



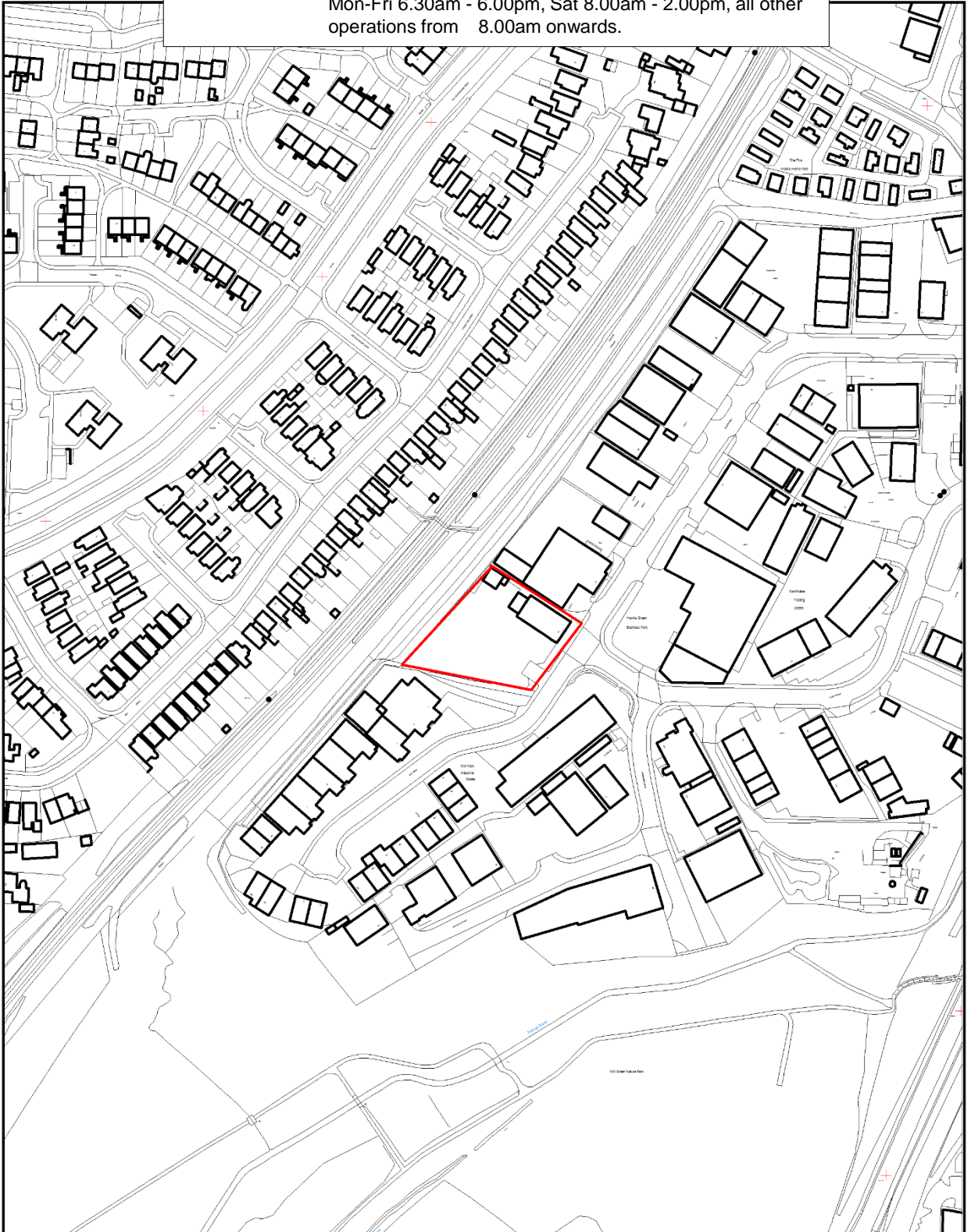
Application No: CH/21/0364

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

Proposal: Application under Section 73 of the Town & Country Planning Act 1990 to vary Condition No.4 of Planning permission CH/99/0639 to allow movement of vehicles Mon-Fri 6.30am - 6.00pm, Sat 8.00am - 2.00pm, all other operations from 8.00am onwards.



Item 6.1



Location Plan

Page 9

	33 Martindale Cannock Staffs	Scale 1:1250	
--	------------------------------------	--------------	---



Officer: Claire Faulkner

Telephone No:01543 464337

Planning Control Committee

24th November 2021

Application No: CH/21/0364

Received: 25-Aug-2021

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

Parish: Non Parish Area

Ward: Cannock East Ward, Cannock East

Description: Application under Section 73 of the Town & Country Planning Act 1990 to vary Condition No.4 of Planning permission CH/99/0639 to allow movement of vehicles Mon-Fri 6.30am - 6.00pm, Sat 8.00am - 2.00pm, all other operations from 8.00am onwards.

Application Type: Full Planning Application

RECOMMENDATION:

Reason for Recommendation:

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

Conditions (and Reasons for Conditions):

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

Reason

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

2. No movement of commercial vehicles shall take place outside the hours of 06:30hrs to 18:00hrs Monday to Friday and 08:00hrs to 14:00hrs on Saturday and at no time on Sundays or Public and Bank Holidays.

All other operations shall take place between the hours of 08:00hrs to 18:00hrs Monday to Friday and 08:00hrs to 14:00hrs on Saturday. No activities shall take place on Sundays or Public and Bank Holidays.

Reason

To ensure the continued protection of the nearby residential amenity.

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

Location Plan

Reason

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

Consultations and Publicity

Internal Consultations

Environmental Health

Thank you for referring this matter for consideration. No adverse comments are offered in principle. For clarity, I am assuming that 'other operations' will cease at 06:00pm (Mon to Fri) and 02:00 pm (Sat).

Environmental Protection

We have received two complaints since February.

To the best of my knowledge we have never had any issues raised around noise from people or gates open. I permit this site so I deal with all of the complaints for this site.

Planning Enforcement

A planning enforcement investigation has taken place following a number of complaints regarding the working hours and noise that has been generated from the site. The alleged breach was that the company in question was operating outside of the permitted hours resulting in an adverse impact of residents on Pebble Mill Drive.

Following an investigation and monitoring of the matter, no expedient breach of planning control was identified. In the several months in which evidence was submitted to planning enforcement from the complainant, no substantive evidence was gathered to demonstrate that the company in question were in breach of their condition working hours. It was noted that on a few occasions, a technical breach of conditions in respect of operating hours occurred, however through further investigation, it was not expedient to pursue further.

As a result of the above, the planning enforcement case was closed as no expedient breach of planning control was identified.

In conclusion, planning enforcement have no objections regarding the proposal of PP CH/21/0364.

External Consultations

Travel Management and Safety

No objection on highway grounds

Response to Publicity

The application has been advertised by site notice and neighbour letter. 7 letters of representation have been received.

- I am objecting to the additional hours for all activities on a Saturday, this unit is responsible for more noise than any other unit on the Martindale estate. During the week I have to close the windows, otherwise I am frequently unable to hear people on phone calls, or have conversations with visitors to my house.
- Further to this having previously complained about the noise from this unit (Monday 26th April 2021), I would note with some concern that the attached noise report solely covers the noise from lorry movements and does not cover all the other activities at this site which generate far more noise and which would be allowed by this application on Saturdays. A noise report needs to demonstrate that;
 1. The source of noise is fully understood.
 2. All nearby noise sensitive receptors have been identified.
 3. The impact on any receptors have been determined with reference to noise standards.

Simply put, points 1 and 3 have not been covered in relation to extending the hours of general operations on Saturdays; the attached noise report does not cover these activities. I would also point out the noise report is now over 1 year old and does not cover any potentially new or different activities that are undertaken by this unit.

- This unit has an approved planning permission for an acoustic barrier due to the issues caused by noise from the site, though no work has been undertaken.

I would argue that absolutely no extension to hours until this work has been carried out to see if this improves the situation with noise from the unit.

- The change in start time from 4am to 6.30am at first sight appears to be an improvement but the original application only allowed for one vehicle before 7am with the remainder of the vehicles leaving after 7am. The prospect of the KCG fleet leaving at 6.30am, would mean they will be on site from 6am which is totally unacceptable. This is based on the fact that we already have noise from as early as 6.30am from vehicles revving and moving on site , metallic bangs from gates and inspection covers which disrupts our sleep. Other enclosed units on the estate have a start time 7am why should an open yard with the potential to create more noise be given special treatment?
- The fact that some building sites may ask for an early delivery, from years of experience of building sites they very rarely work to a strict timetable, is irrelevant in comparison to the needs of residents – if the hours don't suit than they are perfectly capable of finding alternative premises away from residential areas.
- The proposal to extend the permitted hours for vehicle operations to start at 6.30 am will inevitably create further noise as vehicles are prepared for movement before 6.30, which in any case will disturb the rest of Pebble Mill residents who include children, the elderly and some disabled people as well as those who work normal hours as well as those who work irregular hours.

