

**Report of the  
Head of Development Control**

**1 Subject**

- 1.1 Town and Country Planning Act 1990 – applications presented for determination.

**2 Purpose of Report**

- 2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.
- 2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.
- 2.3 The proposals presented for decision are set out in the index at the front of the attached report.
- 2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications.

**3 Implications**

- 3.1 Should there be any implications in respect of:

Finance; Crime and Disorder; Sustainability; Human Rights Act; or other relevant legislation, associated with a particular application then that issue will be covered either in the body of the report, or if raised at the meeting, in discussion.

**4 Site Visits**

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.
- 4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

## 5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: [www.northwarks.gov.uk](http://www.northwarks.gov.uk).
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 6 November 2023 - at 6.30pm in the Council Chamber

## 6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at:  
[https://www.northwarks.gov.uk/info/20117/meetings\\_and\\_minutes/1275/speaking\\_and\\_questions\\_at\\_meetings/3](https://www.northwarks.gov.uk/info/20117/meetings_and_minutes/1275/speaking_and_questions_at_meetings/3).

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## **General Development Applications**

**(7/a) Application No: CON/2023/0019**

**Land off Caldecote Lane, Caldecote**

**Change of use of land to operational land to house a sewage pumping station with associated landscaping for**

**Severn Trent Water Ltd**

### **Introduction**

This application has been submitted to the County Council as the Waste Authority for determination and it has invited this Council for its comments as part of the assessment of that determination.

### **The Site**

This is a rectangular area of around 2,500 square metres of agricultural land south of Caldecote with access around 250 metres to the south-east off the track that leads from the village to the West Coast Mainline. It is around 200 metres south of Caldecote Hall and 500 metres from the railway.

A location plan is at **Appendix A**

### **The Proposals**

The proposals are part of Severn Trent's Asset Management Plan running up to 2025.

The new pumping station is required as part of a wider scheme which is to involve the installation of a new pipeline from the Hartshill STW to the Hinckley STW. A new pumping station is to be installed at Hinckley and water flows are then to be pumped to Hartshill to be treated there, thus reducing the amount of overflow discharged into the Sketchley Brook at the Hinckley site which has resulted in poor water quality. The Caldecote scheme is in essence a "booster" station for this purpose.

The site will house a new pumping station and associated infrastructure. The main building on the site will be 15 by 4 metres tall and coloured grey. Other infrastructure here will be three metres tall – the fuel tank – and the ventilation pipes will extend four metres above ground level. Other infrastructure would be underground. A 2.4 metre green meshed security fence would surround the site. Surface water would be directed to an underground attenuation tank before discharge into the neighbouring field drainage system.

The proposal is said to provide a 15% on-site bio-diversity net gain by creating grassland around the site together with a perimeter hedgerow as well as new trees.

The proposed layout and landscaping is at **Appendix B**, with sections shown on **Appendix C**.

## **Development Plan**

Warwickshire Waste Core Strategy Local Plan 2013 - 2028 - CS1 (Waste Management Capacity); DM1 (Protection and Enhancement of the Natural and Built Environment), DM2 (Managing Amenity Impacts), DM5 (Recreational Assets) and DM6 (Flood Risk)

The North Warwickshire Local Plan 2021 – LP14 (Landscape); LP15 (Historic Environment), LP16 (Natural Environment), LP29 (Development Considerations) and LP30 (Built Form)

## **Other Material Planning Considerations**

The National Planning Policy Framework

The Proposed Caldecote Conservation Area

## **Observations**

The basis for this proposal is understood and the need to improve water quality is acknowledged even if that involves new infrastructure that is more efficiently provided on a catchment area basis, rather than to resolve a local issue.

However, there are three substantial matters which have not been fully assessed – the impact on heritage assets, the landscape impact and the environmental impacts.

Whilst the documentation recognises Caldecote Hall as a heritage asset, it concludes that the proposal is not considered likely to have a detrimental impact on its setting. However, there is no Heritage Assessment submitted to substantiate that conclusion. More significantly, the proposal wholly ignores the proposals to designate Caldecote as a Conservation Area. Members will know that these are well advanced and in the public domain. Without understanding the significance of this heritage asset and the potential impact on that significance, the County Council will not be able to undertake its Statutory Duty under the Conservation Areas and Listed Buildings Act 1990.

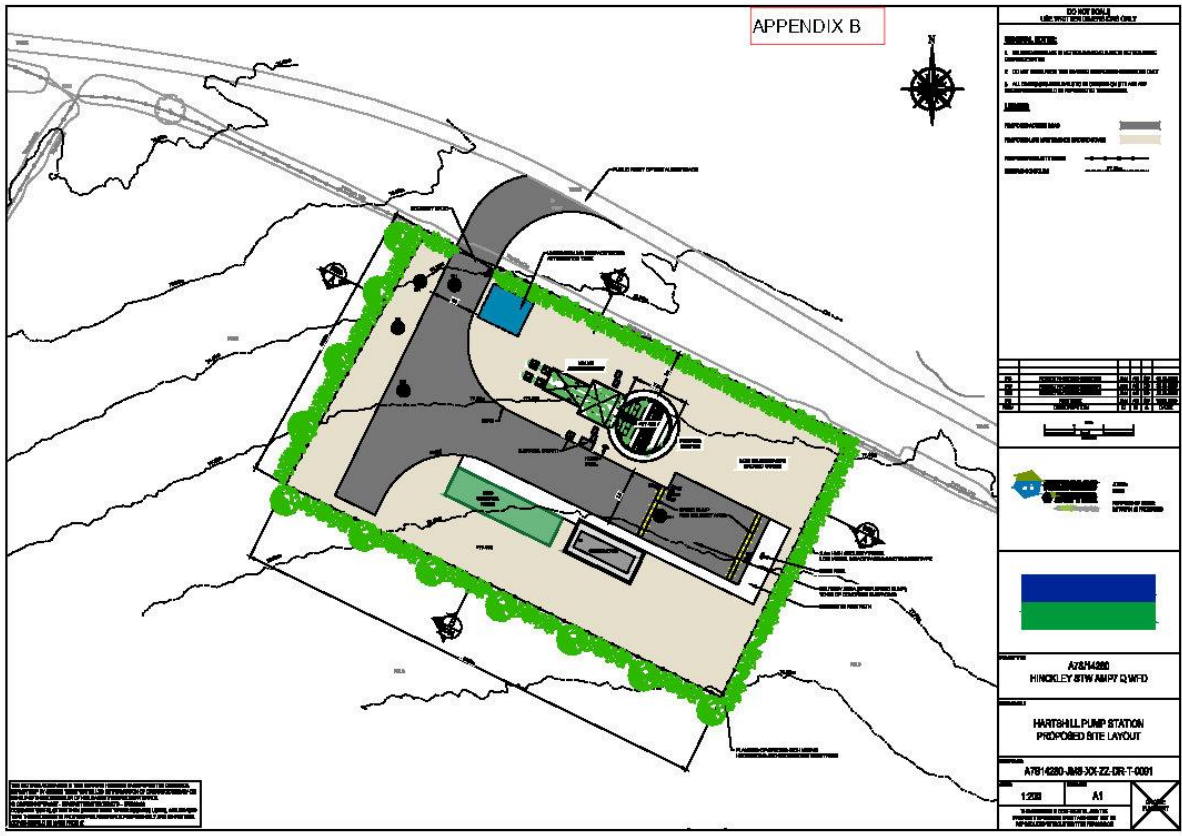
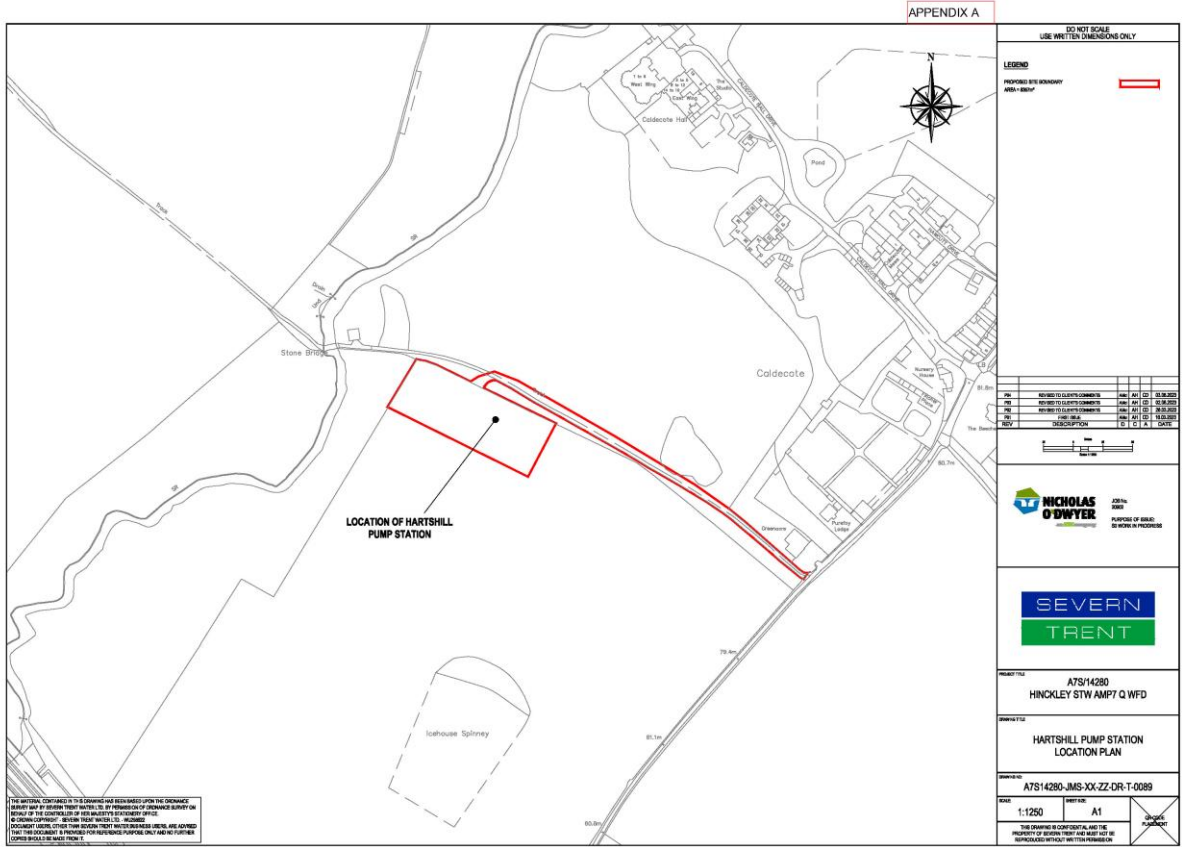
Secondly the landscape character here is very flat and open. There is no apparent Assessment made of the impact on the character and appearance of the local landscape. Moreover, there are extensive panoramic views over Caldecote from the higher ground to the south. Members will be aware that landscape impact is also associated with the heritage matter raised above given all of these very open and extensive views of open countryside.

