi) tree hedge and shrub planting (including plant species, plant sizes,

- number, density, seeding or turfing and measures for replacing plants which die, are removed or become diseased);
- (vii) provision for the storage of domestic waste and recyclables,
 - (viii) provision of nest boxes within the adjacent woodland;
 - (ix) provision for the retention of log piles within the woodland.
 - (x) A timetable for the implementation of the above.

Thereafter the above scheme shall be implemented in accordance with the approved timetable and retained and maintained for the lifetime of the development.

Reason

In the interest of protecting the character and form of this rural location in accordance with Policy CP3 of the Cannock Chase Local Plan.

7. No construction of the amenity building shall commence until: -

- (i) a scheme of ground investigations in respect of soil sampling, and ground gas has been submitted to and approved in writing by the Local Planning Authority; and
- (ii) the approved scheme of ground investigations has been carried out; and
- (iii) a report of the findings, including the identification of any remedial/ mitigation works arising from the ground investigations has been submitted to and approved in writing by the Local Planning Authority.

The development shall thereafter be carried out in accordance with the approved remedial/ mitigation works and no building shall be occupied until verification that the scheme of remedial/ mitigation has been implemented in full.

Reason

In order to ensure the development is suitable for its intended residential use, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

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

Site Layout Plan
 Amenity Building
 Toilet Block

Reason

For the avoidance of doubt as to what hereby has been permitted.

Notes to Developer:

The Coal Authority notes that “The report advises that based on the nature of the proposal, the risk posed by possible unrecorded shallow coal mining activity should be mitigated through the use of an appropriate foundation design”. The Coal Authority therefore considers that the services of a suitably qualified structural engineer should be engaged in this regard.

The applicant is advised that the occupier(s) of the land will be required to obtain a Caravan Site Licence for Touring and Permanent residential under the provisions of the Caravan Sites and Control of Development Act 1960.

The applicant’s attention is drawn to the comments from Staffordshire Police in respect to crime prevention and security.

The applicant’s attention is drawn to the comments from Staffordshire Fire and Rescue Service’s regarding sprinklers.

In the interest of preventing deaths and injuries from fires within domestic dwellings Staffordshire Fire and Rescue Service strongly recommend the provision of a sprinkler system to a relevant standard.

Early consultation with the Fire Service when designing buildings which incorporate sprinklers may have a significant impact on reducing fire deaths and injuries in domestic premises and financial implications for all stakeholders.

Further information can be found at www.bafsa.org.uk - the website of the British Automatic Fire Sprinklers Association Ltd.

The applicant’s attention is drawn to the comments made by South Staffordshire Water Plc in respect to new water assets.

Consultations and Publicity**External Consultations -**Heath Hayes & Wimblebury Parish Council

The Council strongly object to the following application it is not permissible development in a green belt area.

Norton Canes Parish Council

The Parish Council have considered this application and wish to strongly object as follows. As per our telephone conversation you are awaiting further information from the applicant which has been requested by us and once this is available we would be making further comments. The comments below are therefore an interim response to be updated when further information available.

1. The site is greenfield in the Green Belt and Gypsy sites are not included in the list of types of development which are appropriate in a Green Belt (para. 145 of the National Planning Policy Framework).
2. National policy on provision of Gypsy sites is set out in more detail in MHLG publication "Planning Policy for Travellers August 2015". This document states that decision taking on planning applications should protect the Green Belt from inappropriate development. At paragraph 16 it confirms that Traveller sites are inappropriate development in the GB. It goes on to say 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.
3. If a Local Planning Authority wishes to make an exceptional limited alteration to the GB boundary to meet a specific identified need for a Traveller site it should do so only through the plan making process and not in response to a planning application and should otherwise determine applications in accordance with the policies in an adopted Development Plan.
4. At paragraph 27 it states that where Local Planning Authorities cannot demonstrate an up to date 5 year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering an application for grant of temporary planning permission. This exception does not apply where the proposal is on land designated as Green Belt.
5. CCDC cannot currently demonstrate that there is a 5 year supply of Gypsy/Traveller sites. Consultation did take place on the number of sites 2 years ago as part of the Local Plan Part 2. These sites were all in the green belt but the current application was not one of them. Due to work on the Plan being abandoned in favour of a full review of the existing adopted Local Plan which has only reached Issues and Options stage and does not have any site specific proposals.
6. The comment on the supporting statement submitted states 'the site would not encroach into open countryside' which is clearly not the case. The description of four families including numbers and ages of children only includes limited information where they currently live, no

mention of specific sites. We would ask that CCDC seek further verifiable information on this before the application is determined.

7. We would state that the applicant has in a previous application relating to this site for stables, has not adhered to the conditions relating to the application and has installed both a mobile home and caravans already which pertains to this new application. We are concerned that if the above application was granted are we confident that this application will not be changed and any planning conditions would be adhered to.

Staffordshire Fire and Rescue Officer

Appropriate supplies of water for fire fighting and vehicle access should be provided at the site, as indicated in Approved Document B Volume 1 requirement B5, section 11.

I would remind you that the roads and drives upon which appliances would have to travel in order to proceed to within 45 metres of any point within the property, should be capable of withstanding the weight of a Staffordshire firefighting appliance (G.V.W. of 17800 Kg).

I wish to draw to your attention Staffordshire Fire and Rescue Service's stance regarding sprinklers.

In the interest of preventing deaths and injuries from fires within domestic dwellings Staffordshire Fire and Rescue Service strongly recommend the provision of a sprinkler system to a relevant standard.

Early consultation with the Fire Service when designing buildings which incorporate sprinklers may have a significant impact on reducing fire deaths and injuries in domestic premises and financial implications for all stakeholders.

Further information can be found at www.bafsa.org.uk - the website of the British Automatic Fire Sprinklers Association Ltd.

Natural England

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 adverse effects arising from the proposal are wholly consistent with the effects detailed in the Cannock Chase SAC evidence base and that these effects can be satisfactorily mitigated by the measures set out in the Strategic Access Management and Monitoring Measures agreed with ourselves.

Having considered the assessment Natural England advises that we concur with the assessment conclusions.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Coal Authority

The application site falls within the defined Development High Risk Area; therefore within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority's records indicate that the application falls within the boundaries of a wider site from which coal has been extracted by surface (opencast) operations.

The planning application is supported by a Coal Mining Risk Assessment report (9 June 2020, prepared by the Coal Authority's commercial arm) in support of their application. Based on a review of appropriate sources of coal mining and geological information the report concludes that whilst the application site falls within the licenced boundary of Bleak House opencast site, it is understood to be outside the area of excavation. The report does, however, identify that shallow coal seams present beneath the site may have been worked and pose a medium risk to the proposed development.

The report advises that based on the nature of the proposal, the risk posed by possible unrecorded shallow coal mining activity should be mitigated through the use of an appropriate foundation design. The Coal Authority therefore considers that the services of a suitably qualified structural engineer should be engaged in this regard.

On the basis that shallow coal reserves are likely to be present beneath the site, the submitted report advises the applicant to undertake a detailed gas risk assessment. We therefore recommend that the LPA seek comments from the Council's Environmental Health / Public Protection Team on this matter and any resultant need for the incorporation of gas protection measures in the development.

Based on the information submitted, and the professional opinions of the report author set out therein, the Coal Authority has no objection to the planning application, subject to the recommendations within the report in respect of foundation design being implemented on site. Further more detailed considerations of ground conditions, foundation design and gas protection measures may be required as part of any subsequent Building Regulations application.

The Coal Authority would not expect the LPA to impose a condition on the planning permission in respect of foundation design. As you highlight, foundations are

considered under the Building Regulations and we are therefore satisfied that the matter can be dealt with by means of an informative note.

The Ramblers Association

No comments received.

Crime Prevention Officer

Thank you for the above consultation document, I ask that Cannock Chase District Council 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(f) 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 developments, 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 adversely 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 have access to an appointed neighbourhood officer and/or PCSO, working with those communities and responding to the individual needs of that particular community.