Relevant Planning History

CH/20/165: Re-submission - Variation of Condition (4) of Planning Permission (CH/99/0639) Full - Approval with Conditions 08/12/2020.

Temporary permission was granted for this application by Members to enable the Council to monitor the situation.

CH/20/363: Replace fencing with 5m concrete panels to act as an acoustic barrier Full - Approval with Conditions 02/03/2021,

CH/99/0639: Change of use from General Industrial (B2) to Storage and Distribution. Full - Approval with Conditions. 02/16/2000

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 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/99/0639 which reads as follows:

“no plant or machinery shall be operated, no loading or unloading of vehicles and no movement of commercial vehicles to or from the site shall take place outside the hours of 08:00 and 18:00 Mon- Fri and 08:00hrs – 12:00 noon on Saturdays”.

The Applicant is seeking consent under Section 73 of the Town & Country Planning Act 1990 to vary the condition to allow movement of vehicles from 06:30hrs - 18.00hrs Monday to Friday, 08:00hrs to 14:00hrs on Saturday with all other operations from 08.00hrs onwards Monday - Saturday.

- 2.2 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 (06:30hrs to 08:00hrs). The applicant has confirmed that the loading of the vehicles to leave the site early is carried out the day before.

- 2.3 KCG have stated that the reason they have asked for 6:30am was so that the drivers would not be ridiculed for arriving onsite before 7am. KCG have stated that the drivers are paid from 7am therefore some arrive 6:45/6:50am.
- 2.4 KCG have stated there are 8 vehicles used and on average 4 of these vehicles leave the site in the mornings. Once the vehicles leave the site there is very little activity generated until the vehicles return.
- 2.5 The following documents have been submitted in support of the application:

Noise Assessment
Supporting Statement

3 Supporting Information

- 3.1 The applicant has submitted the following statement in support of the application: -
- Kingscroft Concrete (KCG) operated at Martindale site from 2005- 2017. Never received a single complain from anybody ever in all those years with regards to noise nor anything else.
 - Martindale Industrial Estate, is a busy business estate advertised for Industrial Businesses
 - April 2019 a public notification in Cannock Express & star sent from Traffic Commissioner to tell everybody in the area that (KCG) wished to return to Martindale site with 7 vehicles, allowed 28 days for any complaints/objections to be brought forward. No Complaints nor objections submitted.
 - April 2019 the site came up for sale and was purchased by Kingscroft Concrete.
 - KCG introduced Noise Policy to all staff and visitors to site, taking all complaints made by Pebble Mill residents into consideration and adjusting how we work our day.
 - Fork Lift Truck with large brushing attachment has been purchased to help keep the yard brushed and cleaned instead of using machinery to clear yard.

- Noises may of [sic] seemed exaggerated/escalated with when the residents were locked in during Lockdown and Covid 19. Obviously being locked in and being unable to leave the house, noises may have seemed louder.
- KCG paid for an independent certified noise assessment to be carried out to see if the sound of our vehicles starting up and driving out of the yard had any detrimental effect on the residents in Pebble Mill. The Report showed the noise levels were acceptable and should have no effect on neighbouring properties.
- Many of our customers need/ request us onsite for 7:30-8am so they can begin their jobs for the day. This our most sought-after timeslot of the day for deliveries. Occasionally there is an earlier request hence the 06:30am start.
- We have already lost business since this began as our customers who needed concrete for early morning or evening works can no longer use us anymore.
- Leaving our premises early allows our drivers to avoid busy traffic period 8am-8.30am when schools, colleges and offices are commuting on the roads.
- Builders do not want deliveries any later than 3-4pm, so to start late and work late would not be an option. Due to the nature of concrete only having a 2 hour window to work with until it goes off/hard it is not something you can deliver the night before to use the next morning.
- Our last delivery slot of the day is 3pm, this allows us to be on site, pour completed approx. 30mins, return to yard and time is then allowed to fill the vehicles on return. All vehicles are loaded on an afternoon at end of the day. This then allows us to just drive straight out the following morning.
- All of the neighbouring units have large HGV vehicles moving in and out of their yards throughout all hours of the days as they do not have the same restrictions on their working hours.
- The more we are having complaints the more we have been aware of the surrounding noises from the industrial estate. With our vehicles being away from the yard most of the day we hear all the metallic banging and scraping from the other sites on the estate.
- No machinery loading or unloading is done before 8am nor after 6pm. We have listened to all complaints received and taken on board all complaints. Then put new procedures in place to rearrange our daily tasks to ensure we cause no disturbance to all our neighbours.

- 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 (2021) 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 (2021) 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 |
| 126, 128 & 130: | Achieving Well-Designed Places |

185 Impact from noise
218, 219 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 130(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 185 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.

4.5.5 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.

4.5.6 The previous application for the variation of condition 4 (hours) was granted at planning committee on 12th August 2020 and given a 12month temporary permission to enable the activities to be fully assessed. This allowed the applicant to have one vehicle leaving the site between 04:00hrs and 07:00hrs

and for a further 3 vehicles to leave between the hours of 07:00hrs and 08:00hrs Monday to Friday. The permission also granted permission for the site to operate until 14:00hrs on Saturdays.

- 4.5.7 The Planning Enforcement Officer has confirmed that during the 12month period a number of complaints were received regarding the working hours and noise generated from the site. Subsequently a planning enforcement investigation was opened. The alleged breach was that the company in question was operating outside of the permitted hours resulting in an adverse impact of residents on Pebble Mill Drive.
- 4.5.8 Following an investigation and monitoring of the matter, no expedient breach of planning control was identified. In the several months in which evidence was submitted to planning enforcement from the complainant, no substantive evidence was gathered to demonstrate that the company in question were in systemic breach of their condition restricting working hours. It was noted that on a few occasions, a technical breach of conditions in respect of operating hours occurred. However, through further investigation it was considered that it was not expedient to pursue further. As a result of the above, the planning enforcement case was closed as no expedient breach of planning control was identified.
- 4.5.9 Further, The Council's Environmental Health Officers received 2 complaints during the 12month period in respect of noise generated from the site. They found no statutory noise nuisance had been established from the activities carried out from Unit 33 Martindale.
- 4.5.10 In this instance, the applicant has submitted a Noise Assessment with which to inform the current application. The normal method of assessing new sources of industrial noise is contained within British Standard BS4142:2014. In this respect the comments of the objector are noted in terms of the age of the assessment and what it considers.
- 4.5.11 For clarity, the application seeks to vary the hours vehicles can leave the site. The use of the site is not for consideration as the use already exists and operates under the original permission for the site. As such, the noise assessment only needs to consider the noise generated as a consequence of the proposed extended hours of operation.
- 4.7.4 The Noise Assessment was submitted with the previous application CH/20/165 which allowed one vehicle to leave the site between from 04:00hrs to 07:00hrs and a further three vehicles to leave the site between 07:00hrs and 08:00hrs Mon-Friday. The report concluded that the noise levels from the additional vehicular movements up to 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 current application and Noise Assessment and raised no objection to the age of the report (18 months) or the finding of the report.
- 4.7.6 The EHO has gone on to state that the hours of 23:00 to 07:00 are regarded as night-time hours, when standards for sleep protection are advocated. The planned activities may introduce additional noise during the last 30 minutes of this period but prevent noise at earlier, more sensitive times.
- 4.7.7 The noise investigation report provided evidence of the noise rating level from vehicle movement for the hours of 04:00 to 08:00 against the background noise for the same period of the day in the area. This was based on sound level recordings, and whilst the noise report is now over 12 months old, the activities within the site from KCG have not changed and should therefore be accurate and reliable.
- 4.7.8 In essence, where the rating level does not exceed the background, then the impact is considered low. The background noise level of 42 dB LAeq, was not calculated to be exceeded during the hours of 04:00hrs – 08:00hrs. Whilst the new proposal for potentially more vehicle activity starting from the later hour of 06:30 may cause a slightly higher rating level due to condensed activity, the background level is also likely to be greater due to increasing activity levels in the wider industrial estate and the adjacent railway line which has trains passing from approximately 06:15am onwards (trainline). Furthermore, the time of day is less sensitive than 04:00 in that this is the final half hour of the recognized night-time period, and probably a time when residents are more likely to be waking from sleep.
- 4.7.9 The impact of event noise should also be considered. 45 dBLAmax (in bedrooms) is regarded as liable to cause sleep disturbance, particularly if a number of events occurs over the night-time period. The objectors are concerned about noises such as gates opening, voices, vehicle checks, etc. It is your officers understanding that vehicle preparation (ie loading) would take place on the previous day, to ensure that impact noises are minimized and the Environmental Health Officer has suggested this be controlled via condition. Furthermore, it should be borne in mind that noise from voices and persons opening the gates / checking vehicles are in part behaviourally driven and KCG do operate policy for staff and users of its site to control such activities.
- 4.7.10 Any noises from the Martindale Industrial Estate are not necessarily from the application site, no statutory noise nuisance has been established from this site,

and other units are not restricted by hours conditions including the two sites either side of the application site boundary.