Finally, there is no apparent technical appraisal undertaken to show that the noise and odour levels emitting from the site would be “negligible” as claimed in the submission.

It is also worth noting that there is no assessment undertaken on the potential for alternative sites. It is acknowledged that the new pipeline from Hinckley to Hartshill will be based on technical and engineering considerations, but there is no understanding from the submission as to the degree of flexibility that there might be in the location of this pumping station on that line and thus to the potential for alternative sites in less sensitive locations.

## **Recommendation**

That this Council objects to the proposal for the reasons outlined in this report.





## General Development Applications

(7/b) Application No: PAP/2023/0191

The Willows, Tamworth Road, Cliff, Kingsbury, B78 2DS

Change of use of land for a single pitch gypsy site, installation of septic tank and relocation of the access., for

Mr J Doherty

### 1. Introduction

- 1.1 Receipt of this application was referred to the July Board meeting. The report is attached at **Appendix A**. This current report will not repeat much of the content of that previous report, but it will draw on some of the matters raised. As a consequence, Members are asked to treat this as an integral part of this current report.
- 1.2 The Board resolved to visit the site. This took place on Saturday 5<sup>th</sup> August. A note of this, is attached at **Appendix B**.
- 1.3 There have been no changes to the Development Plan or to the material planning considerations set out in **Appendix A**.
- 1.4 Members should note that the application has indicated that he would be agreeable to a temporary planning permission for three years duration, if that would assist Members.
- 1.5 Members will be aware that the Gypsy and Traveller Development Plan Document (DPD) is within the Council's current LDS programme and that the LDF Sub-Committee has resolved to publish the initial Issues and Options Paper later this year.

### 2. Consultations

Warwickshire County Council as Highway Authority – No objection subject to standard conditions.

### 3. Representations

Kingsbury Parish Council objects for the following reasons:

- There is no change since the previous refusals – the site is in the Green Belt and a rural setting.
- It will lead to further pressure for more development.

There have been 25 letters of objection received from residents of both Cliff and Kingsbury. The matters raised refer to:

- Loss of Green Belt land – it is inappropriate and affects its openness.
- There will be pressure for more development if allowed.
- The access is unsafe onto a very fast road.
- There are no supporting services.
- Much of the development here is and has been retrospective.

#### **4. Observations**

##### **a) Introduction**

- 4.1 The site is in the Green Belt where inappropriate development is defined as being harmful by the NPPF. It continues by saying that inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of its inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations. This report will identify the potential Green Belt harm, any other harms caused, and the considerations put forward by the applicant in support of the proposal. It will then make an assessment of this planning balance to see whether those considerations clearly outweigh the cumulative harms caused.

##### **b) Green Belt**

- 4.2 As indicated in the report at **Appendix A** – para 7.5 – it is agreed that the applicant is a gypsy/traveller as defined by the PPTS. In these circumstances it is acknowledged that the proposed material change of use of the application site is inappropriate development in the Green Belt by virtue of para 16 of the PPTS. However, the NPPF at para 150 says that material changes in the use of land may not necessarily be inappropriate provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. So, whilst there is definitional harm caused to the Green Belt by virtue of the PPTS, it will be necessary to assess the proposal against the two conditions set out in the NPPF, in order to establish whether it remains as inappropriate development under the NPPF definition.
- 4.3 The first condition is that the proposal “preserves openness”.
- 4.4 The present application site, prior to the ownership and occupancy of the applicant was an open, flat agricultural field adjoining a similar one to the north. There are other such fields south of the site as well as on the other side of the road. Together these extend from the small hamlet of Cliff in the north towards the M42 cutting to the south. These fields are not separated by hedgerows or tree belts. The whole appearance of the setting is one of open countryside. It is neither spatially or visually contained by buildings, infrastructure or by topography. This is the base-line against which to assess any change in the openness of the area.

- 4.5 There is no definition of “openness” in the NPPF. In a planning sense it is usually seen as being the “absence” of development, but the National Planning Practice Guidance does offer four elements that would need to be assessed in coming to a conclusion of whether the proposal would “preserve openness”. The first is a spatial element. Here the appearance of the former space and its setting would be materially altered through the introduction of the proposed development – the engineered access, the new pitch layout and the bunding. Openness will be reduced as there will be containment of the site as a whole within the open setting as described in para 4.4. The existing space here and the setting will be materially altered. The second element is a visual one. It is acknowledged that the proposed pitch, being in the far west of the site, will not be visible from the public domain – the road, from Cliff or other residential property. This is because of the bunding and the substantial tree cover along the top of the River bluff immediately to the west. However, visually the overall site will change because of the new access, the introduction of the bunds and the new tree planting throughout the site. This would be a permanent change. Taken as a whole therefore there will be a material visual change. The third element is the activity associated with a proposal. Here there would be new activity - traffic coming and going, parked vehicles, family activity and all of the delivery and other visits made to a residential plot. The final element is that the proposal is not temporary in nature.
- 4.6 As a consequence of these four matters it is considered that by fact and by degree the openness of the area would not be preserved.
- 4.7 The second condition is whether the proposal conflicts with the five purposes of including land within it. It is considered that there would be conflict with one of these – namely safeguarding land from encroachment. New development would be introduced here in an open countryside setting.
- 4.8 It is thus concluded that neither of the two NPPF conditions is satisfied and thus the proposal is inappropriate development in the Green Belt.
- 4.9 As a consequence, the proposal is inappropriate development as defined by both the PPTS and the NPPF. This definitional harm carries substantial weight in the final planning balance.
- 4.10 However, it is necessary to establish the actual level of Green Belt harm caused as opposed to this definitional harm. In other words, are there matters on the ground that might lessen this degree of Green Belt harm.
- 4.11 It is considered that there are.
- 4.12 The first and most significant factor is the proposed tree planting over the majority of the site. Whilst tree planting does reduce openness, it is also relevant that the field here could be fully planted without the need for any planning application or reference to the Council. Members will have noted that there is new tree planting in the field immediately to the north of the site between it and Cliff. The openness of the setting is thus currently being altered as a consequence.



- 4.13 The second is that a new access could be provided here in any event, just to serve the field for agricultural purposes. That access would appear very much as that which has now been provided.
- 4.14 There has been a material change by fact and by degree since the previous appeal decisions. Not only is the “pitch” set back at the rear, but it also adjoins a site that has a lawful use for the storage of touring caravans. The changed characteristics on the ground should therefore be recognised in the assessment of what the degree of actual Green Belt harm is.
- 4.15 Given all of these matters, it is considered that the actual harm caused by this proposal is less than the substantial harm caused by definition. The actual harm caused is considered to be moderate in impact.

### **c) Other Harms**

- 4.16 It is considered that the proposal would not give rise to unacceptable impacts on ecological and heritage assets; to any drainage issue or give rise to unacceptable air quality or noise impacts, nor indeed to unacceptable highway impacts.
- 4.17 However the proposal does need to be assessed against two Local Plan policies that are relevant - namely LP14 and LP10.
- 4.18 Local Plan Policy LP14 requires development to “conserve, enhance and where appropriate restore landscape character”. The site lies in the “Tamworth – Urban Fringe Farmlands Landscape Character area as defined by the 2010 Landscape Character Assessment. This is characterised by “an indistinct and variable landscape with relatively flat open arable fields and pockets of roads, bordered by the settlement edges of Tamworth, Dordon and Kingsbury”, and “generally the indistinct topography and combination of peripheral elements limits the open views to within the area”. The management strategies for the area include, “maintaining a broad landscape character to both sides of the M42” and “conserving remaining pastoral character”. The landscape locally is one of an open rural setting. However, there are tree belts and smaller areas of woodland in the vicinity. As already inferred in the paragraphs above, the introduction of new tree planting is an important landscape benefit. Taking the overall development as a whole, it is considered that there would be a landscape benefit as it would add variety to an otherwise “indistinct” character, but it is acknowledged that it would not maintain a pastoral character. The degree of harm caused to the landscape character overall is considered to be limited.
- 4.19 Local Plan Policy LP10 deals with proposals for gypsy and traveller sites. The proposal does not accord with this policy as the site is in the Green Belt.

#### **d) The Harm Side of the Planning Balance**

- 4.20 On this side of the balance there is the substantial definitional harm to be given to the inappropriateness of the development in the Green Belt; the moderate actual Green Belt harm as well as the limited landscape harm caused.

#### **e) The Applicants Planning Considerations**

- 4.21 It is now necessary to assess the other side of the balance.
- 4.22 The applicant considers that because of the new location of the “pitch” here together with the proposed bunding and tree planting, that the impact on the openness of the Green Belt is “marginal” and that any impact on the landscape would be limited, not increasing a “sense of urban character”. He concludes that the site can be assimilated into its surroundings. As indicated above, these matters do carry weight. Whilst he considers that they carry limited weight, officers concluded above that they carry moderate weight.
- 4.23 The second consideration advanced relates to the need for Local Planning Authorities to establish the size of the accommodation needs for the gypsy and travelling community and to identify and maintain a five-year supply of specific deliverable sites in up-to-date Local Plans. He comments that the evidence base for the 2021 North Warwickshire Local Plan was prepared in 2019 and that the subsequent policy requirements in that Plan have now been met. Policy LP5 identifies a need for a minimum of 19 pitches between 2019 and 2033 – that is until the end of the Plan period. He says that this number has already been met through the grant of planning permissions, but that it is a minimum figure and the continuing number of applications being received shows an on-going need which the evidence base for the Local Plan had under-estimated. It is agreed that this consideration carries weight. The issue is what weight should be attributed to it. There is substance to the applicant’s assertion. The evidence base for the requirement set out in LP5 also looked beyond the end of the Plan period of 2033. It identified an on-going requirement beyond this date – a minimum of a further four pitches up to 2040 with a proportion of the undetermined need also having to be considered. In the most recent appeal decision – December 2021 – the Inspector concluded that “the need for gypsy and traveller sites in the Borough is not currently resolved”. At the time of writing that decision letter, the DPD had no timetable and thus the Inspector concluded that he “would have to favour the grant of permission if persuaded by the arguments of need”. Work on the DPD has now advanced and thus the weight to be given to the “need” consideration as expressed by that Inspector has lessened, because the Council is now actively looking at the matter of how that can be resolved. The applicant is arguing that it would be proportionate to allow a temporary consent here for three years, until the outcome of the DPD is known. Whilst the Board is advised that it should not prejudice the outcome of the DPD, the fact that there is a recognised need beyond the end of the plan period, that work on the DPD is now active and that there has been acknowledgement that a temporary permission could be acceptable to the applicant, does indicate that there has been a material change from the last case here. It is thus acknowledged that the applicant’s

consideration carries more weight than it did in that last case. It is considered that it carries moderate weight.