Working with Hertfordshire Constabulary that has a similar County make-up and the travelling community revealed the following;

[View of Hertfordshire Gypsy and Traveller Community](#)

What is the best number of pitches to have on one site and why? There were two main themes of response, the first being that the actual number of plots is irrelevant, what is important is that all the tenants get along, so there is just as much chance of disputes on a small site as on a larger site if the tenants do not get on.

What is the best number of families to have living on any one site and why? There should be one family per plot because more than this causes disruption and disputes between the families. The families can be very large but it is not always the amount of families on a site but how they get on.

What should people think about when choosing which sites to extend, e.g. proximity to schools and why? Additional plots on an existing site would mean extra families which could cause problems between existing families and the new tenants. There would also be problems such as children not being able to get places at local schools and access to healthcare. Sites should not be near hazards such as dangerous roads, pylons etc.

Family disputes on sites cause Policing issues and raise the fear of crime for site residents: the overall success and peaceful running of a site will clearly be of benefit to both the traveller and settled communities in a locality, it is for these reasons that Staffordshire police strongly recommend that should this application be granted permission to proceed that a Planning Condition is made specifying the site must only be occupied by a single family.

Rural crime is both a local and national issue, the theft of trailers and horse tack being particularly prevalent, if it is intended to house tack within the stable, target hardening measures should be installed to prevent theft as it is set in a location that actually assists offenders to commit crime.

Illumination

The buildings should have all elevations and recesses illuminated with a series of vandal resistant, high-pressure sodium lamps, operated by photoelectric sensors, mounted at the highest inaccessible point.

Roof

Should construction dictate installing a lightweight roofing system, I recommend installing one certificated to STS 202 BR1. LPS 1175 SR 1 which is less vulnerable to intrusion by cutting through the deck, attempts to gain access through the roof can be prevented by fixing expanded metal to the topside of rafters.

Walls

Composite panels, profiled metal cladding and wooden walls are all vulnerable to forced entry. The first 2m height of all walls, internally or externally, should be

brickwork or materials of similar strength. All grilles should use security screws or bolts.

Perimeter Doors

The minimum Association of British Insurers (ABI) and Police security standard for perimeter doors is that they should comply with STS 202 BR2, LPS 2081SRB or LPS 1175 SR2, the opening leaf of perimeter double doors must be fitted top and bottom with key operated rack mortise bolts and the meeting styles should be rebated.

Doors should be secured with the relevant lock type:

BS 3621: 2011 thief resistant mortise lock.

BS 8621:2011 thief resistant mortise lock with keyless egress

BS 10621:2011 as above but with keyless external deadlock

BS EN 1303:2005 Minimum standard for cylinder locks

LPS 1242 Issue 1.2 2005 Cylinder lock requirements

DHFTS 621:2011 Electro-mechanical lock.

Alarm System

A monitored intruder alarm system should be installed on the opening doors of any room used to store horse tack compliant with BS EN 50131-1:1997 Grade 3, and BS 8418. The management of the system should be to ISO 9001:2000. A unique reference number for the installation will be required for a Police response.

Further information on accredited security products can be found at www.securedbydesign.com and www.soldsecure.com or contact can be made with this office.

Severn Trent Water Ltd

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

School Organisation,

This development falls within the catchments of Jerome Primary School and Norton Canes High School.

The development is scheduled to provide 8 dwellings (caravans). Including accounting for any demolitions, the threshold for calculating education contributions on residential developments is 11 or more dwellings, or a site greater than 0.2 hectares. Therefore no education contribution is requested for this application.

The above is based on current demographics; we would wish to be consulted on any further applications for this site.

County Highway Authority

There are no objections on Highway grounds to the proposed development subject to the following conditions being included on any approval:-

A site visit was carried out on 02/07/2020.

Personal Injury Collisions:

Current records show that there were no Personal Injury Collisions on Stokes Lane/Norton Road within 120 metres either side of the property accesses for the previous five years.

Background; The application is for the change of use from land for the keeping and stabling of horses to a residential caravan site for 4no Gypsy families (each with 2no caravans), the erection of a day room and 3no utility buildings. The site is located on Stokes Lane, a 30mph no through road off B4154 Norton Lane which is subject to a 40mph speed limit. The site lies approximately 1 mile south of Heath Hayes and 1 mile north of Norton Canes.

Site Access / Car / Cycle Parking Arrangements; The current site access off Norton Lane would benefit from the overgrown hedge being cut back in order to aid visibility to the north, the Highway Authority will arrange for this to be carried out. The submitted plan does not show parking provision for the site however there is more than adequate parking for the stated 4no cars/4no light goods vehicles within the site curtilage which meets Cannock Chase District Council's parking standards.

Recommendations: There are no objections on Highway grounds to the proposed development subject to the following conditions being included on any approval:-

The development hereby permitted shall not be brought into use until the access, parking areas and turning areas have been provided in accordance with submitted "Site Layout Plan" and shall thereafter be retained for the lifetime of the development.

Reasons

To comply with the objectives and policies contained within the NPPF, Para 109, the Cannock Chase Local Plan CP10 and in the interests of highway safety.

County Flood Risk Management (SUDS)

The site is not within the uFMfSW 1 in 100 year outline and there are no recorded flooding hotspots within 20m or known Ordinary Watercourses within 5m. There will be no significant change to the impermeable area and so little change to the surface

water runoff generated by the site. The Flood Team therefore have no comments to offer on this occasion.

For information: We note that the adjacent Coal Haulage Road to the north of the site partially falls within the uFMfSW 1 in 30 year and 1 in 100 year outline. The surface water layers we use to review risk of flooding are available for the public to view on the Environment Agency website. As the information relates to an area rather than a specific property, not all properties within that area (e.g. a street or a postcode) will necessarily be at the same risk of flooding. This might be the case if the property is on higher land or the floor levels are high. All updates to the Flood Map for Surface Water are administered and checked by the Environment Agency.

Environment Agency

No objection.

County Planning Development Control Team,

No objections.

South Staffordshire Water Plc

I have viewed the application and from our existing asset records we appear to have no water mains assets affected by this scheme so would look to install new water assets to supply the development through the normal application for new connections process.

Please note that we do not keep records of individual water services so this site may well require the existing water service to be disconnected prior to the development being undertaken.

Historic England

No objection.

Internal Consultations

Development Plans and Policy Unit

National Planning Policy Framework (NPPF) and the Presumption in Favour of Sustainable Development

In terms of national guidance, the NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development. It identifies that there are three overarching objectives – economic, social and environmental which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.

The NPPF at paragraph 11 includes a presumption in favour of sustainable development. For decision taking this means:

- c) approving development proposals that accord with an up to date development plan without delay.
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless
 - (i) policies in the Framework that protect areas or assets of particular importance (e.g. Green Belt, AONB, habitats sites) provide a clear reason for refusing the development proposed; or
 - ii) 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.

With regard to Habitats Sites, such as the Cannock Chase SAC and SSSI, the presumption does not apply where the project is likely to have a significant effect either alone or in combination with other plans or projects, unless an appropriate assessment has concluded that the proposal will not adversely affect the integrity of the habitats site. It will therefore be necessary to review an Appropriate Assessment before making this judgement.

However as the site lies within the Green Belt the presumption in favour of development does not apply.

National planning policy in relation to Green Belts is set out within the NPPF. The NPPF advises that the government attaches great importance to Green Belts and their fundamental aim is to prevent urban sprawl by keeping land permanently open; their essential characteristics are their openness and their permanence. The NPPF sets out the 5 purposes that Green Belt serves in para 134.

The NPPF at para 143-147 considers proposals affecting the Green Belt. It states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. It further advises that when considering planning applications local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.'

The proposal involves the construction of new buildings. At para 145 it lists the exceptions when the construction of new buildings is not inappropriate.

In terms of relevance to this proposal, paragraph b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

Para 146 advises that other forms of development are also not inappropriate in the Greenbelt provided they preserve its openness and do not conflict with the purposes of including land within it and this lists para e) material changes in the use of and (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

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. 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 terms¹

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.