4.7.11 It should also be noted that Environmental Protection regulate the application site via the provision of a work permit. As such, if it was found that the application use was causing a nuisance, the work permit could be revoked.

4.7.12 In order to assist in noise mitigation, it is noted that the applicant has an extant planning permission for an acoustic barrier along the rear of the site, however this planning permission has not been implemented to date as also noted by the objectors. The applicant has confirmed that the cost of the acoustic wall would be upward of £30,000 and as such they are not prepared to erect the wall until they have a permanent planning permission in place for the hours requested to enable the business to function as needed.

4.7.13 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 Objectors have referred to the other factory units within Martindale 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.

4.8.2 Objectors have stated that the change in start time from 4am to 6.30am at first sight appears to be an improvement but the original application only allowed for one vehicle before 7am with the remainder of the vehicles leaving after 7am. Objectors state that the prospect of the KCG fleet leaving at 6.30am, would mean they will be on site from 6am which is totally unacceptable. The objectors continue that this is based on the fact that the objectors already have noise from as early as 6.30am from vehicles revving and moving on site, metallic bangs from gates and inspection covers which disrupts their sleep. Your Officers confirm that it has not been proven that noise disturbance is solely produced by KCG and that KCG load the lorries the evening before to avoid excessive noise in the mornings. For clarity, KCG has confirmed that their vehicles do not have inspection covers however the other units adjacent the site repair vehicles with inspection covers and they are operating throughout all hours as they do not have time restrictions.

- 4.8.3 An objector states that they are objecting to the additional hours for all activities on a Saturday because this unit is responsible for more noise than any other unit on the Martindale estate. The objector continues that during the week they have to close the windows, otherwise they are frequently unable to hear people on phone calls, or have conversations with visitors to their house. Your Officers confirm that it has not been established that the noise impacting on the neighbouring dwellings is produced by KCG. No statutory nuisance has been established during the investigations as a consequence of complaints.
- 4.8.4 An objector has stated that the fact that some building sites may ask for an early delivery, from years of experience of building sites they very rarely work to a strict timetable, is irrelevant in comparison to the needs of residents. Your Officers confirm that the impact on neighbours' amenity has been considered in accordance with the relevant policies within the Local Plan and the NPPF.
- 4.8.5 An objector has stated that the noise the company makes during the day is so loud and upsetting to *residents, especially those with disabilities who are sometimes in bed during the day.* KCG have stated that they are one of the only companies along this section of the industrial estate that doesn't operate from the yard. KCG have confirmed that they use the yard for a small portion of our day, that being: - To leave in a morning, to fill up in the day and to park at night. KCG have stated that they do not operate machinery throughout all hours of the day on the industrial estate unlike almost every other business.

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.

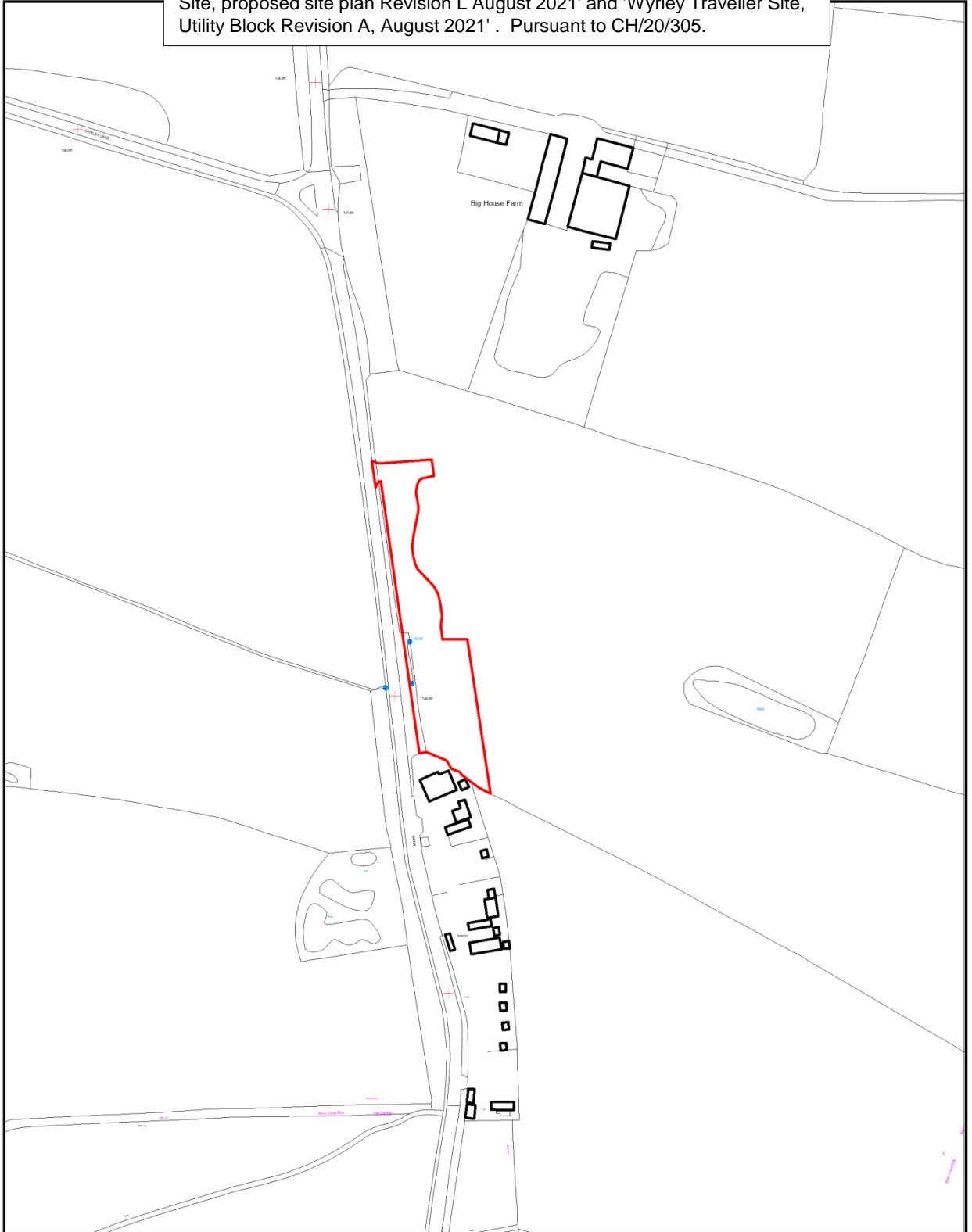


Application No: CH/21/0376

Location: Land at Lime Lane, Pelsall, Walsall, WS3 5AT

Proposal: Application under Section 73 of the Town & Country Planning Act 1990 to develop the land not in accordance with approved plans but in accordance with plans 'Wyrley Traveller Site, proposed amenity building plans and elevations dated 25 August 2021' and 'Wyrley Traveller Site, proposed site plan Revision L August 2021' and 'Wyrley Traveller Site, Utility Block Revision A, August 2021'. Pursuant to CH/20/305.

Item 6.19



Location Plan



Site Plan from Previously Approved Application No. CH/20/305



J	September 2020	Planning alterations
I	September 2020	Additional parking
H	August 2020	Original alterations
G	July 2020	Site reduced
F	June 2020	Site reduced
E	June 2020	Site reduced
D	June 2020	Original alterations
C	June 2020	Site reduced
B	June 2020	Site reduced
A	May 2020	Original alterations
Rev	Date	Revision Details

FISHER GERMAN
 Fisher German LLP, 4 Vicar Lane
 Chester, Cheshire, CH1 1SQ
 Tel: 01244 318184 Fax: 01244 406640

Client:	Wytley Farms Limited
Project:	Wytley Traveller site
Title:	Proposed site plan

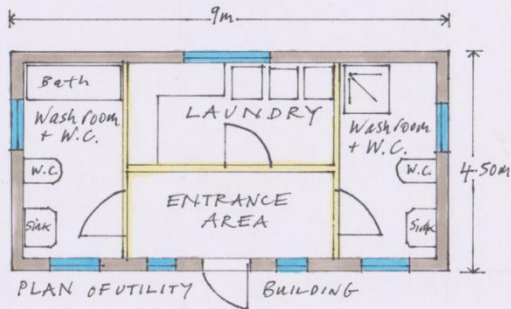
Scale:	1:500 @ A2
Date:	August 2020
Drawn:	KT
Checked:	NC
Dwg No:	104370-025-01

The drawings are the property of Fisher German LLP. They are to be used only for the purposes for which they are intended and are not to be used for any other purpose without the prior written consent of Fisher German LLP. The drawings are not to be used for any other purpose without the prior written consent of Fisher German LLP.