4.24 The third consideration is the “best interests” of children. Policy E of the PPTS says that “subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” The applicant has said that in this case there would be three children of school age on the site. The younger two were already established in the local school whilst they lived on the previous pitches here. The last Inspector found that they were “doing well and have established friendships. The eldest is considering attending college”. He concluded that the site would “provide a settled base from which the family could continue to access education and health care more readily. This would be advantageous to the well-being of the family and would be in the best interests of the children. These matters count in favour of the proposal”. Following vacation of the site, the family has been on the road for the last two years staying locally in Staffordshire, Birmingham and in Worcestershire. The children have not been in school, at all. It is said that this will have jeopardised their education and future. Additionally, all three children have specific health issues, two of which need to visit hospital regularly and to see consultants every month. Additionally, the applicant’s wife has medical issues. In all of these circumstances it is concluded that this consideration carries significant weight.

4.25 The applicant’s considerations on the other side of the final planning balance are thus the limited weight to be given to actual Green Belt harm; the moderate weight to be given to the provision of sites and the significant weight to be given to the best interests of the children.

#### **f) The Final Planning Balance**

4.26 The assessment of the final balance is set out in para 4.1 above. In short, are the considerations put forward by the applicant of sufficient weight to “clearly” outweigh the cumulative harms caused by the development. If they are, then they will amount to the very special circumstances necessary to support the proposal.

4.27 As indicated in **Appendix A**, this application should be determined afresh as there are material differences between it and the preceding cases on this site. That Appendix indicated that these differences could well alter the weights that are assigned to the relevant considerations on both sides of the final balance. That has indeed occurred as set out in the report above – the cumulative weight to be attributed to the “harm” side of the balance has lessened and the cumulative weight to be attributed to the applicant considerations has increased. The final assessment is thus much more balanced than the previous case.

4.28 The “nub” of this assessment is whether the considerations “clearly” outweigh the harms. It is considered that in this case the potential for a temporary consent and because work has actively started on the DPD, does outweigh the lesser harms caused. If the Board reaches a different conclusion, then Members are reminded that they will need to explicitly indicate where the different weights apply in their final planning balance.

## Recommendation

That planning permission is **GRANTED** subject to the following conditions:

1. The planning permission hereby granted shall be for a temporary period only, to expire three years from the date of this permission. At the end of this period, all of the equipment and materials brought onto the site for residential use, shall be wholly removed from the site. This includes all caravans and all structures and belongings associated with the residential use. Additionally, all hard standings and the materials used in the provision of the whole of the access track from the road to the site of the pitch shall be taken up and completely removed from the site. The land shall be returned to grass land.

### Reason

In order to recognise the very special circumstances of the case and thus to restrict the occupancy of the site to a temporary period.

2. If the residential occupation of this site ceases for a continuous period of three months within the three years set out in Condition One, all of the equipment and materials brought onto the site for residential use, shall be wholly removed from the site. This includes all caravans and all structures and belongings associated with the residential use. Additionally, all hard standings and the materials used in the provision of the whole of the access track from the road to the site of the pitch shall be taken up and completely removed from the site. The land shall be returned to grass land.

### Reason

In order to recognise the very special circumstances of the case and thus to restrict the occupancy of the site to a temporary period

3. Standard plan numbers condition – plan numbers SA47316/BRY/ST/PI/A/0001 and 0005A received on 3/5/23. Soakaway assessment and storm sewer design.
4. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on the grounds only of their own or their family's or dependant's educational or health needs or old age, have cease to travel temporarily or permanently, but excluding members of an organised group of travelling show people, or circus people travelling together as such.

### Reason

In order to recognise the very special circumstances of the case and thus to restrict the occupancy of the site.

5. There shall be no more than one pitch on the site and no more than two caravans (as defined by the Caravan Sites and Control of Development Act 1990 as amended by the Caravan Sites Act 1968 as amended), shall be stationed at any one time, of which only one caravan shall be a static caravan.

Reason

To reflect the circumstances of the case and to restrict residential development to that of the occupier so as to preserve the openness of the Green Belt.

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

Reason:

In the interests of highway safety and the amenities of neighbouring occupiers.

7. No development shall commence until a landscaping scheme for the whole of the site, is submitted to the Local Planning Authority for approval. The approved scheme shall be implemented within the next available planting season following the Authority's approval. Upon implementation of the approved planting scheme specified in this condition, that scheme shall thereafter be maintained and any tree, hedge or shrub that is removed uprooted or destroyed or dies within five years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, shall be replaced with another of the same species and size as that originally planted.

Reason

In the interests of the visual amenities of the area.

8. No external lighting shall be installed or provided within the site unless full details of its design, location and the specification of the illuminance have first been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be installed on site.

Reason

In the interests of the visual amenities of the area and to protect the residential amenity of neighbouring occupiers.

9. Within three months of the date of this permission, the existing access within the highway not included in the permitted means of access as defined on the approved plan, shall be closed and the footway/verge has been re-instated to the written satisfaction of the Local Planning Authority

Reason

In the interests of highway safety.

10. There shall be no occupation of the site for residential purposes until all of the following matters have been completed or provided on site to the written satisfaction of the Local Planning Authority. The provision shall be maintained for the duration of this permission.
- a) access to the site for vehicles from the public highway shall not be made other than at the positions identified on the approved drawing SA47316 - BRY-ST –PL- A -0005A;
  - b) the new access to the site has been surfaced with a bound material for a minimum distance of 12 metres as measured from the near edge of the public highway carriageway;
  - c) the new access has been provided with visibility splays either side with an “x” distance of 2.4 metres and a “y” distance of 160 metres as measured from the near edge of the public highway carriageway, and
  - d) a bin collection point has been provided for the storage of waste bins.

Reason

In the interests of highway safety

11. No gates or barriers or means of enclosure shall be erected across the approved vehicular access within 12 metres of the highway boundary and all such features should open inward away from the highway.

Reason

In the interests of highway safety.

12. The visibility splays provided under condition (10) above shall not be obstructed at any time.

Reason

In the interests of highway safety.

13. In the event that contamination, including ground gases, is found at any time whilst carrying out the approved development, all work shall cease, it must be reported in writing to the Local Planning Authority and an investigation and risk assessment shall then be undertaken and submitted in writing to the Authority. Where remediation is necessary, a scheme shall be prepared and submitted to the Authority. Works may then only commence following written approval by the Authority and only in accordance with the approved scheme.

Reason

In the interests of reducing the risk of pollution.

Notes:

1. Attention is drawn to Sections 149, 151, 163 and 184 of the Highways Act 1980, the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice. You are advised to contact Warwickshire County Council as Highway Authority in respect of the need for agreements under Section 184.
2. The Local Planning Authority has met the requirements of the NPPF in this case through the issue of a positive decision by assessing all of the relevant material planning considerations in the final planning balance.

## General Development Applications

(5/b) Application No: PAP/2023/0191

The Willows, Tamworth Road, Cliff, Kingsbury, B78 2DS

Change of use of land for a single pitch gypsy site, installation of septic tank and relocation of the access., for

Mr J Doherty

### 1.Introduction

1.1 This application will be referred to the Board for determination at the discretion of the Head of Development Control, because of the Board's interest in this site over the past few years.

1.2 The report is therefore solely to inform Members of the receipt of the application and to provide an initial outline of the proposal, prior to the preparation of a full determination report in due course.

### 2.The Site

2.1 This is a rectangular area of former grass land which is on the west side of the A51 about 600 metres north of the built-up area of Kingsbury just beyond the M42 overbridge and about 400 metres south of the hamlet of Cliff. The River Tame river bluff is further to the west with a mature tree belt and there are open fields to the east on the other side of the road. Immediately to the south is the residential curtilage known as The Lodge.

2.2 There is an existing caravan storage site extending from Cliff Lane along the western edge of the river bluff, which is to the north of the application site.

2.3 There are presently two access points onto the road. The first is just north of the boundary with The Lodge, but this is presently closed off. The second is just further to the north. There are newly formed bunds within the site together with new tree planting.

2.4 Kingsbury has a primary and secondary school, a leisure centre, library, church, public houses a surgery and a selection of shops. It also has frequent bus services running into Dosthill and Tamworth to the north. There is a pavement running along the A51 such that there is pedestrian access into Kingsbury and Dosthill.

2.5 A general location plan is at Appendix A.

### 3.The Proposals

3.1 This is as outlined in the description set out above.



3.2 The single pitch would be laid out on the far west side of the site behind the bunds that have been recently constructed on site. It would comprise a static caravan together with space for a touring van together with a small treatment works and drainage field. The remainder on the site is shown to be planted with native trees. The existing access next to The Lodge would be permanently closed and the application seeks retention of the newer access just to the north.

3.3 In this case, there are children of school age which would be on the site if permission is granted. These were established in the local school during the course of the two appeals referred to below but have not been so since the site was vacated, as the family has been on the road.

3.4 A plan illustrating the proposed layout is at Appendix B.

3.5 The applicant has provided a Planning Statement which sets out his case and this is copied at Appendix C.

#### **4. Background**

4.1 The current applicant has been involved in several cases at this site.

4.2 In November 2019 an appeal was dismissed for a proposal to develop five gypsy and traveller pitches spread throughout the site, together with equestrian use including a menage and stables – (the “2019 Appeal”). The appeal decision is at Appendix D and the associated plan is at Appendix E.

4.3 In February 2019, however, the applicant family had already moved onto part of the front of the site adjoining the A51 without the benefit of planning permission. This constituted one traveller’s pitch.

4.4 In the same month, the Council was granted an Injunction in the Courts to remove this unauthorised development, but this was appealed. On 6 March 2019, the Injunction was varied. It enabled the defendants to site two caravans on the land, to construct a day room and to fence the hardstanding around the land. However, this was a temporary arrangement and ceased following the refusal of the 2019 Appeal referred to in paragraph 4.2.

4.5 A second planning application was submitted in July 2019 for the retrospective change of use of the same site as that referred to in paragraph 4.3 and included the pitch recorded at paragraph 4.4. This was refused planning permission with a second appeal being lodged. This was dismissed in June 2020 – (the “2020 Appeal”). See Appendices F and G.

4.6 A third planning application was then submitted for the same frontage site. However, the layout differed from the case described in para 4.5. It too was refused planning permission with an appeal being lodged. That was dismissed in December 2021- (the “2021 Appeal”). See Appendices H and I.

4.7 The use of the frontage application site continued, notwithstanding the requirements of the 6 March 2019 Court Order. Moreover, engineering operations to create a new access had been undertaken.

4.8 The Council pursued contempt proceedings in the Court in September 2020. The Court ordered a similar temporary arrangement to that set out in paragraph 4.4. Following the dismissal of the appeal in paragraph 4.6, that arrangement ended. The applicant vacated the site in line with the Injunction's requirements and has not re-occupied the land since then. However, the works to the access as described in the 2020 appeal decision and at paragraph 4.7 have been implemented and these are now included in the current application. He has also constructed the bunds referred to in paragraph 2.3 above and these are those shown on Appendix B. The application seeks to retain these features.