National planning policy for travelers is within The Planning Policy for Travellers August 2015. At paragraph 16 it states that: 'Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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.'

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 to ensure fair and equal treatment for travelers, in a way which facilitates the traditional and nomadic way of life for travelers while respecting the interests of the settled community. It contains a section entitled 'Decision-taking' containing Policy H which includes

¹ As set out in the Court of Appeal judgement in John Turner v SSCLG and East Dorset Council [2016] EWCA Civ 466 and repeated in:

- Samuel Smith Old Brewery (Tadcaster) Limited v North Yorkshire CC [2018] EWCA Civ 489
- Euro Garages Ltd v SSCLG and [2018] EWHC 1753

Paragraph 24 and outlines a number of issues that the local planning authority should consider amongst other relevant matters when considering applications for traveller sites. This includes

- a) the existing level of local provision and need for sites,
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant [in conjunction with Paragraph 16 (outlined above)].
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travelers and not just those with local connections

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 a 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.

Development Plan

The development plan for Cannock Chase District consists of the Local Plan (Part 1) and the Staffordshire County Council Waste and Minerals Local Plans. These policy comments are restricted to matters concerning the Local Plan (Part 1).

CP1 and CP 14 set out the policy in relation to Green Belt and with regard to that which is applicable to this proposal defer to the NPPF as outlined above.

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) sets this out in CP 7. Policy CP7 identifies a need for 41 gypsy and traveller pitches from 2012-2028, although more up to date evidence is available (see below). The provision of sites was 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 (p50).

No Part 2 to the Local Plan exists and the Council has begun the preparation of a review of the Local Plan. The review of the Plan has completed a consultation in May 2019 on an Issues and Options version of the Plan, where a number of policy

options are considered. This plan is not considered to be at an advanced stage for the purposes of weight which can be accorded to it.

Adopted policy CP7 refers to a broad area of search for such sites, matching travel patterns and based along the A5 road corridor [which] is identified in the Key Diagram. The Key Diagram is at p7 below the Cannock/ Lichfield Road (A5190) and includes areas of Green Belt land.

Policy CP7 also provides a series of criteria for the consideration of gypsy and traveller sites and planning applications, 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.

In terms of other relevant Local Plan (Part 1) policies, the proposal is in close proximity to 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 AQMA at the A5190 Cannock Road (declared in 2017). As the proposal lies within an area of open landscape, Policy CP14 should be considered with regards to landscape character.

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.

Five Year Supply

The Authority Monitoring Report (2018) which monitors Local Plan policies outlines that only 2 pitches have been provided to meet the Local Plan (Part 1) requirements to date and that the Council does not have a five year supply of sites.

Local Plan Review

Core Policy states that provision for gypsies, travelers will be made through the allocation of sites in a Local Plan Part 2. 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 (Issues and Options) was consulted upon in May 2019 and acknowledges 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 (paragraph 7.77).

As part of the Local Plan Review in March 2019 the Council has published a new Gypsy and Traveller Accommodation Assessment (GTAA 2019) which provides an up to date assessment of need within the District. This identifies a need for an additional 14 pitches during 2019-2024 and a further 11 pitches between 2024-2038 arising from existing households falling within the definition within the District and potentially a further 4 more from undetermined households to 2038. It uses 2018 as the base date and excludes any shortfall from the previous plan period to avoid double counting. It is considered a robust piece of evidence.

The GTAA 2019 offers an opinion on the broad area of search in the adopted plan. It states that the majority of traveler sites within the District and identified need continues to remain within this broad area and that the preference for most households that were interviewed was to meet current and future need on or near existing sites. The study also states that the strategy for allocating new provision will also be informed by other factors such as deliverability (i.e. where land is actually available for this use) and wider sustainability considerations. (Para 8.18 GTAA May 2019)

A number of our neighbouring local authorities have already advised that they would be unable to help meet our needs as they too are either unable to meet their own current needs or have an existing need of their own which already requires Green Belt site options to be considered.

A Green Belt Review was undertaken in 2016 which included consideration of 6 locations for gypsy sites, this site was not one of those included within the assessment.

Habitat Regulations and Contributions

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 Infrastructure list. Permanent traveller pitches are regarded as residential development for the purposes of the Habitat Regulations (see 'Cannock Chase SAC Partnership FAQs', updated Jan 2020). 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.

Other comments

The views of Staffordshire County Council as the waste and minerals planning authority and highways authority should be considered, as necessary. Comments from Environmental Health regarding the air quality implications should also be taken into consideration.

Conclusion

Subject to the applicants meeting the definition of traveller and the findings of the appropriate assessment the proposed change of use of use and would constitute inappropriate development within the adopted Green Belt and should not be approved except in very special circumstances.

It is for the applicant to demonstrate that 'very special circumstances' exist and I shall leave this judgement and that in regard to the matters raised above to the case officer.

However I would add that 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 and secured via condition.

Council Ecologist

No comments received.

Parks and Open Spaces

The site is located within the Green Belt and also falls within the Forest of Mercia. It is located to the south of a pending Site of Biological Importance known as known as Fair Lady Coppice, which is a public accessible site with clear views over the proposed development area.

Tree report states that it is valid for one year and was produced on 10 May 2019 following a site visit on 4 May 2019. It is thus out of date. Reference is made to a site plan (no plan reference number) and no plans included or identified within the report. Section 2 para 2.5 states that the 'Proposal is build a stable, install a hard standing and install a horse exercise arena'. This report relates to the previous application and not the present proposals. The separate Tree protection plan (No ref No.) also relates to a previous application.

The proposed layout incorporates a septic tank which is outside the fences area and potentially within the adjacent remaining woodland area. Excavation for which would

impact on the root protection area of the trees. The outfall would also have a potential detrimental impact on the woodland ecology. No details of any service routes/ provision has been supplied so unable to advise on any potential impacts that may occur from their installation and or function on the exiting [sic] landscape.

The application for the approved site use for a stable stated that an exercise area and associated grass paddock was essential to the welfare of the horses and thus the development. The present application thus removes both the exercise area and grass paddock which then begs the question the future use of the stable block.

The proposed development of all hard standing creates an incongruous hard feature within the green belt. The addition of various structures and caravans adds to this which is at odds with the character and nature of the locality and green belt especially when seen from the adjacent public accessible open space area of Fair Lady Coppice.

The enclosure by tall close board fence is also incongruous with the rural landscape.

This was however approved on the stables application but with the addition of a native hedge row to the site frontage to Stokes Lane. It is noted that a hedge line of conifers (*Leylandii*) have been planted without approval. This type of hedge in this location would be out of character and increase the visual incongruity of the site. Whilst planting of a native hedgerow along the western/norther boundary of the site may eventually hide the timber close board fence it would not screen the overall site as seen from the adjacent elevated Fair Lady Coppice. The inclusion of tree belt along this boundary (possibly outside the application boundary) in time would potential give a partial vailing of some of the site dependant on species used however, they would potentially create issues for users of the site in terms of shade, loss of sunlight not to mention use and enjoyment of the site etc., which from experience would see either their reduction or removal thus opening up the visual aspect.

The site was originally a small woodland cops [sic], which was clear felled prior to the Stables development. This and the resultant extensive stoned area formed will have had a negative impact on the habitat value of the site and which the proposed change of use does nothing to compensate for. All new developments must have regard to biodiversity. The development also has a negative effect on the aims of the Forest of Mercia, firstly by removal of woodland and secondly by not providing compensation of enhancement. This is also contrary to recent government policy on tree planting and creating woodland.

Objection to the proposed change of use due to the detrimental visual impact on the character and quality of the green belt and local area contrary to policy CP3 and resultant failure to have due regard to conserving and or enhancing biodiversity of the site.

The proposed development would by its nature impact on the character and thus openness of the rural urban fringe i.e. the Green Belt, leading to the gradual erosion of the latter and thus the separation of the urban areas.

Negative impact on delivering the aims of the Forest of Mercia & recent Govt policy.