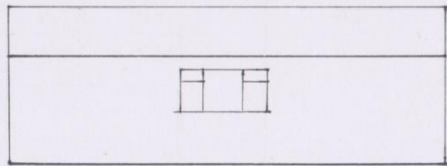
Utility Building Plans and Elevations from Previously Approved Application No. CH/20/305



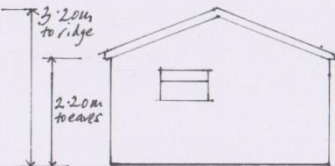
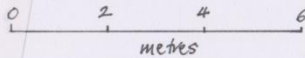
FRONT ELEVATION



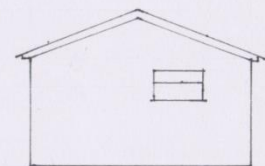
PLAN OF UTILITY BUILDING



REAR ELEVATION



SIDE ELEVATION



SIDE ELEVATION

Wyrley Traveller Site, Proposed Utility Building
21.5.2020
Scale 1:100 at A4
Drawn by C J Tyler
MICHAEL HARGREAVES PLANNING
5 HIGH STREET SWAFFHAM PRIOR
CAMBRIDGE CB25 0LD

Contact Officer: Richard Sunter**Telephone No:** 01543 464481**Planning Control Committee****24th November 2021****Application No:** CH/21/0376**Received:** 6th September 2021**Location:** Land at Lime Lane, Pelsall, WS3 5AT**Parish:** Norton Canes**Ward:** Norton Canes Ward**Description:** Application under Section 73 of the Town & Country Planning Act 1990 to develop the land not in accordance with approved plans but in accordance with plans 'Wyrley Traveller Site, proposed amenity building plans and elevations dated 25 August 2021' and 'Wyrley Traveller Site, proposed site plan Revision L August 2021' and 'Wyrley Traveller Site, Utility Block Revision A, August 2021'. Pursuant to CH/20/305.**Application Type:** Full Planning Application Under Section 73**Recommendations:** It is recommended that subject to the amended schedule of conditions and either : -

- (i) confirmation that monies towards mitigating impact on Cannock Chase SAC have been paid, or
- (ii) secured via the mechanism of a unilateral undertaking

that the application be approved.

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 occupation of the 5 residential pitches shown on the approved site layout plan shall be carried out only by the following persons and their resident dependents: Mr Raymond Clee and his wife Mrs Dorcas Clee; Jermaine Clee and his wife Mrs Kayleigh Clee, Mr Sean Clee and his wife Mrs Chantelle Clee; and Mr John Cameron and his wife Mrs Donna Marie Cameron.

Reason

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

2. There shall be no more than 5 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 entitled 'Wyrley Traveller Site Utility Block, Revision A', August 2021, and in accordance with details of external materials to be submitted to and approved by the Local Planning Authority before construction commences'; and 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. Notwithstanding the details of the approved plans, the site shall not be occupied until a scheme showing the following details, namely: -

- (i) the internal layout of the site, which shall broadly accord with the approved Site Layout Plan drawing,
- (ii) fencing, gates, hedges and other means of enclosure;
- (iii) external lighting on the site, boundaries and within the site;
- (iv) the means of foul and surface and surface water drainage of the site;
- (v) 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);
- (vi) provision for the day to day storage of domestic waste and recyclables;

has been submitted to and approved in writing by the Local Planning Authority and the works comprising the approved scheme have been implemented. Thereafter the works comprising the above scheme shall be 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 development shall begin until the following elements of a surface water drainage design have been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must demonstrate:

Surface water drainage system(s) designed in accordance with the Non-technical standards for sustainable drainage systems (DEFRA, March 2015).

SuDS design to provide adequate water quality treatment, in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria.

Limiting the discharge rate generated by all rainfall events to no more than 5l/s.

Provision of surface water runoff attenuation storage to achieve the limited discharge.

An assessment of the culvert underneath the B4154 and of the ordinary watercourse channel, in relation to anticipated flows.

Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations.

Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.

Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development.

Reason

To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development

8. The development hereby permitted shall not be brought into use until the access to the site, within the limits of the public highway, has been completed.

Reason

In the interests of highway safety and to comply with S.C.C. requirements for access.

9. The development hereby permitted shall not be brought into use until the access drive within the site has been surfaced in a bound material as indicated on submitted Drg Wyrley Traveller Site Proposed Site Plan Revision L, August 2021.

Reason

In the interests of highway safety and to comply with S.C.C. requirements for access.

10. The development hereby permitted shall not be brought into use until visibility splays of 2.4m x 160m have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 900 mm above the adjacent carriageway level.

Reason

In the interests of highway safety.

11. The development hereby permitted shall not be brought into use until the parking and turning areas have been provided in accordance with submitted Wyrley Traveller Site Proposed Site Plan Revision L, August 2021 the subject of this consent and shall thereafter be retained at all times for their designated purposes.

Reason

In the interests of highway safety

12 The caravans shall be sited in accordance with Drawing No: Wyrley Traveller Site Proposed Site Plan Revision L, August 2021

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

Wyrley Traveller Site Proposed Site Plan Revision L, August 2021';

and '

Wyrley Traveller Site Utility Block, Revision A, dated August 2021'.

Reason

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

Notes to the Developer:

Staffordshire County Council Highway Authority has advised: -

With reference to Condition 1 above the proposed site access works shall require a Highway Works Agreement with Staffordshire County Council. The applicant is requested to contact Staffordshire County Council in order to secure the Agreement. The link below is to the Highway Works Information Pack including an application form. Please complete and send to the address indicated on the application form or email to road.adoptions@staffordshire.gov.uk. The applicant is advised to begin this process well in advance of any works taking place in order to meet any potential timescales. <https://www.staffordshire.gov.uk/Highways/highwayscontrol/HighwaysWorkAgreements.aspx>

Any proposed soakaways/septic tank shall be located a minimum of 5.0m and 10.0m respectively rear of the highway boundary.

The Environmental Health Officer has advised the following: -

1. If planning approval is granted, the occupier of the land will be required to obtain a Caravan Site Licence for Permanent residential use under the provisions of the Caravan Sites and Control of Development Act 1960, which would be granted subject to conditions being met. Approval does not authorise use of the land as a caravan site by any persons other than gypsies and travelers, as defined in paragraph 15 of ODPM Circular 01/2006
2. There is a requirement to register small domestic sewage discharges from septic tanks and small sewage treatment plants with the Environment Agency. This includes complying with specified standards. More information regarding this can found through the following link. <http://www.environment-agency.gov.uk/homeandleisure/118753.aspx>

Consultations and Publicity

External Consultations

Norton Canes Parish Council

No comments received. Members will be updated at Planning Committee should comments be received.

County Highways

There are no objections on Highway grounds to this proposal.

Environment Agency

No comments received. Members will be updated at Planning Committee should comments be received.

Severn Trent

No comments received. Members will be updated at Planning Committee should comments be received.

Lead Local Flood Authority

No objections.

Staffordshire County Council Mineral and Waste Authority

No objections.

Natural England

No comment to make.

South Staffordshire Water

I have viewed the application and from our existing asset records we appear to have no water mains assets affected by this scheme, within the site boundary shown on the proposed site plan. We 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.

Walsall MBC

No comments received. Members will be updated at Planning Committee should comments be received.

Inland Waterways

The Inland Waterways Association (IWA) is the membership charity that works to protect and restore the country's canals and river navigations for public benefit. IWA is a national organisation with a network of local branches and volunteers who work with navigation authorities, national and local government, and a wide range of voluntary, private and public sector organisations for the benefit of the waterways and their users. The Lichfield Branch of IWA has considered this application in relation to the environment of the canal and the interests of its users.

The site is some distance away from the Cannock Extension Canal and also the Wyrley & Essington Canal, and is unlikely to be prominently visible from either. Therefore, IWA has no further comment on or objection to this application.

Highways England

No objections.

Ramblers Society

No comments received. Members will be updated at Planning Committee should comments be received.

Trent and Mersey Canals

No comments received. Members will be updated at Planning Committee should comments be received.

Friends of Cannock Chase

No comments received. Members will be updated at Planning Committee should comments be received.

CPRE

No comments received. Members will be updated at Planning Committee should comments be received.

Canal and River Trust

No objections.

Staffordshire Wildlife Trust

No comments received. Members will be updated at Planning Committee should comments be received.

Staffordshire Police

No objections.

Staffordshire Fire and Rescue

No objections and general advice about sprinklers given.

Internal Consultations

Policy

Thank you for consulting me on this application for a larger utility block at Lime Lane, Pelsall. I can advise that the site lies within the adopted Green Belt and within the area of influence of the Cannock Chase SAC. It lies within the Area of Search for gypsies, travellers and traveling showpeople accommodation as shown on the key diagram on page 7 of the adopted local plan. The site falls within the Norton Canes Neighbourhood plan area.