4.9 The photograph at Appendix J shows the site that was in occupation from 2018 to 2020, as well as the extent of the caravan storage site to the north as referenced in paragraph 2.2.

### **5. Development Plan**

The North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP5 (Amount of Development), LP10 (Gypsy and Traveller Sites), LP14 (Landscape), LP16 (Natural Environment), LP29 (Development Considerations) and LP30 (Built Form)

### **6. Other Material Planning Considerations**

The National Planning Policy Framework 2021 – (the "NPPF")

Planning Policy for Traveller Sites 2015 - (the "PPTS")

The 2019 Appeal Decision - APP/R3705/W/19/3220135

The 2020 Appeal Decision – APP/R3705/W/19/3242521

The 2021 Appeal Decision – APP/R3705/W/20/3260829

The North Warwickshire Landscape Character Assessment 2010

The Public Sector Equality Duty

The North Warwickshire Local Development Scheme 2021

### **7. Observations**

7.1 Notwithstanding the planning history outlined in Section 4 above, the Board is advised that it should treat this application afresh on its own merits. The past appeal decisions are material planning considerations of significant weight, but that does not necessarily lead to a further refusal of planning permission. The current application is different in several ways to those past decisions and thus the weights to be attached to all of the relevant planning matters in the final planning balance will be different too.

7.2 The two substantial changes are:

- The proposal is for a single pitch at the rear of the wider site. This therefore differs from all of the three appeal cases.
- The remainder of the site is proposed to be planted with trees and there are already a number of earth bunds throughout the site

7.3 Other changes are:

- A smaller amount of tarmacadam is included – only the 15 metres associated with the access. The remainder of the track to the pitch would be constructed in a porous paving system as outlined in Appendix C (paragraph 5.15)
- there is less fencing involved.

7.4 There are however several matters that can be taken forward from the past decisions.

7.5 Firstly, the Council and three Planning Inspectors have all acknowledged that the applicant family would fall within the PPTS definition of being gypsy and travellers.

7.6 Secondly, the three refusal reasons that led to the three appeal decisions and the conclusions of the Inspectors in those cases, did not find that there would be harm caused to heritage assets, to adverse ecological impacts, to adverse surface and foul water disposal arrangements or to harm arising from noise or air quality and that there would be no impact on neighbouring residential amenity. These will have to be re-assessed given the different arrangements now being proposed, but these conclusions provide a material starting point for that review.

7.7 Thirdly, the Highway Authority did not object to the current access proposals from a highway point of view subject to conditions, when they were being considered in the appeal cases. The Board will have the up-to-date consultation response when it considers the determination report in due course.

7.8 Finally, the site is in the Green Belt and in the appeal cases, it was acknowledged that the proposal was for inappropriate development as defined by the NPPF. As Members are aware, in such a case the Board has to consider whether the planning considerations put forward by the applicant are of such weight to clearly outweigh the cumulative level of Green Belt and any other harms, so as to amount to the very special circumstances which would enable support for the proposal. As previously advised, the current proposal is different to these previous cases and thus the planning balance referred to above has to be considered afresh. As a consequence, the previous three refusals do not mean that the current case also should be refused planning permission.

7.9 A determination report will be prepared for the Board in due course. The recommendation below is thus to note receipt of the application and to recommend a site visit. This is because the current proposal is different to all three of the previous cases and it thus will have different visual and spatial impacts which are best considered on site.

5b/15

7b/19

**Recommendation**

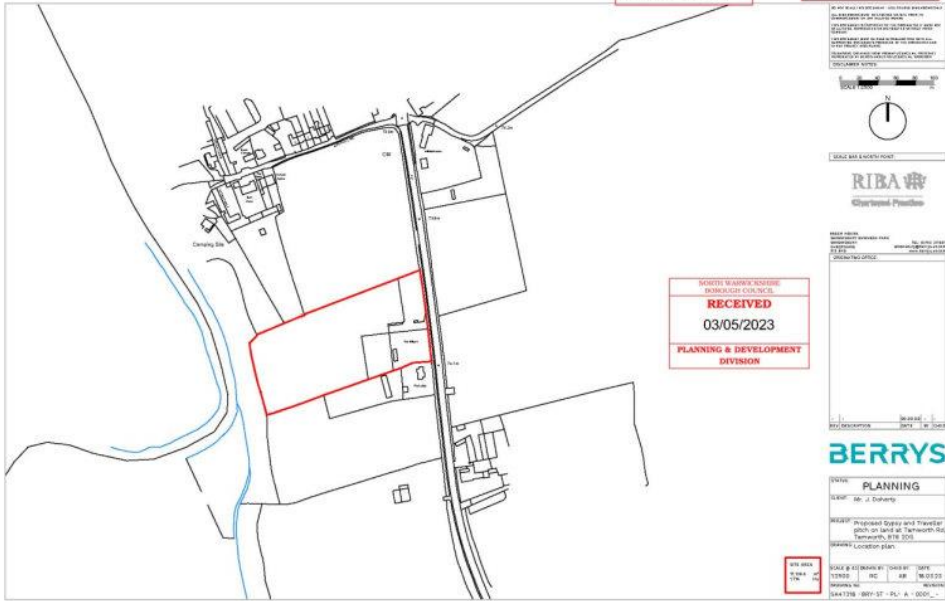
That the receipt of the application be noted and that a site visit be arranged prior to determination of the case.

5b/16

7b/20

APPENDIX A

PAP/2023/0191



APPENDIX B

PAP/2023/0191



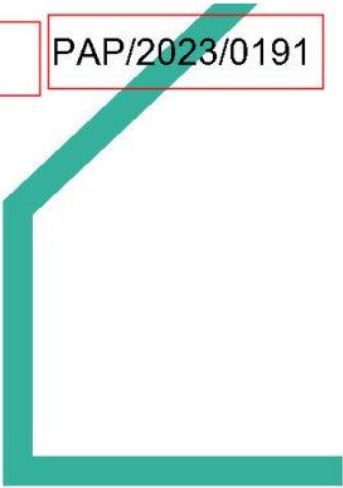
5b/17

7b/21

NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
**RECEIVED**  
03/05/2023  
PLANNING & DEVELOPMENT  
DIVISION

APPENDIX C

PAP/2023/0191



# Planning Application Supporting Statement

The change of use of land for a single pitch gypsy site, installation of septic tank and relocation of the access.

The Willows, Tamworth Road, Cliff, B78 2DS.

March 2023



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Head of Planning

**PROJECT**

The change of use of land for a single pitch gypsy site, installation of septic tank and relocation of the access at The Willows, Tamworth Road, Cliff, B78 2DS.

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## 1. Introduction

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### Purpose of this Statement

- 1.1 This document provides supporting information in respect of a planning application that seeks consent for the change of use of land for a single pitch gypsy site, installation of septic tank and relocation of the access at The Willows, Tamworth Road, Cliff, B78 2DS.
- 1.2 The information contained in this document is supplementary to that provided on the completed planning application forms and is to be regarded as forming part of the application. The information contained in this statement is intended to assist the Planning Authority in determination of the proposals.
- 1.3 This statement should be read in conjunction with the other documents which have been submitted as part of this full planning application submission. These include:
  - Application Forms
  - Site Location Plan
  - Existing site plan
  - Proposed site plan
  - Ecological Impact Assessment
  - Soakaway assessment

### Background to the Development

- 1.4 The site comprises a rectangular area of formerly grassed land which lies in an area of countryside in the hamlet of Cliff and to the east of the River Tame. The site fronts the A51 Tamworth Road which passes over the M42 to the south of the site. The site and the surrounding area form part of the West Midlands Green Belt.
- 1.5 There are currently two accesses to the site, the one in the centre is to be retrospectively permitted as part of this application and the other blocked off. An access route has now been created with bunding through the site with a considerable amount of landscaping already erected with native tree species on the top of the bunding. The full extent of the land apart from the very section proposed to be used for the gypsy pitch will be woodland and a wild flower meadow. This will form a tranquil and well screened area for the family to live.

- 1.6 There has been some history to this site and this application seeks to put all of this behind it and move on with a much more sympathetic and effective scheme than the ones that have been before.
- 1.7 In February 2019 an injunction was granted by the High Court to remove the unauthorised development this was varied in March 2019 to enable the defendants to site one mobile home and two caravans on the land pending an appeal decision. This appeal was dismissed and subsequently the applicant moved off the land. For the last two years the land has sat unused and the applicant now wants to move ahead with doing things lawfully and wishes to work with the Local Planning Authority to enable him and his family to have a place to live, rather than living on the road.
- 1.8 There have been two appeal dismissals on this land one made in November 2019 under ref. APP/R3705/W/19/3220135 (Known from here on as '2019 appeal') and the other decided on 1<sup>st</sup> June 2020 under ref. APP/R3705/W/19/3242521 (Known from here on as '2020 appeal').
- 1.9 The 2019 appeal involved a proposal to develop a gypsy site comprising 5 pitches with dayrooms, together with equestrian use, a ménage and stables. This is considerably more than what is proposed in this application.
- 1.10 The 2020 appeal was for the use of land to equestrian use and use as a single pitch gypsy site with day room, installation of septic tank and relocation of the access. It is important to note that the 2020 appeal had the pitch right at the front of the site in clear view from Tamworth Road and included a large portion of hardstanding, two touring caravans and a day room. This is more than what is proposed in this application and in an entirely different place on the site.
- 1.11 Through the above schemes a number of points have already been agreed with the site and it does not seem worth while to repeat information or dispute points again, as such certain information will not be resubmitted but has already been accepted and resolved in the previous appeals such as highways etc.

## 2. Site and Proposed Development

### The Application Site

- 2.1 The site is located on Tamworth road, the proposed location of the pitch is at the western edge which will somewhat join onto the existing caravan site as seen in figure 1 and the accompanying proposed site plan.



**Figure 1:** Extract of Google Aerial Imagery with site location identified by red pin

- 2.2 To the west of the application site lies the River Tame and a mature tree belt measuring a minimum of 25m, which forms the western boundary of the site.
- 2.3 The A51 lies to the east leading to Kingsbury 600m to the south and Dosthill just over one mile to the south. Kingsbury School is a mile away from the application site, along with the leisure centre. Library, church, public houses and Peel Surgery is 1.7 miles. The town has more than adequate services and facilities in close proximity to the site. There is also a Co-op towards Dosthill 0.7 miles from the application site.

Address/Client: John Doherty  
Berrys Reference: SA47316

- 2.4 There is a footpath which runs all the way to both Kingsbury and Dosthill, this means that the applicant will not be completely reliant on a car in line with the movement towards sustainable development.