Response received 15 July 2020

And with reference to previous memo of 3rd July 2020, I have the following comments:-

The revised tree protection plan now indicates the proposed buildings & caravan locations but not the septic tank or any other drainage features.

The revised information does not negate any of the previous issues noted in respect of the application.

The original objection and reasons for, still remain valid.

Environmental Health

The site has a number of immediate or adjacent features that create potential land contamination and /or ground/mining gas concerns, including unknown infill, Environment Agency historical infill sites and coal mining. As such, I recommend a condition to secure a ground condition investigation and where required remediation.

CIL Officer

From looking at the plans, the combined net proposed floor space would be less than 100m² and they are not technically creating a new dwelling so this would not be liable.

Waste and Engineering Services

I have no comments / objections.

Private Sector Housing

Environmental Health have no objection subject to a condition to ensure the submission of the following details within 3 months of the date of any permission granted: -

- the means of foul and surface water drainage of the site; and water supply to the site;
- proposed and existing external lighting on the boundary of and within the site;
- details of refuse storage facilities;

- the internal layout of the site, including the siting of caravans, plots, hard standing, access roads, parking and amenity areas; and
- and/ or any other matters to be specified]

If planning approval is granted, the occupier of the land will be required to obtain a Caravan Site Licence for Touring and Permanent residential under the provisions of the Caravan Sites and Control of Development Act 1960, which would be granted subject to conditions being met.

Strategic Housing

No comments received.

Response to Publicity

The application has been advertised by site notice and neighbour letter. 3 letters of representation have been received.

This land has been illegally used as a traveller camp, having been falsely built as a stables. It seems unfair for the planning law to be broken, only then to reapply once the travellers have moved on.

I've just been informed from somebody from the council, that the land, that had planning permission for stables, and no habitable dwellings, has now put forward a planning application for 10 caravans and a static bungalow/mobile home. If this application goes ahead, (Which I know it will, as it seems there's somebody with a vested interest within planning) does this mean anybody can buy a piece of green belt land, and build on it? Because, if that is the case, planning permission/ law is not worth the paper it is written on? I and many others will be looking to chop down trees, and build some "stables" on a nice piece of green belt land of our own!

A further letter has been received which after the redaction of racist comments, and personal data contained no material planning issues.

Relevant Planning History

| | |
|--------------|---|
| CH/08/0001: | Installation of a wind farm, comprising three wind turbines, control building Full – Withdrawn 08/05/2009. |
| CH/14/0404 | Proposed cemetery including parking area, fencing, compound area, footpath, cycl Full - Approval with Conditions. 01/28/2015. |
| CH/14/0404/A | Part discharge of conditions 16, 17 & 18 for planning permission CH/14/0404 Discharge of Conditions - Part Approval 04/06/2016. |

| | |
|--------------|--|
| CH/14/0404/B | Discharge of conditions 2, 3, 11, 13, 14 & 20 for planning permission CH/14/0404 |
| CH/19/093 | Proposed Change of Use of land for the keeping/stabling of horses. Full - Approval with Conditions. 08/21/2019. |
| CH/19/093/A | Discharge of Conditions (2,3,4,5,6,11) layout/landscaping/no dig/external light Discharge of Conditions - Full Approval. 01/14/2020. |
| CH/89/0503 | Opencast coal and clay extraction.and restoration ot woodland. Full – Approval. 06/13/1990. |

1 Site and Surroundings

- 1.1 The application site is comprised of an area of land which is subject to planning application for a change of use of land for the keeping/ stabling of horses under planning permission CH/19/093 . The site has been layed with hardstanding and is enclosed aby a 2m high close boarded wooden fence.
- 1.2 Subsequent to the granting of the above planning permission the site has been occupied and used unlawfully as a residential campsite to accommodate an extended family of Romany gypsies.
- 1.3 The site is located off Stokes Lane near its junction with B1454 Hednesford Road, between Heath Hayes and Norton Canes. It is surrounded, in part by semi-mature woodland which helps to screen the site although not entirely.
- 1.4 The site is located within the West Midlands Green Belt, the Forest of Mercia, a Mineral SafeGuarding Area, Coal Authority Low Risk Boundary, Coal Authority High Risk Boundary, nera to Env Agency Historic Landfill Boundary, a Landmark Contaminated Land Boundary.
- 1.5 The site is located in the parish of Heath Hayes and wimblebury but on its boundary with Norton Canes.

2 Proposal

- 2.1 The applicant is seeking consent for change of use of land to use as a residential caravan site for 4 gypsy families each with 2 caravans (1 x static), layout of hardstanding, erection of a dayroom, 3 no. utility buildings.
- 2.2 The applicant's Design and Access Statement states: -

“The proposal is to accommodate an extended family of Romany Gypsies, comprising 4 households. Each household would have two caravans, including no more than one static caravan/ mobile home. The proposal would include the laying of additional hardstanding, erection of a communal day room and the erection of 3 small utility buildings.

Two of the proposed pitches would be located adjacent to the northern boundary, two pitches would be located adjacent to the southern boundary and, the dayroom would be centrally located, adjacent to the western boundary.”

- 2.3 The site would also accommodate the approved stable block.
- 2.4 The day room would be 2.355m to the lowest part of the eaves and 3.583m to the apex of the roof, be L-shaped so that at its greatest points it would be 8m wide and 8m deep. It would be constructed from red facing brick under a dark grey tiled roof. The proposal includes four toilet/ amenity blocks. Each block would measure 4m by 3m, with an height to eaves of 2.604 and to the roof apex of 3.6m.
- 2.5 The applicant proposes to discharge surface water to soakaway and foul to cess pit, the latter of which has already been installed.
- 2.6 At the time of the site visit three static caravans and two touring caravans had been moved onto the site, so that all four pitches appeared to have been occupied, albeit one just by a tourist. These were not in the positions indicated on the submitted layout plan, with one of the static caravans occupying the site of the proposed stable block. In addition gravel surfacing has also been put down. The applicant explained that the present layout of the site is temporary whilst the planning application is being considered and that he wishes to include areas of soft landscaping within the site should the application be granted.
- 2.7 As such the application in part is retrospective.
- 2.8 The application is supported by an arboricultural report which has been revised updated to reflect the layout as proposed.

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
- CP13: - Cannock Chase Special Area of Conservation
- CP14: - Landscape Character and Cannock Chase Area of Outstanding Natural Beauty.
- CP16: - Climate Change and Sustainable Resource Use

3.3 National Planning Policy Framework

3.4 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.

3.5 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.

3.6 Relevant paragraphs within the NPPF include paragraphs: -

- | | |
|--------------------------------------|--|
| 8: | Three dimensions of Sustainable Development |
| 11-14: | The Presumption in favour of Sustainable Development |
| 47-50: 59, 73, 74, 78, 79, | Determining Planning Applications Delivering a Sufficient Supply of Homes |
| 124, 127, 128, 130: | Achieving Well-Designed Places |
| 133, 134, 143, 144, 145, 146: 163 | Green Belt Flood Risk |
| 170; 175, 178-180 | Countryside and Biodiversity |
| 212, 213 | Ground Conditions and Pollution Implementation |

3.7 Other relevant documents include: -

Planning Policy for Traveller Sites, 2015, Department for Communities and Local Government.

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) Design and impact on the character and form of the area
- iii) Impact on highway safety.
- iv) Impact on residential amenity.
- v) Crime and the fear of crime
- vi) Drainage and flood risk
- vii) Mineral safeguarding
- viii) Waste and recycling
- ix) Ground conditions and contamination
- x) Impact on natural conservation Interests
- xi) Education
- xii) Sustainability
- xiii) Other issues raised by objectors
- xiv) The applicant's case that very special circumstances exist
- xv) Assessment of the applicant's case
- xvi) The weighing exercise to determine whether very special circumstances exist

4.2 Principle of the Development

4.2.1 Both the NPPF and the Local Plan contain a presumption in favour of sustainable development, the latest version of which is contained within the NPPF (2019) and states: -

“For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or

- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

4.2.2 The first stage in the determination of the application is to determine whether it is in accordance with the development plan. In this respect it is noted that the application site lies within West Midlands Green Belt, wherein there is a presumption against inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and any such development should be considered a departure from the development plan.