The principle for development for the use of the site has already been established by planning permission CH/20/305, which included the provision of a utility block on the site.

National Planning Policy Framework (NPPF) and the presumption in favour of 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.

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 138.

The NPPF at para 147-149 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, paragraph 149 of the NPPF states that the construction of new buildings should be regarded as inappropriate development.

In terms of 'very special circumstances' the NPPF (para 147) 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.

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.

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.

The Norton Canes Neighbourhood Area was designated on 10th January 2018. The neighbourhood plan has not yet progressed sufficiently to enable consideration of it within the determination of planning applications, the Parish Council should be contacted directly for more information.

Conclusion

The principle of the use of the site has already been established by planning permission CH/20/305, which included provision of a utility block within the site. The proposal would constitute inappropriate development within the Green Belt and is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

It is up to the applicant to demonstrate that 'very special circumstances' exist. It is noted that reference to meeting 'very special circumstances' has been included in the Supporting Statement.

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. As such I leave it to the judgement of the planning officer to consider if the proposal for the larger amenity block would result in harm to the Green Belt.

Environmental Health

No objections.

Environmental Health (Private sector Housing)

No objections.

Strategic Housing

No comments received. Members will be updated at Planning Committee should comments be received.

Waste and Engineering

No comments received. Members will be updated at Planning Committee should comments be received.

Parks and Open Spaces

The proposal is with the exception of the proposed larger utility building, a copy of the approved application CH/20/305.

The increased in the size of the utility building is limited to increased floor plan. This would overall not increase the impact of the site within the location, given the previous approval.

The comments made in respect of CH/20/305 would thus still be fully applicable as noted below

In terms of visual impact, this will be restricted to the local area given the surrounding land form and existing vegetation. Until the proposed planting has established and grown sufficiently, views into the site from the road and to a lesser extent from the north will remain. The use/introduction of any non-native/conifers, as per the adjacent site, would highlight the development site and creating an urban feel to the locality and thus be detrimental to the local character. (Those should have been replaced with native hedging.)

The proposed site is linear in shape which with the proposed location and being behind a hedge (albeit future) and preferably hedges on the eastern/field side would aid its fit into the local landscape. It may however when viewed in conjunction with the existing site to the south, be seen as a form of ribbon development along Lime Lane, which the designation of Green Belt was intended to prevent.

Of concern is the statement within Para 9.2 of the Planning support statement 'The site has the potential for further expansion in a planned manner.....'. The present proposal would not unduly affect the openness of the green belt due to its form however, any expansion particularly eastwards would by its nature create a larger settlement area that with the existing site would have a far greater impact on the character and openness of the Green Belt and local area.

Of the proposed Landscape details: -

The refuse, recycling and bin store needs to be set back behind the main road hedge line otherwise it becomes an incongruous feature in the landscape and simply emphasises the development for which the overall aim is to reduce its visual presence and impact.

The use of native species planting would be appropriate however the use of Oak in place of Beech would be more appropriate for the location. Also it would have lesser of a future impact on the use of the site via shade and canopy extent.

Hornbeam is chiefly a native of SE England although it is planted throughout mostly in parks and gardens. In terms of changing climate then it may be useful.

The use of 16-18cms trees would not be recommended. Strongly suggest that all trees sizes used are no greater than 12-14cms especially if they are to be rootballed, if not smaller. Smaller trees whilst not having such an initial impact will establish far quicker particularly if maintenance is lacking.

There are four trees indicated within the adjacent grass area to the native planting but the labels only refer to the use of two. One to the north and south within the grass area but set away from the proposed caravan plot would be acceptable or within the potential hedge extensions as noted below.

Similarly the eastern hedgerow shows numerous trees but these are not all identified, where two are shown reference is made to one only.

All need to be identified and numbers not reduced.

Hedgerow species are generally acceptable. The inclusion of hedge row trees along the road frontage would be beneficial. Likewise addition of a hedge row along the northern boundary with the trees noted would be better to improve the screening of the site from the north.

The native shrub area within the site has little value in terms of site use. It would prevent appropriate/easy management of the adjacent area of hedge. If the intention is to create seclusion around the central plot then it would be preferable to extend the hedgerow planting as offshoots into the site to the north and south of the plot.

Given the increasing use of inappropriate conifers/hedging on the adjacent site which increases its visual incongruity within the rural setting, a condition should be attached to any consent preventing the use of such inappropriate species. Wording to be agreed.

If screening from the road site is required instantly then the use of temporary wattle style fencing set to the rear of the existing hedge would be appropriate. Such details would need to be supplied and approved for a short time period (eg 5 years) then removed so as to ensure that the intended character and visual quality of the area is achieved.

No construction details of the fencing, gates or paving materials have been supplied – all required.

Whilst a drainage strategy has been proposed full details would need to be provided as well as details of any other service provision. This to avoid any conflicts with proposed landscaping especially tree planting.

Summary

Modifications to the landscape scheme require as noted above.

Full details of ground preparation, planting and establishment and maintenance are required and should have been submitted as part of the scheme, as clearly set out in application requirements.

Construction details also require for fencing, gates and hard surfaces.

Service details required.

Bin store needs relocating and adequate screening from passing views.

Condition required prohibiting the use of inappropriate conifer species hedging with any consent- for the life of the development.

The later two points were not covered fully within the previous consent!

Response to Publicity

The application has been advertised as a departure from the Development Plan by newspaper advertisement and site notice. No letters of representation have been received.

Relevant Planning History

CH/20/305: Change of use of the land to a Gypsy and Traveller residential site with the siting of up to ten caravans of which no more than five would be static caravans, the construction of a utility block, and the creation of a new vehicular access and the laying of hard standing. Approved 15-Feb-2021.

1.0 Site and Surroundings

- 1.1 The application site is part of a wider arable field, located off lime Lane in the Parish of Norton Canes, towards the southern edge of Cannock District. The site benefits from planning permission for a Gypsy and Traveller residential site. At the time of the officer site visit works had commenced on site.
- 1.2 The western edge of the site is denoted by a traditional hedgerow, but to the north and east is the remaining part of the arable field. To the south is an existing site offering accommodation for gypsy and traveller families.
- 1.3 The site is in a relatively open area of countryside with no amenities in the immediate vicinity. However, the site is approximately 922m from the junction of Norton Road and Lichfield Road in Pelsall. Pelsall has a reasonable variety of shops, public houses, schools and other services to meet the day to day needs of the community.
- 1.4 The site is located within the West Midlands Green Belt and a minerals conservation area.
- 1.5 The Cannock Extension Canal Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) is located approximately 300m to the west of the site.

2 Proposal

- 2.1 The application seeks consent under Section 73 of the 1990 Town & Country Planning Act to develop the land not in accordance with conditions relating to the approved plans pursuant to planning permission CH/20/305 but in accordance with following plans : -
 - (i) 'Wyrley Traveller Site, proposed amenity building plans and elevations', dated 25 August 2021'; and
 - (ii) 'Wyrley Traveller Site, proposed site plan' Revision L, dated August 2021' and 'Wyrley Traveller Site, Utility Block' Revision A, dated August 2021'
- 2.2 The Applicant's Planning Statement explains that: -

‘This application to vary Conditions 3 and 13 seeks to replace the approved utility or amenity building with a larger building. As shown on the attached plan, the approved scheme would provide two washrooms, a laundry and an entrance hall in a rectangular building measuring 9 m. long by 4.5 m. wide, with a pitched roof and the roof ridge 3.2 m. above ground level.

The proposed scheme would provide two washrooms, a laundry, an entrance hall, together with a dayroom, which would provide a communal kitchen, dining and living room for the extended family, in an L-shaped building, measuring 10 m. long wide by 4.5 m. wide along the longer leg of the L, with the shorter leg extending in front of the main section and measuring 5 m. by 4.5 m. The proposed building would be the same height as the approved scheme and would have a footprint of 67.5 m.², compared with 40.5 m.² for the approved building.

As shown by comparing Proposed Site Plan Revision L with the approved Revision J, the new building would be in the same location within the site as the building it replaced. To give enough space for the slightly wider building in Revision L the touring caravans on either side of the Utility Block have each been moved sideways by 0.5 m. Otherwise, the scheme is unchanged. ‘

3.0 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).

3.3 Relevant Policies within the Local Plan Include:

- CP1 - Strategy – the Strategic Approach
- CP2 - Developer contributions for Infrastructure
- CP3 - Chase Shaping – Design
- CP13 -Cannock Chase Special Area of Conservation (SAC)
- CP14- Landscape Character and Cannock Chase Area of Outstanding Natural Beauty (AONB)

3.4 The relevant policies within the Minerals Plan are

3.2 Mineral Safeguarding.

3.5 National Planning Policy Framework

3.6 The NPPF (2021) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be "presumption in favour of sustainable development" and sets out what this means for decision taking

3.7 The NPPF (2012) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise

3.8 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Planning Applications
111:	Highway Safety and Capacity
126, 130, 132, 134:	Achieving Well-Designed Places
133, 134, 143, 144, 149, 150:	Green Belt
167:	Flood Risk
174; 180:	Countryside and Biodiversity
183, 184:	Ground Conditions and Pollution
218, 219	Implementation

3.9 Other relevant documents include: -

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 nature conservation Interests
- xi) The applicant's case that very special circumstances exist
- xii) Assessment of the applicant's case
- xiii) The weighing exercise to determine whether very special circumstances exist.