### 3. Common Ground established by previous appeals

---

- 4.1 There are numerous points that have been agreed between the applicant and the Local Planning Authority and I endeavour to set these out in this section.
- 4.2 The first point is in relation to the applicant's status as a Gypsy & Traveller. This has been discussed and accepted in both appeals and nothing has changed since then. Therefore the applicant's status would fall within the 2015 Planning Policy for Traveller Sites 2015 definition of Gypsy and Travellers.
- 4.3 In the 2019 appeal it was agreed that there would be no material harm in terms of harm to heritage assets, surface water drainage and foul water disposal, ecological impact air quality and noise impacts as well impacts on residential amenity. Although this application moves the pitch, there are still no heritage assets to be impacted in the near vicinity, the surface water drainage and foul water disposal stay using the same mechanisms. The ecological impacts were assessed back then and nothing has changed since then except a significant amount of planting has been done and will be done to have a large Biodiversity Net Gain. The pitch being further away from the road will only aid the air quality and noise impacts of the pitch and this is still not seen to be a concern. The position of the pitch further from the Lodge house will aid the residential amenity of the neighbour and the residents of the pitch.
- 4.4 It was agreed that the original Highway concern was satisfied by the amended plans in the 2019 appeal. The site plan accompanying this application has taken account of this and proposes to grub out existing hedge line and will replant a mixed native hedge on a line 2 metre inside the visibility splay. The rest could be dealt with by way of condition: There shall be no occupation of any of the pitch hereby approved until the whole of the access arrangements shown on the approved plan have been fully completed to the written satisfaction of the local planning Authority.
- 4.5 The Protected Species Appraisal concluded that:
- No features suitable to support roosting bats were noted within the site. As such, bats are not considered to pose a constraint to development of the site and no further survey for bats is required.
  - There was no evidence of the presence of badgers found within the site and its surroundings. Badgers are therefore not considered to pose a constraint to the proposed works and no further survey for badgers is required.

- There is suitable habitat within the site for nesting birds. As such, site work should avoid disturbing nesting birds where possible, and any vegetation clearance should take place outside the breeding season for birds. Where this is not possible, an experienced ecologist should survey the areas to be removed prior to work, and if nesting birds are found to be present, work should cease until the young have fledged and the nest is no longer in use.
  - There are not considered to be any potential impacts from the proposed works on any other protected or notable species and habitats.
- 4.6 Soakaway tests were carried out in line with BRE365 on 01/07/18. Ground water was encroached at 1.4m in test hole B. Tests carried out proved the existing ground to be of a porous nature. When designing soakaways, ground water has to be a minimum of 1m from the base of the soakaways, therefore soakaways are not recommended for this site. It is not considered that anything has changed since then, therefore, soakaways are still not suitable.



## 4. Planning Policy Context

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### National Planning Policy

- 4.1 Paragraph 2 of the National Planning Policy Framework (NPPF), July 2021, identifies that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise and that the NPPF “is a material consideration in planning decisions”.
- 4.2 At the heart of the NPPF is a presumption in favour of sustainable development, which for decision-taking (paragraph 11) means:
- Approving development proposals that accord with an up-to-date development plan without delay; or
  - 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 the 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 the Framework taken as a whole.
- 4.3 Paragraph 8 of the NPPF states that in achieving sustainable development the planning system has three overarching objectives, as detailed below:
- An Economic Objective
- To help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- A Social Objective
- To support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect

current and future needs and support communities' health, social & cultural well-being; and

- An Environmental Objective

To contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

#### 4.4 Planning Policy for Traveller sites

#### 4.5 Paragraph 12 of the NPPF states:

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

#### 4.6 Paragraph 92 of the NPPF states:

Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and



- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.
- 4.7 Paragraph 93 of the NPPF states: To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
  - b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
  - c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
  - d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
  - e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.
- 4.8 Paragraph 105 states the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.
- 4.9 Paragraph 130 of the NPPF: Planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- 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.
- 4.10 Paragraph 131 of the NPPF states: Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.
- 4.11 Paragraph 138 of the NPPF states the five purposes that Green Belt serves these are:
- a) to check the unrestricted sprawl of large built-up areas;
  - b) to prevent neighbouring towns merging into one another;
  - c) to assist in safeguarding the countryside from encroachment;
  - d) to preserve the setting and special character of historic towns; and
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 4.12 Paragraph 149 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.13 Paragraph 149 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. '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.

- 4.14 Paragraph 150 of the NPPF sets out certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:
- a) mineral extraction;
  - b) engineering operations;
  - c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
  - d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
  - e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
  - f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

#### Local Planning Policy

- 4.15 The starting point for consideration of this application is Section 38 (6) of the Planning and Compulsory Purchase Act 2004, insofar as the determination must be in accordance with the Development Plan, unless material considerations indicate otherwise. In this instance the current adopted Local Plan for North Warwickshire comprises the following:
- 4.16 **North Warwickshire Local Plan** – The plan prepared by North Warwickshire Borough Council is designed to set out a spatial portrait for the Borough, including its main settlements and strategic infrastructure, as a framework for accommodating future planning growth; and provide planning policies to deliver the growth whilst respecting the rural nature of the Borough. The Local Plan underwent independent examination and the Final Report issued on 16<sup>th</sup> July 2021 and was formally adopted in September 2021. The formal adoption of the Local Plan by North Warwickshire Borough Council has the effect of replacing the Core Strategy (Adopted October 2014) and the saved policies from the 2006 North Warwickshire Local Plan.
- 4.17 A number of policies contained within the Local Plan have been identified as specifically relevant to the proposals to which this statement relates, namely:
- 4.18 **LP2: Settlement Hierarchy** - This policy outlines key settlements in the borough, this lists Kingsbury as a Local Service Centre.
- 4.19 **LP3: Green Belt** – This policy sets out the parameters where development is allowed in the Green Belt and the ways that it is controlled.

- 4.20 **LP5: Amount of Development** – This sets out that there has been an identified need for 19 residential permanent pitches from 2019 to 2033. This apparently takes into account a 12 pitch transit that has already permitted, this is incorrect as a transit site is by no means a permanent pitch and simply cannot be included in this supply.
- 4.21 **LP10: Gypsy & Traveller Sites** – This policy is for new gypsy and traveller sites, subject to compliance with 6no. criteria.

## 5. Planning Assessment

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- 5.1 The key planning considerations in respect of this development are as follows:
- Policy Context and principle of development
  - Whether it is 'inappropriate development' in the Green Belt and effect on its openness
  - Effect on Landscape
  - Need for and supply of gypsy & traveller sites
  - Other considerations

### **Policy Context and principle of development**

- 5.2 The most recent Gypsy and Travellers Accommodation Assessment (GTAA), the Report on the Examination of the North Warwickshire Local Plan and the subsequently adopted version of the Local Plan all post-date the 2019 and 2020 decision and so create a different planning context to that before the previous Inspectors in the appeals and the previous planning officers in the refusals.
- 5.3 Local Plan Policy LP10, which concerns Gypsy and Traveller provision, states sites will be permissible outside of the Green Belt. It does not expressly say that such uses would not be permitted in the Green Belt. It simply states that site suitability will be assessed against relevant policies in this Local Plan and other relevant guidance and policy. It will also be assessed against 5 criterion, these are:
1. The size of the site and number of pitches is appropriate in scale and size to the nearest settlement in the settlement hierarchy and its range of services and infrastructure;
  2. The site is suitably located within a safe, reasonable walking distance of a settlement boundary or public transport service, and access to a range of services including school and health services;



3. Avoiding sites vulnerable to flooding or affected by any other environmental hazards that may affect the residents' health and welfare;
  4. The site has access to essential utilities including water supply, sewerage, drainage and waste disposal;
  5. The site can be assimilated into the surroundings and landscape without any significant adverse effect.
- 5.4 The proposal site complies with each of these criteria. The size and number of pitches is just one, this is appropriate to the hamlet of Cliff which the site is located in.
- 5.5 The proposal site is located close to both Kingsbury and Dosthill and there is a suitable pavement which would allow the applicants to walk to both.
- 5.6 The proposal site is not vulnerable to flooding or affected by any other environmental hazards.
- 5.7 The proposal includes a package treatment plant and there is already water supply on the site.
- 5.8 The proposed pitch is at the back of the site where there will be no public views and will be adjacent to many other caravans making it assimilated to its surroundings and landscape without causing significant adverse effect.

**Whether it is 'inappropriate development' in the Green Belt and effect on its openness**

- 5.9 The National Planning Policy Framework (the Framework) is clear that the government attaches great importance to Green Belts and that their essential characteristics are their openness and permanence.
- 5.10 Paragraph 150 of the Framework establishes that certain forms of development are not inappropriate within the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include material changes in the use of land (criterion e).
- 5.11 Policy LP3 specifically protects Green Belt land and sets out that there is a general presumption against development that is inappropriate except in very special circumstances.
- 5.12 Openness is an essential characteristic of the Green Belt. It has a visual dimension as well as a spatial aspect.

- 5.13 This proposal is very different to the previous two appeals on this site, in respect both the visual and spatial aspect. The first appeal consisted of five static caravans, five amenity blocks and five touring caravans, with the pitches somewhat set back from the road. The second appeal consisted of hardstanding, static caravan, amenity block and touring caravan but in a clearly visible part of the site, adjacent to Tamworth Road and away from development making it somewhat out of character.
- 5.14 This new proposal will introduce the new access which is simply a like for like of what is existing, and as such would not result in any change in terms of visual or spatial aspects.
- 5.15 The new proposal will have only the bare minimum amount of tarmacadam just 15 metres into the site, the remainder of the access will be done in an EcoGrid porous paving system which will enable the site to remain green throughout and therefore, ensuring minimal visual change. The image below in figure 2 represents this.



*Figure 2: EcoGrid porous paving*

- 5.16 There is minimal fencing proposed, instead there is a level of bunding which runs through the site which has a significant level of planting already done to ensure there will be no views of the proposed pitch. This planting has been done under permitted development, as planting trees does not need planning permission. There is some bunding through the site which can be lowered or heightened to satisfy what the Local Planning Authority consider to be suitable. This can be controlled via a condition or during the application process with a suitable label on the proposed site plan.