4.2.3 In respect to whether a proposal constitutes inappropriate development in the Green Belt the starting point should be the Local Plan. Local Plan Policy CP1 states that development 'proposals in the Green Belt will be assessed against the NPPF and Policy CP14. 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.

4.2.2 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, including the making of material changes of use of land.

4.2.3 It is common ground between the applicant and officers that the proposal does not fall within any of the typologies of development identified as being allowed in the Green Belt as set out in paragraphs 145 and 146 of the NPPF. It is also common ground that the proposal would cause harm to the Green Belt by reason of inappropriateness and through loss of openness and therefore constitutes inappropriate development in the Green Belt. This is consistent with Policy E of the Planning Policy for Traveller Sites (PPfTS) which makes it clear that "Traveller sites (temporary or permanent) in the Green Belt are inappropriate development".

4.2.4 Given that the proposal constitutes inappropriate development in the Green Belt the proposal cannot be considered to be in accordance with the development plan.

4.2.5 The next test which arises from the 'presumption in favour of sustainable development' requires the decision taker to determine where there are any relevant development plan policies or not, or whether the policies which are most important for determining the application are out-of-date.

4.2.6 The requirements of the development plan in this respect are set out in Paragraph 10 of the Government's Planning Policy for Traveller Sites (2015) which states: -

Local planning authorities should, in producing their Local Plan:

- a) identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets
- b) identify a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15
- c) consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area (local planning authorities have a duty to cooperate on planning issues that cross administrative boundaries)
- d) relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density
- e) protect local amenity and environment."

4.2.7 Given the above context it should be noted that the development plan is now 6 years old, relies on an evidence base for traveller accommodation need that was published in 2012, only refers to broad locations that may be suitable for traveller sites and defers to the Local Plan (Part 2) to make allocations for traveller sites. Work on the Local Plan Part 2 has now ceased and work has commenced on a new local plan. Furthermore, the local planning authority cannot demonstrate a five year supply of deliverable (that is deliverable now) and developable sites in suitable locations (to meet the accommodation needs of the travelling community).

4.2.8 It can therefore only be concluded that the policies which are most important for determining the application are out-of-date.

4.2.9 Having regard to the above; and in accordance with the ‘presumption in favour of sustainable development’, the decision taker is required to determine whether there any policies in the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed. Footnote 6 of the NPPF sets out the policies that this applies to which include policies relating to [amongst other things] “Green Belt”. As such it is necessary to consider Green Belt policy.

4.2.10 In the Green Belt it should be noted that paragraph 143 of the NPPF makes it clear that inappropriate development should not be approved except in “very special circumstances”. Furthermore, paragraph 144 of the NPPF states that “When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt” adding “‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.

4.2.7 Therefore in accordance with paragraph 144 it is considered that substantial weight should be given to the harm to the Green Belt identified above.

4.2.8 This report will now go on to consider what other harms may or may not arise as a consequence of the proposal before going on to consider what ‘other considerations’ exist in support of the proposal and the weight to be attached to these and then finally proceeding to weigh up those considerations to determine whether they clearly outweigh the harm to the Green Belt and any other harm such that very special circumstances have been demonstrated that would justify approval of the application.

4.3 Design and the Impact on the Character and Form of the Area

4.3.1 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.

4.3.2 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.

4.3.3 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;

4.3.4 Finally 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.

4.3.5 In considering the impact on the character of the area the comments made by the Parks and open Spaces Team are noted in particular that the site falls within the Forest of Mercia designation. It is also noted that the site can be seen from both the public highway and from Fair Lady Coppice, which is a public accessible site with clear views over the proposed development area.

4.3.6 In respect to the comments about the hardstanding, it should be noted that the layout of the compound as it appears at the moment is provisional pending the outcome of the application. The applicant has indicated that he wishes the compound to be landscaped and is amenable to the attachment of a landscape condition to provide gardens and areas of soft landscaping for the enjoyment of the residents. This would go some way towards softening

the impact of the proposal and could be readily secured through a condition securing the submission of a scheme for approval and the implementation of that scheme.

- 4.3.7 However, even subject to such a condition it is considered that the retention of some areas of hard standing in addition to the introduction of several caravans and associated vehicles with their bright reflective finishes has created an incongruous hard feature within this rural location.
- 4.3.8 However, in relation to the loss of trees, this does not, in the main, arise as part of the current proposal. The trees which have been lost were felled before the previous application for the stable block was submitted. The loss of the trees therefore has not arisen as a direct consequence of the current proposal with the exception of a number of trees to accommodate the septic tank.
- 4.3.9 In respect to the issue of the planted leylandii hedge it is noted that this would form an incongruous feature in the semi-natural context of the location, such hedges being more of a suburban landscape feature. It is also noted that the previous application required the planting of a willow living fence that would be appropriate to the area. This again could be controlled through an appropriately worded condition attached to any permission granted.
- 4.3.10 In respect to the septic tank in the adjacent woodland area it should be noted that this has already been installed and connected and has resulted in the loss of a small number of semi-mature trees.
- 4.3.11 Nevertheless, having considered all of the above it is considered that the proposal has resulted in some harm to the rural character of the area. However, the site is generally well screened from certain angles apart from the higher ground to the North West such that its impact is localised. As such it is considered that subject to the attached conditions moderate weight should be attached to the harm to the character of the area.
- 4.3.12 Therefore, it is considered that the proposal, due to erosion of the rural character of the area is contrary to Policy CP3 of the Local Plan and the above mentioned paragraphs of the NPPF and further that moderate weight should be afforded to that harm.

4.4 Impact on Residential Amenity

- 4.4.1 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 on to 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.

- 4.4.2 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.
- 4.4.3 Having regard to the above it is noted that the site is located approximately 114m to the nearest dwellings which are to the north and is screened by intervening woodland and the 2m high close boarded boundary fence that surrounds the application site. As such the proposal would not result in any significant level of overlooking, overshadowing or loss of outlook to any existing property in the neighbouring area.
- 4.4.4 In addition to the above it is noted that having regard to the normal layout and design of caravans (with windows to principle rooms being in either end and secondary windows to the sides) the proposed internal layout is such that each caravan would have an open aspect and sited such that an acceptable degree of privacy, light and open space would be provided so that a high standard of amenity would be enjoyed by the present and future occupiers of the site.
- 4.4.5 It is therefore concluded that the proposal in respect to the high standard of residential amenity it would attain would not be contrary to Policy CP3 of the Cannock Chase Local Plan and paragraph 127(f) of the NPPF.

4.5 Impact on Highway Safety

- 4.5.1 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.
- 4.5.2 It is clear from the proposal that the compound is more than adequate to accommodate the vehicle parking needs associated with 4 pitches. Furthermore, the Highway Authority has no objections to the proposal subject to the attached condition.
- 4.5.3 It is therefore considered that subject to the attached conditions the proposal has not resulted in an unacceptable impact on highway safety and that the residual cumulative impacts on the road network have not been severe.

4.6 Crime and the Fear of Crime

- 4.6.1 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'.

4.6.2 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.

4.6.3 Staffordshire Police Force has confirmed that they have no objections to the proposal.

4.6.4 It is noted that the site is surrounded by a close boarded timber fence and the caravans would be arranged so that there would be a high degree of natural surveillance within the site. In addition the introduction of the use would introduce a degree of presence/ surveillance at Stokes Lane which has been the subject to fly tipping.

4.6.5 As such it is considered that the proposal would be acceptable in respect crime and disorder and the fear of crime and disorder.

4.7 Drainage and Flood Risk

4.7.1 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'.

4.7.2 The site is located in Flood Zone 1 which is at the least risk of flooding.

4.7.3 Much of the site would remain as semi-permeable hard standing which facilitates the discharge of surface water. Foul water would be discharged to a septic tank which has already been installed in the adjacent woodland and would be accessed through a gate within the fence of the compound on the southern side. Nevertheless details of this would need to be submitted for retrospective approval to ensure that it is fit for purpose.