4.2 Principle of the Development

- 4.2.1 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.
- 4.2.2 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).
- 4.2.3 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.

- 4.2.4 Although often referred as “variation of condition” applications, an approval of an application submitted under Section 73 results in the granting of a brand new permission which will sit side by side with the original consent. As such it is pertinent to ensure that an appropriate schedule of conditions and the appropriate obligations are attached to any permission granted. The starting point for the drafting of the new schedule of conditions is the original schedule but this would need amending to reflect that part of the conditions which have already been discharged (that is the required schemes have been submitted and approved and, or the works pursuant to those approved schemes have been implemented).
- 4.2.5 In this case the material minor amendment sought relates to an increase in the size of the approved amenity block and consequent changes to the layout of the site to accommodate it. This would be brought about by amending conditions 3 and 13 on the approval which lists the approved plans so that the new permission refers to the plans which have been submitted under the current application. Therefore, the only substantive issues in the determination of this application are whether the increased size of the dayroom is acceptable and whether any changes in circumstances would necessitate the redrafting of any of the other conditions or other obligations attached to the original permission.
- 4.2.6 The principle of the use of the site and its general layout as a residential caravan site for 5 gypsy families was established under the previous consent. However, an increase in the size of the day room would have an impact on its acceptability in terms of Green Belt policy as due to its increased volume and height it potentially has a greater impact on the openness of the Green and potentially conflicts with the purposes of including land within it.
- 4.2.6 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 (2021) 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.

4.2.7 As such the decision taker needs to determine whether the proposal 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.

4.2.8 Whether a proposal constitutes inappropriate development is set out in Paragraphs 149 & 150 of the NPPF. Paragraph 149 relates to new buildings whereas Paragraph 150 relates to other forms of development, including the making of material changes of use of land.

4.2.9 Paragraph 146 states: -

“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

4.2.10 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 149 and 150 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 (albeit only marginally above that of the consented scheme) and therefore constitutes inappropriate development in the Green Belt.

4.2.11 Given that the proposal constitutes inappropriate development in the Green Belt the proposal would not be in accordance with the development plan.

4.2.12 In the Green Belt it should be noted that paragraph 147 of the NPPF makes it clear that inappropriate development should not be approved except in “very special circumstances”. Furthermore, paragraph 148 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”.

4.2.13 Therefore in accordance with paragraph 148 it is considered that substantial weight should be given to the harm to the Green Belt identified above.

4.2.14 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 126, 130, 132, 134. Paragraph 124 makes it clear that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) 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.

4.3.4 Finally Paragraph 134 states: -

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes. Conversely, significant weight should be given to:

- (a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes; and/or
- (b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

4.3.5 The impact of the gypsy site and its smaller amenity/ utility block was considered during the determination of application CH/20/305 where it was considered that the proposal would result in some harm to the rural character of the area.

4.3.6 In the present case it is noted that the proposed amenity block would be significantly larger than the one that was granted consent. However, by virtue of its, size, scale, design and location with the site it is considered that any impacts on the character of the wider area arising from the increased size would only be marginal over and above that of the consented scheme. This is accepted by the Landscape Officer who has commented that

‘The increased [sic] in the size of the utility building is limited to increased floor plan. This would overall not increase the impact of the site within the location, given the previous approval.’

4.3.7 In design terms the proposed amenity block would resemble a detached bungalow. It would therefore reflect a house type which is found in a variety of locations throughout the district. The materials although not specified could be adequately controlled through the imposition of a condition so that they are appropriate for the location.

4.3.8 In relation to the detailed comments made by the Landscape officer it is considered that these could be secured through conditions and members attention is drawn to condition 6 of the revised schedule of conditions.

4.3.9 Having had regard to the above it is considered that the proposal as per the consented scheme, due to its erosion of the rural character of the area would be 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 130(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 considered that the proposed larger amenity/utility block, by virtue of its fenestration details and location within the site would have no significant impact on the residential amenity of the occupiers of the neighbouring site to the south which is enclosed by 2m high fencing.
- 4.4.4 In addition to the above it is noted that the proposed amenity block is a communal facility intended to serve an extended family occupying 5 pitches. Furthermore, it is noted that the occupation of the wider site is controlled by condition and that a similar condition could be applied to any permission granted for this proposal. Subject to such a condition it is considered that the proposal would not cause significant loss of amenity for the occupiers of the site. In addition, the larger amenity block would prevent overcrowding and consequent effects on physical and mental health that poor standards of accommodation. The proposal would therefore result in a high standard of residential amenity of the occupiers of the wider site. This point is discussed further in this report.
- 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 130(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 5 pitches. Furthermore, the Highway Authority has no objections to the proposal and the proposed larger amenity building would not significantly alter the level of parking within the site.
- 4.5.3 It is therefore considered that subject to the attached conditions the proposal would not result in an unacceptable impact on highway safety and that the residual cumulative impacts on the road network would not be 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 130(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 have confirmed that they have no objections to the proposal.

4.6.4 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 proposal permitted under planning permission CH/20/305 was found to be acceptable in terms of its impact in respect to drainage and flood risk and the Local Lead Flood Authority has no objections to the current proposal.

4.7.4 Therefore subject to the attached condition for the approval of the details of the means of disposal of foul and surface 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 have no objections to the proposal' and it is therefore concluded that the proposal would not result in the sterilization of mineral deposits. The proposed amendment that is the subject of the current application does not alter this conclusion.

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 sufficient space within the site has been designated for waste and recycling facilities and there is sufficient space at the entrance to accommodate a collection point. As such the amended 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 In respect to the above it is noted that the site is not located within an area known or suspected to be contaminated. As such there is no evidence to suggest that ground contamination could be present on site. Notwithstanding this the Environmental Health Officer has asked for condition to be attached to any permission granted in respect to unforeseen contamination and in respect of imported soils. However, officers are not aware of any proposal, or indeed need to import soils on to the site or any evidence that there may be contamination on the site. Whilst these suggested conditions may seem as a desirable precaution the use of conditions is subject to strict tests, including that they should be necessary and reasonable. The EHO has provided no evidence to demonstrate that the suggested conditions are reasonable in all respect or necessary and as such it is recommended that these conditions are not attached to any permission granted.

4.10.5 In addition to the above it is noted that the site is not located with Coal Mining Risk area and as such risk of ground movement from underground workings is not considered to be a constraint on the development of the site.

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 174 and 180 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 In order to inform the original application (CH/20/30 the applicant submitted an Ecological Assessment dated May 2020 which noted that the site comprises arable land with an improved grassland margin and species-poor hedgerow. In respect to on site impacts the report states: -

- (i) Standard pollution prevention and dust control measures should be set out in a Construction Environmental Management Plan (CEMP) and implemented during site clearance and works. The CEMP will ensure the unlikely potential for indirect impacts on designated sites and retained habitats, including S41 hedgerow, within and adjacent to the site are reduced to a reasonable minimum.
- (ii) Retained trees adjacent to the site should be protected from accidental damage during site clearance and construction, in accordance with BS5837:2012 Trees in relation to design, demolition and construction.
- (iii) The arable land and <10m section of hedgerow will be lost to development. The arable land has limited ecological value.
- (iv) The proposed planting of an additional ~110m of new hedgerow and grassland creation will compensate for the minor loss of habitats and enhance the limited habitats present within the site.
- (v) There is no potential bat roosting habitat present within the site. The soft landscaping proposals will increase potential foraging and commuting habitat for bats within the site post-development. Potential indirect impacts caused by increased light spill on retained potential bat foraging and commuting habitat within and adjacent to the site, and potential bat roosting habitat adjacent to the site, should be addressed through the

implementation of a sensitive lighting strategy during site clearance and construction works, and post-development.

- (vi) Reasonable Avoidance Measures Method Statement (RAMMS) should be implemented during site clearance to avoid impacts on protected or notable species, including badgers, reptiles, amphibians, brown hare, hedgehog and polecat.
- (vii) Precautionary working measures during site clearance have been recommended to avoid impacts on local wildlife and a variety of enhancement measures have been identified to benefit biodiversity in line with National Planning Policy Framework (NPPF) requirements.

4.11.7 The conclusions and recommendations set out in the report were accepted and it was considered that subject to the attached conditions and implementation of a suitable amended landscape scheme there would be no significant impact on the existing ecological value of the site and over time a small improvement in the biodiversity value.