- 5.17 The actual pitch will be surrounded by a wild flower meadow and more new native species tree planting. The pitch will have minimal hard standing, just where the static caravan is positioned. The level of hardstanding is what would be permitted under permitted development and both the static caravan and touring caravan will remain moveable making the proposal to be temporary in nature.
- 5.18 Neither the static caravan or touring caravan would be seen from Tamworth Road and this would mean the visual aspect of Green Belt would be entirely satisfied and would not constitute inappropriate development. In terms of its spatial aspect the proposal would see just a touring caravan and a static caravan introduced to the field, both of which are entirely temporary in nature.
- 5.19 In addition to this the pitch is located directly adjacent to an existing caravan site making the difference here negligible and will be in keeping with the character of the area in this respect.
- 5.20 For the reasons seen above the proposal would accord with paragraph 150 (limb e) of the NPPF and would fit within part a) of LP3 of the Local Plan and as such should not be considered as inappropriate development.
- 5.21 Notwithstanding the substantive argument above, if the proposal is to be considered inappropriate development then on the scale of planning balance it should be seen that it is only marginally inappropriate and as such only limited very special circumstances would have to exist for the balance to be tipped in favour of this development.
- 5.22 Further to the above paragraph and subsequent the two appeal dismissals on this site there have been a number of gypsy pitches allowed in Green Belt locations. The appeal allowed on 17<sup>th</sup> October 2022 at Land rear of Ardens Rise, House Lane, St Albans, Herts., AL4 9HE (ref. APP/B1930/W/20/3259165) was for 5 static caravans and 5 touring caravans and although found to be inappropriate development this was deemed to not be enough to dismiss the appeal.
- 5.23 The Inspector took the view that Given the scale and appearance of these aspects of the use I find that the proposal would result in a moderate adverse effect on the openness of the Green Belt in spatial terms and contribute to urban sprawl but in a localised and limited way. By positioning the pitch at the back of our proposed site this would definitely be considered in the same way and due to this only being for a single touring caravan and static caravan it would appear that it would be very much looked upon favourably in this position.



### Effect on Landscape

- 5.24 The proposed site is within the 'Tamworth – Urban Fringe Farmlands' area as identified in the North Warwickshire Landscape Character Assessment 2010 and forms part of a flat agricultural landscape. The site is located adjacent to The Lodge and the caravan park. There are also other examples of scattered development nearby and number of properties on Cliff Hall Lane. There are a number of intermittently located woodlands along Tamworth Road and this is what this site will look like in time.
- 5.25 There is an access just 280 metres along Tamworth Road which is what is envisaged for the future of this site, where it is visually natural in character and there would be no evidence of the pitch itself.



- 5.26 The pitch itself would not be increasing any sense of urban character due to its location adjacent to the existing caravan site. For these reasons the proposal could be readily assimilated into its surroundings without any significant adverse effect.

### Need for and supply of gypsy & traveller sites

- 5.27 Local planning authorities are required to use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions (Policy A). In producing their local plans, local planning authorities should, inter alia, set pitch targets; identify and maintain a rolling 5-year supply of specific deliverable sites; and relate the number of

pitches to the circumstances of the specific size and location of the site and the surrounding population's size and density.

- 5.28 There is one public gypsy site in North Warwickshire: Alvecote Caravan Park contains 17 residential pitches. There are also 9 private gypsy sites: Fir Tree Paddock, Quarry Lane, Mancetter – 1 pitch; adjacent to Fir Tree Paddock – 2 pitches; the original site adjacent to Kirby Glebe Farm – 7 caravans (maximum of 7 pitches); 6 further sites approved adjacent to Kirby Glebe Farm containing a total of 17 pitches; and two pitches approved at Wishing Well Farm.
- 5.29 Bearing in mind that lawful and unauthorised sites at Kirby Glebe Farm, accommodating up to 35 pitches, have been occupied by families which have moved from outside of the District, it is clear that, in fact, net in-migration has occurred that has not been accounted for by the GTAA. This is currently zero in the GTAA and needs to be provided for.
- 5.30 The 2013 GTAA could not have anticipated this situation but, clearly underestimated existing and future needs. The fact that site provision had already outstripped the need identified for the period to 2028 indicates that, based on a combination of factors including the waiting list for the public site and need arising from households living in “bricks and mortar”; the 13 families currently occupying unauthorised pitches on the appeal site and at Kirby Glebe Farm; and, future household growth of at least 2% (claimed to be 1.5% in the GTAA) per year expected to occur over the next 12-13 years, indicates that there is a continuing unmet need for sites in North Warwickshire and, considerable weight should be attributed to this need.
- 5.31 The new Gypsy and Traveller Accommodation Assessment (November 2019) (GTAA) identifies a need for within the borough for 28 permanent gypsy pitches. This pitch would be a very good addition to meet this need.
- 5.32 In the Local Plan there is a commitment to bringing forward a Gypsy & Traveller Development Plan Document (DPD) that will include allocations informed by the GTAA and any subsequent review. On this basis, it is reasonable to assume that the need for gypsy and traveller sites in the Borough is not currently resolved. This scheme if granted permanently, would make a contribution to addressing such a need.
- 5.33 No specific timetable for the DPD has been given, but rather it is to be forthcoming ‘as soon as practicable’. It has already been over 2 years since this was said and it is still no further on. The vagueness of this timescale creates an uncertainty as to whether it will be in the near future, so a temporary consent on this site would not be preferable. However, if the

officers assessing this proposal believe that they will be able to deliver suitable sites within 3 years then it would seem very reasonable for a 3 year temporary permission to be permitted on this site, until a more suitable one could be delivered (should this proposal not be considered suitable for a permanent site).

#### Other Considerations


- 5.34 PPTS (Policy E) is clear that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and any other harm so as to establish very special circumstances. Clearly that does not mean that there are no circumstances in which a Green Belt site can be permitted, but the bar has been raised to a considerable height.
- 5.35 In *Sedgemoor DC v. Hughes* [2012] EWHC 1997 (QB) HHJ Thornton QC made the following observations about the best interests of children:
- 28. There is now a statutory duty on any public authority, which would include both a judge of this court and a planning inspector, to give consideration to the best interests of children and there is some evidence from the adult defendants that the best interests of these children would be put at risk if these was any forced removal from this site in the near future. The considerations that must be considered by any public authority include their education, their safety, their welfare and the appropriateness of the accommodation in which they are living.*
- 29. The defendants' evidence is...that there is no other place available to them...where they will be able to pitch their caravans and continue their life as travellers. Furthermore, whereas at present those...who are of school age are making reasonable progress in schools and the educational difficulties that have historically confronted travellers' children are well known, that progress will be hindered if not wholly disrupted since there will be no obvious schooling available to them, certainly in the immediate aftermath of their leaving this site.*
- 5.36 In this case there are children of school age which will be on the site. These children were established in the local school and were making good progress, since being on the road for the last 2 years they have not been in school at all and this will have significantly jeopardised their education and future, providing this pitch could help them before it is too late to get an education.
- 5.37 It is common ground that the best interests of the child are a primary consideration, and that no other consideration can be of greater weight. This

is a substantial factor in favour of the proposal. The needs of the children attract substantial weight.

5.38 The specific personal circumstances of the children and the applicants can be seen below in Section 6.

## 6. Personal Circumstances

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- 6.1 Since the applicant was evicted from this site, him and his family have been staying on roadside camps and some friends driveways.
- 6.2 This proposed site will occupy 4 children, the applicant and his wife.
- 6.3 
- 6.4 All of the above is supported by the appendices showing medication etc.

## 7. Planning and Green Belt Balance

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- 7.1 At the start of the planning balance must be the Public Sector Equality Duty and there must be no other issue above the best interests of the children in this case.
- 7.2 The proposal for a single pitch gypsy site located in the corner next to existing development would not have a material impact on the visual aspect of the Green Belt and the spatial aspect would be negligible due to the very limited amount of development and the temporary nature of the static caravan and touring caravan.
- 7.3 For the above reason even if the proposal is to constitute inappropriate development in the Green Belt it would not have an adverse effect on the openness of the Green Belt and should a temporary be granted, the land can be very easily returned to its former condition. A substantial weight would have to be given to any harm to the Green Belt, however, this would be limited by the temporary nature of this proposal.
- 7.4 The Planning Practice Guidance makes clear that the test for temporary permissions is whether it is expected planning circumstances will change in a particular way at the end of a given period (see Paragraph: 014 Reference ID: 21a-014-20140306). It has nothing to do with the merits of the application or whether permanent consent is likely to be granted once the DPD is adopted. Having spoken to a planning officer at North Warwickshire it is understood that a call for sites is coming up and by the time this goes through and sites are allocated this would likely be 3 years later before they get consent as well and this would correlate well with this consent running its course. If this was to be granted as a temporary permission it would enable the applicant and his family for a safe, secure place to live for 3 years until a site is available in the area.



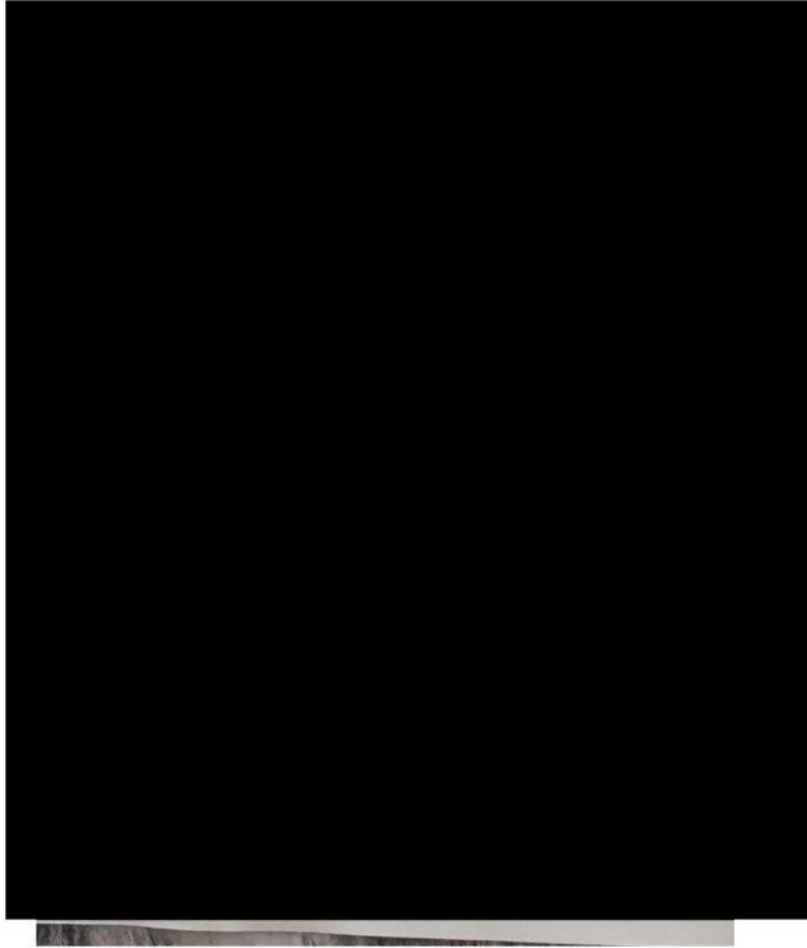
## 8. Conclusion

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- 8.1 The National Planning Policy Framework (NPPF) sets out a clear a presumption in favour of sustainable development which this proposal reflects due to its enhancement to the environment, benefits to the local economy and social interaction with the local community. The proposal enables the family to live on the site which is within a sustainable location to contribute to the Councils strategic approach to providing additional pitches which are required by the GTAA.
- 8.2 There is little to no harm to the openness of the Green Belt and the benefits by far outweigh the harm to openness. There is substantial screening and there is be no visual impact caused by the pitch. The family have now been without an authorised home for over 6 years which is a clear demonstration of their difficulties and definitely justifies very special circumstances.
- 8.3 There have been many cases where Gypsy & Traveller sites are concluded to constitute very special circumstances and outweigh the harm to Green Belt, this is definitely the case here.
- 8.4 The proposal complies with the development in its entirety and for this reason and the above reasons the application should be approved without delay.