4.7.4 Severn Trent and the Local Lead Flood Authority have no objections to the above although the Environmental Health Officer has requested that details of the drainage system be submitted for approval to ensure that no harm has been caused to the aquatic environment and to public health.

4.7.4 Therefore subject to a condition for the approval of the means of disposal of foul water it is considered that the proposal would be acceptable in respect to flood risk, drainage and protection of the aquatic environment

4.8 Mineral Safeguarding

4.8.1 The site falls within a Mineral Safeguarding Area (MSAs) for bedrock sand. 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.

4.8.2 Policy 3.2 of the new Minerals Local Plan states that:

‘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.

4.8.3 However, it is noted that the County Planning and Minerals Authority has no objections to the proposal and it is therefore concluded that the proposal would not result in the sterilization of mineral deposits.

4.9 Waste and Recycling

4.9.1 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).

4.9.2 It is clear that there is sufficient space within the site for waste and recycling facilities and there is sufficient space at the entrance to accommodate a collection point. As such the proposal is acceptable in respect to Policy CP16(1) (e) of the Cannock Chase Local Plan.

4.10 Ground Conditions and Contamination

4.10.1 The Environmental Health Officer has stated that the site has a number of immediate or adjacent features that create potential land contamination and/or ground/ mining gas concerns, including unknown infill, Environment Agency historical infill sites and coal mining.

4.10.2 Paragraph 170 of the NPPF states: -

“Planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things]:

- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.10.3 In addition to the above paragraph 178 of the NPPF states: -

“Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.”

4.10.4 Finally paragraph 179 of the NPPF makes it clear that where 'a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'.

4.10.5 Given the above the Environmental Health Officer (EHO) recommends that a condition to secure a ground condition investigation and where required remediation is attached to any permission granted. In the context of the site, the proximity to sources of contamination and ground gas and the nature of the proposal which includes several buildings and service routes this is considered reasonable and necessary. As such the advice of the EHO is accepted and it is recommended that any approval granted is subject to the attached condition.

4.10.6 In addition to the above it is noted that the planning application is supported by a Coal Mining Risk Assessment report (9 June 2020, prepared by the Coal Authority's commercial arm). Based on a review of appropriate sources of coal mining and geological information the report concludes that whilst the application site falls within the licenced boundary of Bleak House opencast site, it is understood to be outside the area of excavation. The report does, however, identify that shallow coal seams present beneath the site may have been worked and pose a medium risk to the proposed development.

4.10.7 The Coal Authority has noted that the

“The report advises that based on the nature of the proposal, the risk posed by possible unrecorded shallow coal mining activity should be mitigated through the use of an appropriate foundation design. The Coal Authority therefore considers that the services of a suitably qualified structural engineer should be engaged in this regard”;

and has no objection to the planning application, subject to the recommendations within the report in respect of foundation design being implemented on site.

4.10.8 The Coal Authority goes on to state “further more detailed considerations of ground conditions, foundation design and gas protection measures may be required as part of any subsequent Building Regulations application”. However, the Coal Authority has clarified that it would not expect the LPA to impose a condition on the planning permission in respect of foundation design as foundations are considered under the Building Regulations and that they are therefore satisfied that the matter can be dealt with by means of an informative note. This approach is accepted and endorsed by officers

4.10.9 It is therefore considered that subject to the attached condition to secure a ground condition investigation and where required remediation, and an informative in respect of foundation design the proposal would be in accordance with paragraphs 170 and 178 of the NPPF.

4.11 Impact on Natural Conservation Interests

4.11.1 Policy and guidance in respect to development and nature conservation is provided by Policy CP12 of the Local Plan and paragraphs 170 and 174 of the NPPF.

4.11.2 Policy CP12 of the Local Plan states that the District's biodiversity and geodiversity assets will be protected, conserved and enhanced via

'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”.

4.11.3 Paragraph 170 of the NPPF states [amongst other things]: -

“Planning policies and decisions should contribute to 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;”

4.11.4 Paragraph 174 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 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.”

Site Specific Impacts on Ecology

4.11.5 The site is not designated for any nature conservation purpose and is not known to support any species or habitat which is either legally protected or of ecological/ nature conservation interest, nor has any evidence been provided to suggest that the proposal would impact on any protected species that may inhabit the wider area.

4.11.6 The issue of tree loss and subsequent impact on biodiversity has been raised by the Parks and Open Spaces Officer. However, this application can only consider impacts arising from the proposal at hand. In the main the trees were removed before the previous application was submitted and therefore their loss does not reasonably relate to the current application. The only trees that have been lost as a direct consequence of the proposal are a result of the construction of the cess pit. This has had a localised impact with the loss of several semi-mature trees that were planted in a woodland block. Given the localised extent of the tree removal it is considered that only limited weight should be afforded to this harm.

4.11.7 In respect to the enhancement of biodiversity it is noted that an area of woodland to the site of the existing compound has been included in the blue line on the location plan indicating that it is within the applicant's ownership. This provides an opportunity to secure biodiversity enhancements through the provision of bird and bat boxes to provide breeding opportunities which are not readily available in such young woodland as suitable cracks and crevices are normally found on trees of considerable age. In addition there would be

some benefit in leaving the logs of the felled trees on site to act as habitat for a range of invertebrates and fungi, opportunities which are not always present in semi-mature woodland. It is therefore considered appropriate to ensure that any permission is subject to a condition requiring a scheme for the provision of bat and bird boxes and for the wood piles to be left *in situ* to be submitted, approved and implemented.

Impacts of Cannock Chase Special Area of Conservation

4.11.8 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. The proposal would lead to a net increase of 4 dwellings and therefore is required to mitigate its adverse impact on the SAC. Such mitigation would be in the form of a contribution towards the cost of works on the SAC and this is provided through CIL. However, given that the combined floor area of buildings on the site would be less than 100m² the proposal would not be CIL liable. As such the mitigation would be secured through a commuted sum via the alternative means of a unilateral undertaking under section 106.

4.11.9 The LPA has undertaken a Habitats Regulations Appropriate Assessment which has been accepted by natural England and which concludes that subject to a payment towards mitigating impacts on the SAC the proposal would be acceptable.

4.11.10 Therefore subject to such a contribution been secured via the mechanism of a unilateral undertaking the proposal would be acceptable in respect to the requirements of Policy CP13 and the Habitats Regulations.

4.12 Education

4.12.1 Policy CP2 states that all housing developments will be required to contribute towards providing the infrastructure necessary for delivery of the Local Plan informed by viability assessment. It goes on to state that contributions will be secured primarily via (i) rates set out in a community Infrastructure Levy (CIL) charging schedule and (ii) Section 106 planning obligations.

4.12.2 The Education Authority has stated that although this development falls within the catchments of Jerome Primary School and Norton Canes High School no

education contribution is requested for this application as it falls under the threshold for such contributions.

4.12.3 As such it is considered that the proposal is acceptable in respect to Policy CP2 without an education contribution.

4.13 Sustainability

4.13.1 Paragraph 13 of the Planning Policy for Traveller Sites (PPfTS) states that

“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) promote peaceful and integrated co-existence between the site and the local community
- b) promote, in collaboration with commissioners of health services, access to appropriate health services
- c) ensure that children can attend school on a regular basis
- d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
- f) avoid placing undue pressure on local infrastructure and services
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

4.13.2 Paragraph 25 of the PPfTS goes on to state: -

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”

4.13.3 In this respect it is noted that although the site lies beyond the limits of the main settlement of Heath Hayes it is not so spatially divorced as to constitute an isolated development. It is within 237m of Heath Hayes Five ways Roundabout beyond which is the local service centre of Heath Hayes with a range of goods and services to serve everyday needs without reliance on the private car. Furthermore the site is located 190m away from the nearest bus stop providing regular services to Cannock and to Norton Canes and Lichfield. As the proposal is located within a sustainable location which would allow children to attend school on a regular basis and the family to access health care whilst allowing ready access to the A5 to facilitate the traditional nomadic way of life.