4.11.8 It is considered that the proposed larger amenity/ utility block would not have any significant impact over and above that of the consented scheme and is therefore considered acceptable.

Impacts of Cannock Chase Special Area of Conservation

4.11.7 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. This could be paid in respect to the previous permission in which case the matter would be resolved. If not then any permission would need to be subject to a unilateral undertaking to secure the SAC contribution.

4.11.9 In the original application the LPA undertook a Habitats Regulations Appropriate Assessment which was accepted by Natural England and which concluded that subject to a payment towards mitigating impacts on the SAC the proposal would be acceptable. There is nothing in this application which would

necessitate a deviation from the conclusion arrived at above as the number of dwellings/ households would remain the same.

Impacts on Cannock Extension Canal SAC

- 4.11.10 The site is within 300m of the Cannock Extension Canal Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and evidence provided by the drainage strategy submitted by the applicant suggest that the site would drain towards the canal. The proposal therefore has the potential to affect its interest features, especially as the site is directly linked via watercourses to the Canal. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').
- 4.11.11 The Cannock Extension Canal Special Area of Conservation/ SSSI is an example of anthropogenic, lowland habitat supporting floating water-plantain *Luronium natans* at the eastern limit of the plant's natural distribution in England. A very large population of the species occurs in the Canal, which has a diverse aquatic flora and rich dragonfly fauna, indicative of good water quality. The low volume of boat traffic on this terminal branch of the Wyrley and Essington Canal has allowed open-water plants, including floating water-plantain, to flourish, while depressing the growth of emergents.
- 4.11.12 Members are advised that as a competent authority under the provisions of the Habitat Regulations, the Local Planning Authority should have regard for any potential impacts that a plan or project may have, as required under Regulation 63 of the Habitats and Species Regulations 2017.
- 4.11.13 The potential impacts on the SAC are intrinsically linked to the drainage system to be adopted in the proposal. At the time of the original application officers undertook an appropriate assessment which was accepted by Natural England and who stated that they have no objections to the current application. It is noted that the proposed larger amenity block would not have any significant implications on the drainage of the site and hence the Cannock Extension Canal SAC.
- 4.11.14 Therefore, subject to either (i) confirmation that monies towards mitigating impact on Cannock Chase SAC have been paid, or (ii) secured via the mechanism of a unilateral undertaking it is considered that 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, in respect to the original application, advised that the proposal would not necessitate an education contribution. Given that the current proposal would not involve any change in the number of households on the site it is considered that there are no grounds to suggest that a contribution would be needed in respect to the current application.

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

4.13 The Applicant's Case for Very Special Circumstances

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

‘Through Planning Permission CH/20/305 of 15 February 2021 Cannock Chase Council granted permission for the change of use of the land in the Green Belt at Lime Lane to a Gypsy and Traveller residential site with the siting of up to ten caravans of which no more than five would be static caravans, the construction of a utility block, and the creation of a new access and the laying of hard standing.

The Council will be familiar with the context. Planning application CH/20/305 was submitted by Little Wyrley Estate, and following the granting of permission, Mr Clee has acquired the site from Little Wyrley Estate to provide a residential site for his extended family, and Little Wyrley Estate has acquired the site of the former Grove Colliery office building from the Council.

This Supporting Statement explains the very special circumstances for approving the application in the Green Belt. It draws significantly on the points made in the officer report to the Planning Control Committee of 11 November 2020 relating to application CH/20/305.

The utility building in the approved scheme was drawn up in consultation with Mr Clee, and reflected his then requirements. Based on discussions within

the family he is now seeking permission for the larger building for the following reasons:

- The family want to have a communal room where they can all be together and share meals;
- The growing size of the family: both Mr Clee's daughters-in-law are expecting, so there will be nine children living on the site; and
- Mr Clee has been suffering from poor health and reduced mobility. The building has been designed so the dayroom, entrance hall and one of the washrooms are fully wheelchair accessible.

Comparison between Proposed Site Plan Revisions J and L establishes that the only significant difference between the two schemes is in regard to the size of the amenity building. The key issue for determining the application is whether the proposals cause additional harm to the Green Belt and any other harm such as to mean permission should not be granted

Para 147 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para 148 further advises that when considering planning applications local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Para 16 of Planning Policy for Traveller Sites (PPfTS) confirms that Traveller sites in the Green Belt are inappropriate development.

Paras 4.2. 5 and 4.2.13 of the Officer Report into application CH/20/305 considered that substantial weight should be given to the harm to the Green Belt by reason of inappropriateness and through loss of openness. Para 4.3.8 of the Report found, until the proposed planting was established and had grown sufficiently, that views into the site from the road and to a lesser extent from the north would remain and that the site when viewed in the context of the adjoining site could be seen as a form of ribbon development along Lime Lane. Para 4.3.11 concluded, due to its urbanisation and consequent erosion of the rural character, that the proposal was contrary to Policy CP3 of the Local Plan and corresponding sections of the NPPF and that further moderate weight should be afforded to that harm.

At para 4.16.4 the report considered that substantial weight should be afforded to the personal need of the extended family for a settled site, the

lack of any realistically available alternative sites, the personal circumstances with regard to health and education, the effect on the human rights if the family was required to leave the site, and the best interests of the children. It also concluded that the uncertainty about the future provision of sites in the district and neighbouring districts, the fact that the site falls within the general area of search for Traveller sites in the Local Plan, the strong likelihood that future sites will also be located in the Green Belt, the sustainability benefits of providing a settled site, including by ensuring accessibility to a range of services and facilities, each carried moderate weight in favour of the application.

On that basis para 4.16.5 concluded, subject to the attached conditions and completion of a unilateral undertaking, that the harm to the Green Belt and to the character of the area was clearly outweighed by the above considerations such that very special circumstances existed to justify approval of the application.

The balance between the harm to the Green Belt and the character of the area on the one hand, and the benefits from the proposed development identified in para 3.3 above are almost identical when we compare the approved scheme and the proposed scheme as it would be if Conditions 3 and 13 are approved in accordance with the current application.

The wheelchair accessibility of the facilities in the larger dayroom will add further to the health and wellbeing benefits for the personal circumstances of the applicant, Mr Clee.

The proposed variations to the scheme will have no additional impact on the definitional inappropriateness of the development within the Green Belt. The additional impact on the loss of openness of the Green Belt and on the urbanisation and erosion of the rural character will be highly marginal, and almost certainly insignificant. The principle of the urbanisation of the site has already been accepted. The larger building will make no material difference. The proposed dayroom will be of the same height as the approved building. Views into the site of the building would be substantially screened by the five mobile homes located around it. It would be very difficult to distinguish between the 10m, façade to Lime Lane in the proposed scheme and the 9m façade in the approved scheme.

While the footprint of the building is increased by 66.6%: 67.5 m.² compared with 40.5 m.², a more realistic measure of the increase in urbanisation of the site would be to think of the various structures on the site. If we assume each mobile home has a footprint of 11.5 x 3.75 = 43.125 m.², and each touring

caravan a footprint of $6 \times 2 = 12 \text{ m}^2$, on the basis of the five approved mobile homes, and five approved touring caravans, there would be structures covering an area of $5 \times 43.125 \text{ m}^2 + 5 \times 12 \text{ m}^2 + 40.5 \text{ m}^2 = 316.125 \text{ m}^2$ in the approved scheme and of $5 \times 43.125 \text{ m}^2 + 5 \times 12 \text{ m}^2 + 67.5 \text{ m}^2 = 343.125 \text{ m}^2$ in the proposed scheme, an increase of 8.5%. In reality, this overstates the difference between the two on the basis that an additional allowance on the urbanisation impacts of the development from the vehicles and the domestic paraphernalia – washing lines, garden furniture, children's toys etc. – there will be on the site.

In summary, we would conclude that a very small increase in the weight to be attached to the benefits from the scheme should be made on the basis of the wheelchair accessibility of the dayroom, and that there will be no significant increase in the impact of the revised scheme on the loss of openness of the Green Belt and from the urbanisation and erosion of the rural character. This means the application to vary Conditions 3 and 13 should be approved.'

4.14 Appraising the Applicant's Case

4.14.1 In essence the applicant's case that very special circumstances exist is that the scheme as proposed would provide a substandard degree of residential amenity to meet the needs of the extended family and the changing circumstances of the family and that approval of an enlarged amenity block would rectify this.

4.14.2 As stated by the applicant's agent the site is occupied by an extended Romany gypsy family comprising five distinct households and that this is controlled via a planning condition which restricts occupancy of the site to certain named individuals and their dependants.

4.14.4 Paragraph 130(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.

4.14.5 The above points are accepted and it is considered that the proposal would provide the high standard of amenity required under paragraph 130(f) of the NPPF and in doing so would prevent the problems of overcrowding and associated problems of mental and physical health that are linked to overcrowded accommodation.