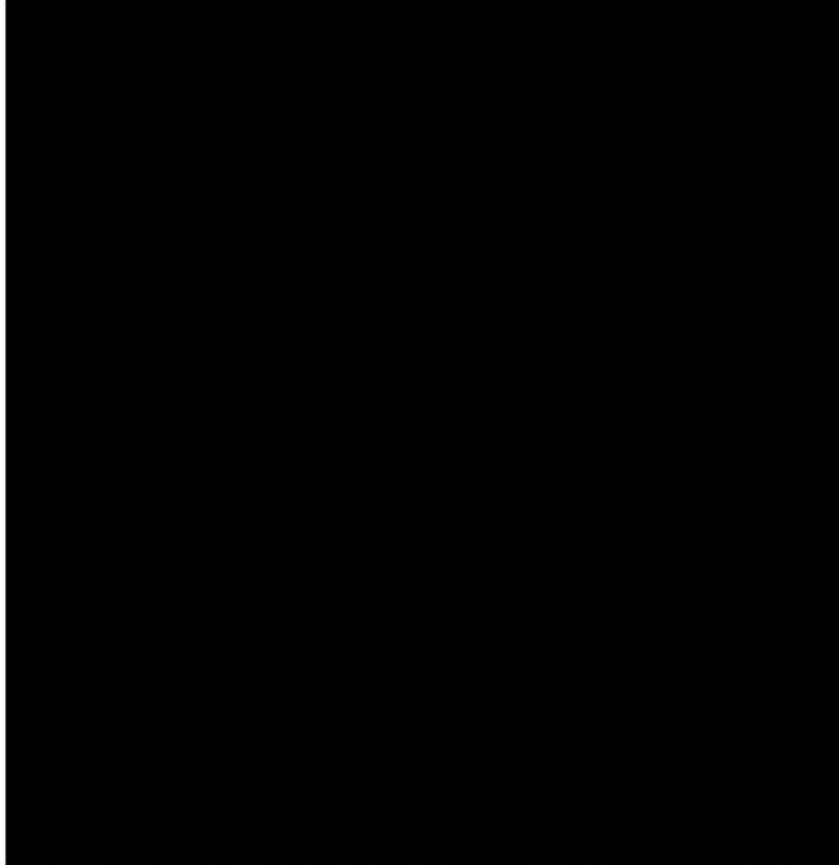
## 9. Appendices

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Address/Client: John Doherty  
Berry's Reference: SA47316



5b/45

7b/49

Address/Client: John Doherty  
Berry's Reference: SA47316



5b/46

7b/50



## Appeal Decision

Hearing Held on 12 November 2019  
Site visit made on 12 November 2019

**by Elaine Worthington BA (Hons) MTP MUED MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> November 2019

**Appeal Ref: APP/R3705/W/19/3220135**  
**Land adjacent to The Lodge, Tamworth Road, Cliff, B78 2DS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs T Doherty against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2018/0435, dated 11 July 2018, was refused by notice dated 12 December 2018.
- The development proposed is the change of use of land to equestrian use and use as a gypsy site comprising of 5 pitches with dayrooms including the relocation of access, a stables block, ménage and installation of treatment plant.

### Decision

1. The appeal is dismissed.

### Background

2. The appeal site is open grassed land with a road frontage to Tamworth Road and is within the Green Belt. It adjoins the adjacent dwelling and stables at The Lodge to the south. The river Tame and a mature tree belt lie to the west. A caravan park and associated caravan storage area adjoins the rear part of the site to the north and there are open fields on the other side of Tamworth Road to the east with the M42 beyond.
3. The Council accepts that the appellant and her husband meet the definition of gypsies and travellers set out in the Glossary to the Planning Policy for Traveller sites (PPTS) and it was confirmed at the hearing that they are Irish Travellers. I see no reason to come to a different view on this matter.
4. The south east corner of the appeal site has been occupied by the appellant and her family since February 2019 and a static caravan and two touring caravans are sited there. This unauthorised occupation of part the site is the subject of an injunction. A planning application<sup>1</sup> for the change of use to equestrian land and use of the site as a single gypsy pitch was refused on the 4 November 2019. Whilst the red line boundary for that application is the same as that for the appeal proposal, the single pitch proposed in that case only covers that part of the site currently occupied by the appellant (and shown on the appeal plans as a paddock). This being so, the parties are agreed that what is on site is a separate development that does not form part of the scheme before me.

<sup>1</sup> Reference PAP/2019/0427

5. The Council's decision notice includes two reasons for refusal, the second of which relates to highway safety in relation to the proposed access. However, the appellant has provided a Road Safety Stage One Report and amended plans which the Highway Authority confirms address its previous objections. On this basis, despite the continued concerns of local residents, the Council confirmed at the hearing that it did not wish to defend this reason for refusal.
6. This background has led to my identification of the main issues below.

**Main Issues**

7. The main issues in this case are:
  - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) (including its effect on openness and the purposes of the Green Belt); and
  - The effect of the proposal on the character and appearance of the surrounding area; and
  - If it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

**Reasons**

*Whether inappropriate development?*

8. The National Planning Policy Framework (the Framework) is clear that the government attaches great importance to Green Belts and that their essential characteristics are their openness and permanence.
9. The appeal proposal includes two elements, a change of use to a gypsy site and an equestrian use. The submitted plans show five gypsy and traveller pitches to rear of the site and paddocks and stables to the front of the site closest to Tamworth Road. Policy E of the Planning Policy for Travellers Sites (August 2015) (PPTS) specifically defines traveller sites as inappropriate development in the Green Belt (paragraph 16). The appellant argues that the equestrian use proposed would not in itself be inappropriate development in the Green Belt. However, taken as a whole, the appeal proposal concerns the change of use of the land to a mixed gypsy and equestrian use.
10. Paragraph 146 of the Framework establishes that certain forms of development are not inappropriate within the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include material changes in the use of land (criterion e).
11. Policy NW3 of the North Warwickshire Local Plan Core Strategy (Core Strategy) refers to the Green Belt generally, and the supporting text at paragraph 7.1 states that within Green Belts the primary aim is to maintain the open nature of the area and that there is a general presumption against development that is inappropriate except in very special circumstances.

12. Openness is an essential characteristic of the Green Belt. It has a visual dimension as well as a spatial aspect. The proposal would introduce five residential pitches, each of which would include a static caravan, an amenity block and one touring caravan. A stable building would also be constructed and the development as a whole would be served by a new access. Boundary fences would also be erected and both the residential and equestrian use of the site would introduce associated paraphernalia and activity including the parking of vehicles. In spatial terms it would introduce a good deal of development into what is an open field.
13. The proposed paddocks would be to the front of the site closest to Tamworth Road. The stable building would be set back from the road frontage behind one of the paddocks and the five residential pitches would be beyond this to the rear of the site some 150 metres from the road. The site is adjacent to The Lodge immediately to the south for much of its southern boundary, and the caravan park adjoins the rear part of the site to the north. There is a substantial mature tree belt to the west of the site and a hedgerow to the site's frontage with Tamworth Road.
14. Even so, despite the proposed layout of the site and the existing development nearby, the site is visible in views from Tamworth Road (particularly on approach from the north) and from Cliff Hall Lane. This is so despite the existing hedgerows there, particularly in the winter months when the vegetation is not in leaf. Whilst additional landscaping is proposed, in my view the proposed development, including that towards the rear of the site, would be readily perceived from these viewpoints, as well as through the gap that would be created by the proposed access on Tamworth Road. Thus, the loss of openness resulting from the proposal would be evident.
15. As such, overall the proposal would lead to that part of the Green Belt in which the appeal site is located being much more built up than it is now. This would lead to a loss of openness. Given the currently open nature of the site, the harm caused in this regard would be considerable.
16. The purposes of the Green Belt are set out at paragraph 134 of the Framework and include to assist in safeguarding the countryside from encroachment (criterion c). The proposal would introduce built development to the countryside. In doing so, and impinging on openness as described, the proposal would not be consistent with site's role in safeguarding the countryside from encroachment. It would therefore have an adverse effect on one of the purposes of including land in the Green Belt. Given the size of the site in relation to the wider Green Belt in which it sits and the existing development nearby, the harm caused in this regard would be limited.
17. The appellant refers to the route of the proposed HS2 rail line which I understand would run to the east of the site on the other side of Tamworth Road close to the line of the nearby M42. Whilst I note the appellant's view that this would significantly diminish the status of the Green Belt, the intended route of the rail line is somewhat divorced from the appeal site and does not form part of its immediate context. Whilst the development of HS2 would inevitably alter the nature of the Green Belt in the wider area, I am not persuaded that the possibility of this future development lessens the appeal scheme's impact on the Green Belt, or serves to justify it.

18. Bringing matters together, I consider that the proposal would fail to preserve the openness of the Green Belt and would conflict with one of the purposes of including land within it. Thus, it would not meet the terms of criterion (e) of paragraph 146 of the Framework. I therefore conclude that the proposal would be inappropriate development for the purposes of national Green Belt policy as set out in the Framework. This harm attracts substantial weight as set out at paragraph 144 of the Framework. It would also be contrary to Core Strategy Policy NW3.

*Openness and purposes*

19. For the reasons set out above, in addition to the harm that would be caused by its inappropriateness, the proposal would also have a detrimental impact on openness and would fail to prevent encroachment and so undermine one of the purposes of the Green Belt. This harm also attracts substantial weight as set out at paragraph 144 of the Framework.

*Character and appearance*

20. Core Strategy Policy NW12 requires good quality development that positively improves a settlement's character and appearance together with the environmental quality of the area. Core Strategy Policy NW8 is permissive of gypsy and traveller sites outside the Green Belt and advises that such sites will be assessed using a number of criteria. The final criterion requires that the site can be assimilated into the surroundings and landscaped without any significant adverse effect.
21. The appeal site is within the 'Tamworth – Urban Fringe Farmlands' area as identified in the North Warwickshire Landscape Character Assessment 2010 and forms part of a flat agricultural landscape. As set out above, it is adjacent to The Lodge and the caravan park. There are also other examples of scattered development nearby and number of properties on Cliff Hall Lane. Nevertheless, the site adjoins a large field to the north which runs up to Cliff Hall Lane, and there are open fields on the other side of Tamworth Road to the east and beyond The Lodge to the south. As such, the appeal site has an open and undeveloped rural character and appears very much as part of the wider surrounding countryside.
22. As previously described, the residential pitches would be set well back into the site and away from Tamworth Road and would adjoin the tree belt to the west. The stables would not be on the road frontage and would be built of timber and I accept that along with the paddocks they would appear generally sympathetic to their rural surroundings. I also note the appellant's argument that the fencing and hardstanding would not in itself require planning permission. Even so, as considered above, the proposal would be appreciated in views from Tamworth Road and Cliff Hall Lane. This would be so despite the additional planting around the boundaries that is intended.
23. In this context, I consider that the proposal as a whole would be appreciated as an unwelcome pocket of urbanising development in the countryside that would fail to protect and detract from the rural character of its surroundings. Even taking into account the additional landscaping proposed, I am not persuaded that the proposal could be readily assimilated into its surroundings without any significant adverse effect.