4.13.4 As such the proposal performs well in respect to its location and the contribution that makes towards promoting sustainable development.

4.14 Other Issues Raised by Objectors

4.14.1 Objectors note that the Planning Policy for Travellers (August 2015) states that if a Local Planning Authority wishes to make an exceptional limited alteration to the GB boundary to meet a specific identified need for a Traveller site it should do so only through the plan making process and not in response to a planning application and should otherwise determine applications in accordance with the policies in an adopted Development Plan.

4.14.2 Officers would respond that the proposal would not result in any alteration to the Green Belt boundary. The site would remain in the Green Belt and would in essence be washed over by it. As such the above Policy in the PPfT is not relevant to the current proposal.

4.14.3 Objectors have pointed out that the supporting statement submitted states 'the site would not encroach into open countryside' which is clearly not the case.

4.14.4 Officers would comment that whilst this be the case this has been taken into account in this assessment where substantial weight has been granted to harm to the Green Belt in accordance with national policy.

4.14.5 Objectors have stated that the description of the four families including numbers and ages of children only includes limited information where they currently live, no mention of specific sites and ask the LPA to seek further verifiable information on this before the application is determined.

4.13.6 Officers would respond that although the information is limited it is proportionate and insufficient for the purposes of determining this application.

4.14.7 Objectors have stated that the applicant has in a previous application relating to this site for stables, has not adhered to the conditions relating to the application and has installed both a mobile home and caravans already which pertains to this new application and ask that if the above application was granted will it be changed and any planning conditions be adhered to.

4.14.8 Officers would comment that the above are not material considerations; it is clear as to what is being applied for and if any conditions are not complied with the LPA has the ability to take enforcement action.

4.15 The Applicant's Case for Very Special Circumstances

4.15.1 In support of the application the applicant has provide the following statement to demonstrate that very special circumstances exist that would justify approval of the application: -

“The Cannock Chase Gypsy and traveller Accommodation Assessment (GTAA), March 2019, distinguishes between need arising from gypsies and travellers who meet the definition in Annex 1 of Planning Policy for Traveller Sites and those whose status is unknown. In total, the GTAA estimates a need for a total of 29 permanent pitches in the period 2019-2038.

I have inspected your planning records and cannot find any record of any new pitches having been permitted in Cannock Chase District for many years. Furthermore, the Council does not have an up to date Development Plan policy for the provision of new gypsy and traveller sites. Policy CP7 of Part 1 of the Local Plan sets out the Council's intention to provide 41 residential pitches in the period 2012-2028, through the allocation of land in Part 2 of the Local Pan. Work on Part 2 Local Plan has ben abandoned in favour of production of a new Local Plan and, this is not expected to be adopted before June 2022. In the meantime, the Council will be unable to fulfil its obligations to the gypsy and traveller communities and, identify a five year supply of deliverable land for gypsy sites.

The identified need for gypsy sites, the absence of a five-year supply and, the failure of policy which has led to this situation are all matters that weigh in favour of the proposal.

The proposed caravan site would accommodate an extended family of Romany Gypsies, comprising John and Marie Lee, together with 3 of their adult sons and their families

1. John and Marie Lee;
2. Tyson and Kizzy Lee, together with their 3 children: Tyson (6 years old); Victoria (3) and Esther (1). Kizzy is currently expecting her fourth child.
3. Monty and Mary Lee, together with 4 children: Monty (6); Israel (4); Dilly Blue (3) and River (2).
4. Drewy and Kylie Lee, together with their 4 children: Kylie (13), Drewy (11); Abraham (8) and Noah (2).

The adult males make their living by finding roofing work and travel around staying temporarily on sites owned by friends or, on the roadside. They do not have a site where they can live together as a traditional extended family group. John and Tyson have been able to stay temporarily on existing traveller sites in South Staffordshire but, Monty and Drewy have been living on the roadside. The Lee family are in need of lawful accommodation in this area, where they have strong family connections and, on a site here they can live together for mutual help and support.

Failure of this application would mean that the extended family would, not only, be unable to occupy the application site but, also, would not be able to live together as a traditional extended family group. This would amount to an interference with their human rights under Article 8 of the European Convention on Human Rights, which addresses respect for family life and home.

It is consistent with case law that the best interest of the children should be a primary consideration in this application, although not necessarily the determinative factor. There are 11 children in this case. Their best interest would be for the site to be developed as proposed. It would give them the best opportunity for a stable and secure family life, for access to regular schooling and health care, and with opportunities for play and personal development.

On balance, the unmet need for sites; the Lee family's personal accommodation needs and personal circumstances; the absence of alternative sites; failure of the development plan to bring forward suitable land for traveller sites in a timely manner; the likelihood that some pitch provision will be made in the Green Belt, the needs of the

children, clearly outweigh harm to the Green Belt and any other harm. Very special circumstances exist to justify granting of planning permission.”

4.16 Appraising the Applicant’s Case

4.16.1 In essence the applicant’s case that very special circumstances exist can be distilled into the following points: -

- (i) There is an unmet need for sites of gypsies and travellers in the District;
- (ii) failure of the development plan to bring forward suitable land for traveller sites in a timely manner;
- (iii) the absence of alternative sites;
- (iv) the likelihood that some pitch provision will be made in the Green Belt;
- (v) the Lee family’s personal accommodation needs and personal circumstances;
- (vi) the needs of the children,

This report will consider each of the above issues in turn.

Unmet Need

4.16.2 The Authority Monitoring Report (2018) which monitors Local Plan policies outlines that only 2 pitches have been provided to meet the Local Plan (Part 1) requirements to date and that the Council does not have a five year supply of sites.

4.16.3 Policy CP7 of the Local Plan states that provision for gypsies, travelers will be made through the allocation of sites in a Local Plan Part 2. 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.

4.16.4 The Local Plan Review (Issues and Options) was consulted upon in May 2019 and acknowledges 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, that is landowners are promoting alternatives uses of their land (paragraph 7.77).

4.16.5 As part of the Local Plan Review in March 2019 the Council has published a new Gypsy and Traveller Accommodation Assessment (GTAA 2019) which

provides an up to date assessment of need within the District. This identifies a need for an additional 14 pitches during 2019-2024 and a further 11 pitches between 2024-2038 arising from existing households falling within the definition within the District and potentially a further 4 more from undetermined households to 2038. It uses 2018 as the base date and excludes any shortfall from the previous plan period to avoid double counting.

4.16.6 A number of Cannock's neighbouring local authorities have advised that they would be unable to help meet Cannock District's needs as they too are either unable to meet their own current needs or have an existing need of their own which already requires Green Belt site options to be considered.

4.16.7 Given the above it is considered that there is a clear unmet need for suitable sites to accommodate the housing needs for gypsies and travellers in Cannock District.

Failure of the Development Plan to Bring Forward Suitable Land for Traveller Sites in a Timely Manner

4.16.8 The Local Plan (Part 1) was adopted in 2014. Policy CP7 of the Plan stated

"The Cannock Chase Gypsy and Traveller Accommodation Needs 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 as follows:

| | Residential Pitches |
|----------------|----------------------------|
| 2012-18 | 22 |
| 2018-23 | 10 |
| 2023-28 | 9 |
| 2012-28 | 41 |

4.16.9 In the six years from the adoption of the Local Plan (Part 2) it is clear that it has failed to deliver any of the 22 pitches that were identified to be delivered by 2018. The last permission for a gypsy and traveller site was planning permission CH/09/0137 which was granted in 2009.

4.16.10 It is also clear that at the present time the Council has no firm plan to deliver any identifiable, deliverable or affordable site in the immediate future, either in the form of a planning permission or indeed a planning application. As such it can only reasonably be concluded that the Development Plan has failed to bring forward suitable land for traveller sites in a timely manner.