4.15 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

4.15.1 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. Ultimately, each case has to be judged on its own merits with weight given to all relevant considerations according to their relative gravity.

4.15.2 In this respect it is noted that in the original application, substantial weight was 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, moderate weight was afforded to the harm to the character of the area. Given the relatively marginal impact of the proposed larger amenity/utility block in the context of the impact of wider site it is considered that the current proposal does not significantly alter the previous overall conclusions in respect to the harm caused.

4.15.3 Turning now to the issue of other considerations which weigh in favour of the proposal. It is noted that in the original application substantial weight was afforded to the personal needs of this extended family for a settled site, the lack of any realistically available alternative sites and personal circumstances with regard to health and education. The best interests of the children living on existing overcrowded sites with the current uncertainties regarding their accommodation were also acknowledged as a primary consideration and therefore was 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 site fell 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 would also be located in the Green Belt, the sustainability benefits of providing a settled site, including adequate accessibility to a range to services and facilities, were also considered to carry moderate weight in favour of the proposal.

4.15.4 As such it was determined in the original application that the harm to the Green Belt and any other harm was clearly outweighed by the other considerations such that very special circumstances had been demonstrated.

4.15.5 In the case of the current application all these factors remain the same, however, it is considered that the provision of an appropriate sized amenity

block commensurate to the size of the extended family's day to day needs and their changed circumstances adds moderate weight in favour of the proposal.

4.15.6 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.

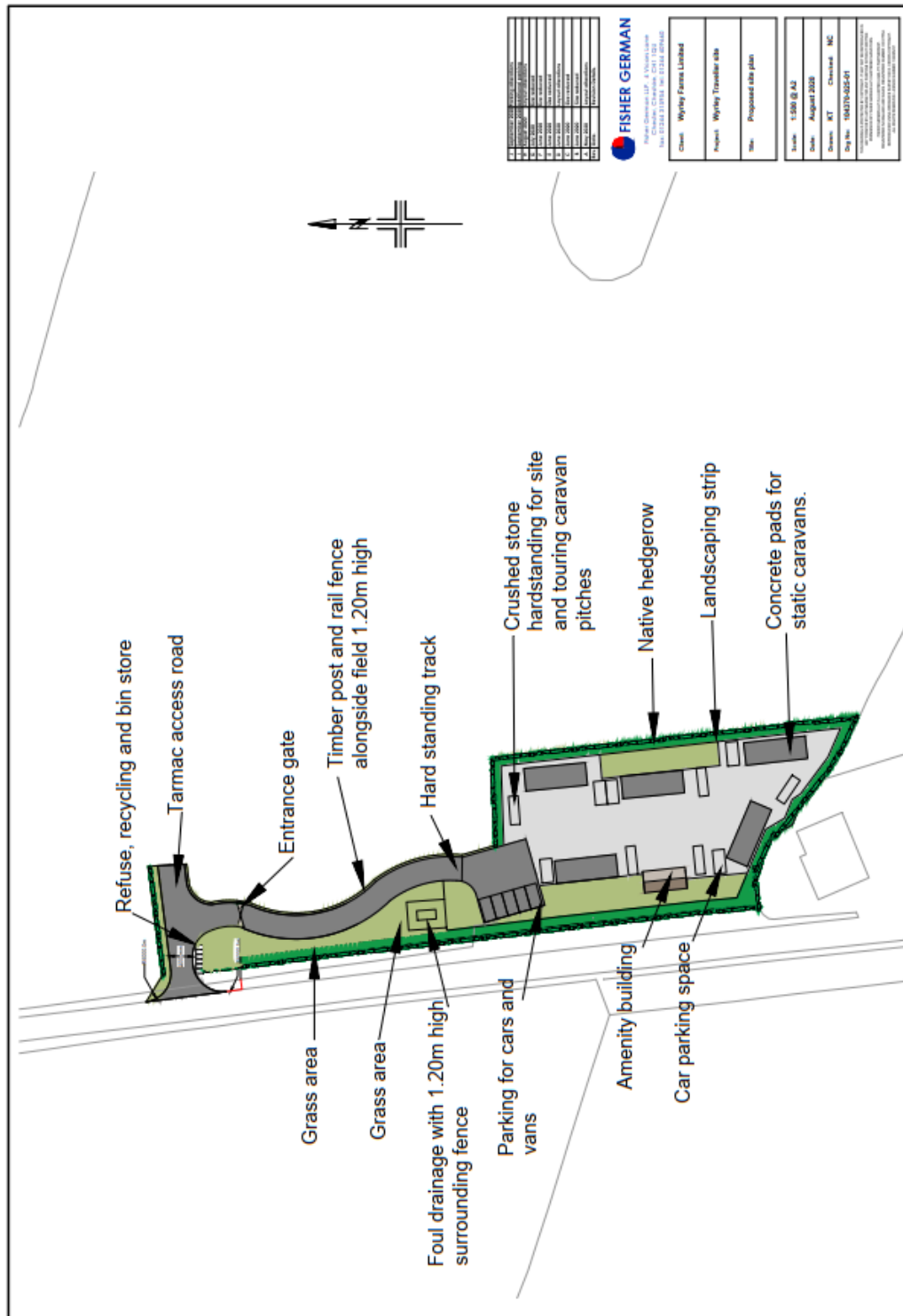
Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case, officers consider that the proposal would not conflict with the aim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

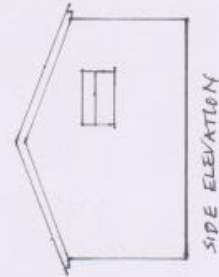
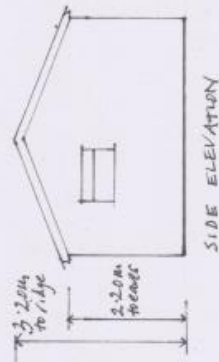
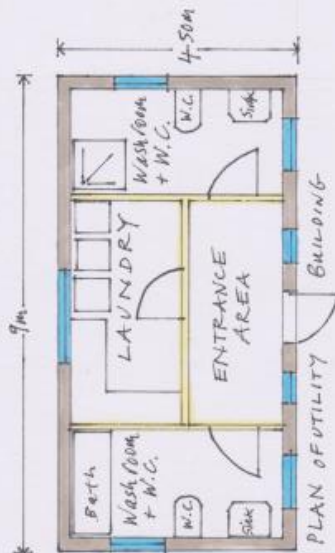
- 6.1 The application seeks consent under Section 73 of the 1990 Town & Country Planning Act to develop the land not in accordance with approved plans pursuant to planning permission CH/20/305 but in accordance with plan Wyrley Traveller Site Proposed Site Plan Revision L, August 2021'; and 'Wyrley Traveller Site Utility Block, Revision A, dated August 2021'. to allow for the construction of a larger amenity/ utility block.
- 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 147 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 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 amended schedule of conditions and either (i) confirmation that monies towards mitigating impact on Cannock Chase SAC have been paid, or (ii) secured via the mechanism of a unilateral undertaking that the application be approved.
- 6.6 As in the original permission, 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.

APPENDIX 1: Approved Site Layout Under CH/20/305



APPENDIX 2: Approved Utility Block Under CH/20/305

Wyrley Traveller Site, Proposed Utility Building
21.5.2020
Scale 1:100 at A4
Drawn by C J Tyler
MICHAEL HARGREAVES PLANNING
5 HIGH STREET SWAFFHAM PRIOR
CAMBRIDGE CB25 0LD



Contact Officer: Richard Sunter

Telephone No: 01543 464481

Planning Control Committee

24th November 2021

Subject: Renewal of Temporary Changes to the Planning Enforcement Protocol

Recommendation: The report be noted.

As a result of high volumes of workload being dealt with by the Enforcement Officer temporary changes to the Planning Enforcement Protocol were approved by the Head of Economic Prosperity in consultation with the Cabinet Member on 1st April 2021. This temporary period expired on 30th September 2021. However, due to on-going pressures on the service the Head of Economic Prosperity in consultation with the Cabinet Member has approved an extension for the next of the previously approved changes for the next 12 months.

The changes to the planning enforcement protocol are as follows:

- Anonymous complaints do not have to be registered unless they relate to a gypsy/ traveller incursion, works within a conservation area or works to a listed building/structure.
- The number of working days allowed for the initial site visit to be carried out is extended to the below

PRIORITY	SITE INSPECTION TIMESCALE
Priority 1	Within 1-2 working days
Priority 2	Within 10 working days

Priority 3	Within 15 working days
Priority 4	Within 25 working days

- We are also able to ask for when logging a case: -
 - Name, postal address, email address and phone number of the person reporting the alleged breach(es).
 - Full address for the location of the alleged breach(es) of planning control (a map can be provided if the allegation related to an area of land)
 - Description of the alleged breach(es) of planning control
 - How long has the issue been in existence (for operation development, how long has it been taking place/in situ; for change of use, how long has the use been in existence).
 - Photographic evidence to support the complaint (if it can be provided)