The Likelihood that some Pitch Provision will be Made in the Green Belt

- 4.16.10 Adopted policy CP7 refers to a broad area of search for Gypsy and Traveller sites, matching travel patterns and based along the A5 road corridor which is identified in the Key Diagram. The Key Diagram is provided at page 7 of the Local Plan (Part 1) and covers a swathe of land which includes the settlement of Norton Canes, a swathe of the countryside west of Norton, south of the Cannock/ Lichfield Road (A5190) and east of the Poplars Landfill site and Kingswood Lakeside Industrial Estate; and a second swathe of countryside comprising most if not all of the land within the District that falls south of the A5.
- 4.16.11 The open land with the settlement of Norton Canes is either designated as Green Space Network or has been granted planning permission in recent years for residential development or is used in connection with existing businesses such as the Norton Canes Service Station, local schools and business premises. It is difficult to identify any specific parcel of land that does not fall into any of the above and it is therefore unlikely that a site would come forward for the accommodation of gypsies and travellers that falls within the urban area.
- 4.16.12 It is also worthy of note that the only proposal to come forward as a planning application since the adoption of the plan was at Grove Colliery, which was a Green Belt site and that an alternative site put forward by third parties when that application was being presented to Planning Committee was also in the Green Belt.
- 4.16.13 As such on basis of the available evidence it is concluded that some, if not all pitches that will come forward within this identified area of search are likely to be within the Green Belt.

The Absence of Alternative Sites

- 4.16.14 As stated above it difficult to identify any open land within the settlement of the settlement of Norton Canes that would be suitable to provide accommodation for the gypsy and traveller community. Certainly none has come forward since the Local Plan was adopted in 2014.
- 4.16.15 Outside the settlement of Norton Canes the land is almost exclusively designated as Green Belt. In addition, large swathes of this are heavily constrained by Site of Special Scientific Interest, Site of Biological Importance designations, or proximity to Cannock Extension Canal Site Area of Conservation.

4.16.16 Outside of the area of search much of the rural area of the District falls within the Green Belt and an Area of Outstanding Natural Beauty, or has national SAC and SSSI designations which provide an even greater constraint on development potential, and, being further away from the A5 becomes less attractive to the travelling community.

4.16.17 As to locations outside of the District it is noted that the Policy Officer has reported that a number of Cannock's neighbouring local authorities have advised that they would be unable to help meet Cannock District's needs as they too are either unable to meet their own current needs or have an existing need of their own which already requires Green Belt site options to be considered.

4.16.18 Given the above, and that no site has come forward which is subject to a consent it is concluded that there is an absence of lawful alternative sites which are available to the applicant. Furthermore at this point in time, given the stage of preparation of the Local Plan there is no guarantee that such site would come in the immediate or medium term. This would mean that should this application be refused planning permission the family would be forced to live on unlawful sites for an indefinite period of time.

The Lee Family's Personal Accommodation Needs and Personal Circumstances and Best Interest of the Children

4.16.19 The comments put forward by the applicant's agent and outlined in paragraph 4.15.1 of this report are noted. No substantive evidence has come forward to challenge any of the assertions made on behalf of the family. It is quite clear that there are no sites available that would enable the family to live together as an extended family group where they provide mutual help and support. Although, the statement recognises that at times, when travelling for work purposes, they may live temporarily on sites owned by friends, or on other traveller sites there are times when they live on the roadside.

4.16.20 The above is not surprising given that there is such a chronic shortage of available sites both within the District and in neighbouring districts and a demonstrable need that exceeds the supply.

4.16.21 It is therefore clear that the extended family have a need for urgent accommodation to provide a safe and secure home for the children, and a permanent base from which the children can gain access to education and the wider family can gain access to medical care.

4.16.22 Should this application be refused the extended family would have to leave the application site. This would result in an interference with their human rights with regard to Article 8 of the European Convention on Human Rights, which encompasses respect for family life and the home.

4.16.23 There are 11 children currently living on the appeal site and Kizzy Lee is expecting another child. It is consistent with relevant caselaw that the best interests of these children should be a primary consideration in my decision, although not necessarily the determining factor. The best interests of the 11 children and those of the expected child are to remain on the application site and for it to be developed as proposed. An ordered and settled site would afford them the best opportunity of a stable, secure and happy family life, opportunities for education, ready access to health and other services and opportunities for play and personal development. Similar benefits might be achieved on another settled site but no suitable alternatives have been identified. Although a roadside existence would not necessarily prevent all access to education and health services it is likely that the prolonged absence of a settled site would lead to serious disruption to access to education, health and other services for these children. This is another factor that weighs significantly in favour of the application.

4.17 Assessment as to whether the Harm to the Green Belt and Any Other Harm is Clearly Outweighed By Other Circumstances Such that Very Special Circumstances Exist to Justify Approval

4.17.1 Inappropriate development in the Green Belt should only be approved where 'very special circumstances' have been demonstrated to exist. The term 'very special circumstances' is not defined in the NPPF, which merely states that they will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.

4.17.2 The Planning Policy for Traveller Sites, at paragraph 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, it should be made clear that the paragraph 16 uses the word "unlikely". This should not be construed to mean that in all cases the "best interests of the child, personal circumstances and unmet need" will not clearly outweigh harm to the Green Belt and any other harm. Ultimately, each case has to be judged on its own merits with weight given to all relevant considerations according to their relative gravity.

4.17.3 In this respect it is considered that, consistent with paragraph 144 of the NPPF substantial weight should be afforded to the harm to the Green Belt,

including the harm to the openness of the Green Belt and the purposes of including land within it. In addition it is considered that moderate weight should be afforded to the harm to the character of the area.

4.17.4 Turning now to the issue of other considerations which weigh in favour of the proposal. It is considered that substantial weight should be afforded to the personal need of this extended family for a settled site, the lack of any realistically available alternative sites, personal circumstances with regard to health and education and the effect on the human rights if the extended family is required to leave the site. The best interests of the 11 children living on the site and of the expected child are a primary consideration and therefore should also be given substantial weight in favour of the proposal. Furthermore, the current uncertainty regarding the future provision of sites for travellers in the district and the neighbouring districts, that the sites falls within the general area of search for travellers sites as identified in the Local Plan (Part 2) and the strong likelihood that should future sites come forward in this area that they will also be in the Green Belt, the sustainability benefits of providing a settled site, including adequate accessibility to a range to services and facilities, each carries moderate weight in the appellant's favour.

4.17.5 It is therefore concluded that, subject to the attached conditions and the completion of a unilateral undertaking, the harm to the Green Belt and to the character of the area is clearly outweighed by the above considerations such that very special circumstances exist that would justify approval of the application

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.

Equalities Act 2010

5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case, officers consider that the proposal would not conflict with the aim of the Equalities Act and would be a positive step in advancing the equality of opportunity in respect to accommodation provision for the traveller community

6 Conclusion

- 6.1 The applicant is seeking consent for change of use of land to use as a residential caravan site for 4 gypsy families each with 2 caravans (1 x static), layout of hardstanding, erection of a dayroom, 3 no. utility buildings.
- 6.2 The application site lies within West Midlands Green Belt, wherein there is a presumption against inappropriate development. Inappropriate development is by definition harmful to the Green Belt and any such development should be considered a departure from the development plan.
- 6.3 The proposal constitutes inappropriate development in the Green Belt. Paragraph 143 of the NPPF makes it clear that inappropriate development should not be approved except in "very special circumstances".
- 6.4 It is concluded that, subject to the attached conditions and the completion of a unilateral undertaking, the harm to the Green Belt and to the character of the area is clearly outweighed by the above considerations such that very special circumstances exist that would justify approval of the application
- 6.5 It is recommended that subject to the attached conditions and the completion of a unilateral undertaking the application be approved.
- 6.6 Given the overwhelming unmet need for traveller accommodation it is considered that any permission granted should be on a permanent basis. However, given that the personal circumstances of the family and the best

interest of the child have added substantial weight in favour of the proposal it is recommended that approval should be subject to a condition that the site can only be used for accommodation by the named adults and their dependents.