24. I therefore conclude on this main issue that the proposal would be harmful to the character and appearance of the surrounding area. This would be contrary to Core Strategy Policies NW8 and NW12. It would also be at odds with paragraph 127 of the Framework which requires development to be sympathetic to local character including landscape setting (c), and paragraph 170 of the Framework which requires planning decisions to contribute to and enhance the natural and local environment.

*Other considerations*

25. According to paragraph 143 of the Framework inappropriate development is by definition harmful to the Green Belt. Paragraph 144 advises that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The appellant has put forward a number of other considerations in this case.

The need for and supply of gypsy sites

26. The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply. It also requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 year's worth of sites against their locally set targets.
27. Core Strategy Policy NW7 identifies a need for 9 residential and 5 transit gypsy and traveller pitches from 2011 to 2028. This is based on the findings of the North Warwickshire and Nuneaton and Bedworth Gypsy and Travellers Accommodation Assessment 2013 (GTAA). The Council indicates that since 2011 some 19 residential pitches and 12 transit pitches have been permitted in the borough. The appellant does not dispute this. I accept that this exceeds the requirements set out in Core Strategy Policy NW7 and means that the Council has maintained 5 years' worth of deliverable sites against its locally set target.
28. The appellant is concerned that the need identified in Core Strategy Policy NW7 is an underestimation, and that no allocations have been made despite a number of years of the plan period remaining. However, the assessment of need that informed the Core Strategy is not before me for consideration. That said, I am mindful that the requirement set out in Core Strategy Policy NW7 is not a cap and does not prevent other appropriate sites coming forward. I am also conscious that the GTAA is a number of years old.
29. Policy LP6 of the emerging North Warwickshire Local Plan Submission March 2018 (Emerging Local Plan) contains the same targets for gypsy and traveller sites as Core Strategy Policy NW7 and is based on the same 2013 GTAA. As a result of the ongoing Examination of the Emerging Local Plan the GTAA is being updated and a new study has been commissioned. This is yet to be published and is not before me. Any updated GTAA (and any consequent modifications to Policy LP6) are in any event matters for the Examination of the Emerging Local Plan. However, as things stand, the evidence base is somewhat out of date and it is not possible to accurately estimate current levels of need.

30. The appellant considers the high numbers of planning applications for gypsy and traveller sites in the borough since 2011 to be an indication of a need for private sites. The Council accepts that there are some unauthorised encampments in the borough, and although the Council has provided no information on the availability of pitches on public sites, the appellant refers to these being overcrowded and full, with no waiting lists in operation. These factors, along with the appellant's failure to find an alternative site, add to this argument. Accordingly, although the targets in Core Strategy Policy NW7 have been met, that updated evidence will find a greater level of need for gypsy and traveller sites in the borough cannot be ruled out.

Alternative sites

31. The appellant has been looking for a suitable site within a 30/50 mile radius for around two years, but has not found any. In her experience, nearby public sites are full and overcrowded, and pitches on private sites are not for sale and are kept for family members. Whilst the Council refers to some brownfield sites in the borough that are available for purchase, it recognises that these do not have planning permission to be used as gypsy sites (and may have permission for other uses including residential development) and accepts that their cost can be prohibitive. Based on the evidence before me, no known suitable alternative sites are available for the appellant and her family.

Personal circumstances and accommodation needs

32. The appellant and her family previously lived on the County Council run site at Alvecote where the appellant has two aging aunts. However, due to the overcrowded conditions there they moved to a house in Erdington for a number of months, and from there, on to part of the appeal site.
33. The family are all registered at the Peartree Surgery in Kingsbury. The appellant has specific health conditions which were discussed at the hearing and makes regular trips to Hope Hospital every 3 to 4 weeks. The appellant has four children ranging in age from 4 to 17 years. Two of the children have specific health conditions which were outlined at the hearing and are on regular medication. The younger two children are at Kingsbury Primary School and attend after school activities there. I understand that they are doing well and have established friendships. The eldest child is considering attending college in the future, though it is unknown where at this time.
34. The appeal site would provide a settled base from which the appellant and her family could continue to access education and health care more readily. This would be advantageous to the well-being of the family and it would also be in the best interests of the children. These matters count in favour of the proposal and accord with the aims of the PPTS to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure.
35. Additionally, the proposal would allow the appellant to keep her four horses on the site. These were previously stabled at Brownhills but are now in Coventry on a temporary basis. The appeal site would allow the appellant to provide on-site care and security for her horses as part of her traditional lifestyle and I appreciate that Policy F of the PPTS encourages mixed use traveller sites. The proposal would also reduce the number of car journeys and carbon emissions that are associated with caring for the horses at distance and allow the



appellant to be close to her aunts at Alvecote and provide care for them as they grow older.

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

36. The proposal would be inappropriate development in the Green Belt and as such would cause substantial harm. It would also cause considerable harm to the openness and limited harm to one of the purposes of the Green Belt. These factors also attract substantial weight against the scheme. Additionally, the proposal would cause harm to the character and appearance of the area and conflict with the development plan in these regards.
37. On the other hand, in the context of the uncertain levels of need for gypsy and traveller sites in the area, alongside the absence of any allocated sites in the borough and the lack of alternative sites for the appellant, the contribution that the proposal would make to the supply of gypsy and traveller sites is a benefit which counts in its favour. However, the currently unknown nature of the likely future need for sites, limits the weight I attach to this benefit.
38. As set out above, the appellant's personal circumstances and the provision of a settled base for the family to maintain access to education and health facilities, proximity to family members and care for her horses, are all benefits of the proposal which add a good deal of weight in its favour. However, I am conscious that the proposal is for five pitches, not just one. At the hearing the appellant clarified that all five pitches would all be occupied by family members. The appellant and her husband (and dependents) would occupy one pitch and two pitches would be earmarked for her eldest children (aged 16 and 17) when they are ready to move out. The remaining two pitches would be retained in wider family occupation (for example by the appellant's parents, or those of her husband) or would potentially be occupied by the younger children when the times comes.
39. Whilst I appreciate the appellant's wish to provide accommodation in the longer term for her family and understand that the eldest two children are likely to marry in the next few years, as thing stand, the appellant's personal circumstances (and those of their family) only extend to the requirement for a single pitch. In my view, the need for further pitches for family members in the future is a matter for consideration when and if it arises and should be considered with regard to any personal circumstances at that time. As such, the personal circumstances outlined in support of this appeal cannot be reasonably used to justify the scale of the proposal for five pitches.
40. The proposal would be located relatively close to services and facilities and it has not been put to me that it would not meet the sustainability considerations set out in paragraph 13 of the PPTS. Whilst it considers the proposal to be away from existing settlements, the Council raises no particular objections to the proposal in these regards or in terms of the corresponding criteria in Core Strategy Policy NW8. The absence of harm in relation to these factors counts neither for, nor against the proposal.
41. The appellant considers that the future occupiers of the site would use local services and facilities and so support the local economy. However, whilst this is a benefit of the proposal, the proposal's contribution in this regard would be

- limited by its relatively small scale. Although there would also be some use of local contractors in the construction phase, these would be relatively modest and short-lived. The appellant also argues that there would be some gains in biodiversity arising from the proposed boundary planting. Nevertheless, any such gains would need to be considered alongside the loss of a good deal of the the open site to development along with the introduction of activity there and the consequent effect of this on biodiversity. Accordingly, I attach only very moderate weight to these benefits of the proposal.
42. I confirm that I have considered the possibility of granting a temporary planning permission (since a permission with a limited period would to some extent lessen the scheme's impact on the Green Belt and the character and appearance of the area and reduce the amount of resultant harm). However, Planning Practice Guidance (the Guidance) indicates that circumstances where a temporary permission may be appropriate include where a trial run is necessary in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. It has not been put to me that such circumstances apply in this instance.
43. The Council does not consider a time limited permission to be appropriate due to the levels of harm that would arise even on a temporary basis and given the scale and extent of the development proposed. The appellant also considers that the investment that would be required to develop the site as proposed would not be viable over a temporary period. Taking all these factors into account, I also consider that a temporary permission is not justified.
44. Since it was raised at the hearing, I have also considered whether a personal permission (to restrict the occupation of the site to the appellant and her immediate family) would be appropriate. As set out in the Guidance, planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. However, for the reasons given, as I see it, the appellant's personal circumstances can only be reasonably applied to her aspiration for a single pitch at the appeal site. Even if these were to be accepted, an exceptional personal need for the remaining four pitches proposed cannot be demonstrated on these grounds. Accordingly, I am not persuaded that this is an exceptional occasion whereby the proposal before me is justified on the grounds of who would benefit from it.
45. The appellant considers Core Strategy Policies NW7 and NW8 to be out of date and refers to paragraph 11 of the Framework and the presumption in favour of sustainable development. However, with footnote 6 of section (d) (i) of paragraph 11 in mind, I confirm that since the land is designated as Green Belt the application of policies in the Framework provides a clear reason for refusing the development proposed.
46. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the appellant's individual rights for respect for private and family life (along

with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.

47. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since the appellant is an Irish Traveller Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons (the appellant and her family) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the Act.
48. To dismiss the appeal would disrupt the education of two of the children and the healthcare of two of the children and the appellant. The negative impacts of dismissing the appeal arise since the family may be forced into a roadside existence and intermittent use of unauthorised sites. This would interfere with the best interests of the children and each member of the family's right for respect for private and family life and lends some additional weight in favour of the appeal.
49. However, I have found that the proposal would cause substantial harm to the Green Belt and further harm to the character and appearance of the surrounding area and am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect Green Belts and the countryside in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the appellant and her family are necessary and proportionate.
50. Policy E of the PPTs advises that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
51. Bringing matters together, the other considerations in this case and the benefits of the proposal, even taking into account the family's Article 8 rights and the PSED considerations, do not clearly outweigh the totality of the harm identified. As such, the very special circumstances necessary to justify the development do not exist.

**Conclusion**

52. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Elaine Worthington*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Aida McManus	AM Planning Consultants Ltd
T Doherty	Appellant
J Doherty	Appellant's husband
T Dorey	Friend of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jeff Brown	North Warwickshire Borough Council
Mike Dittman	North Warwickshire Borough Council

INTERESTED PARTIES

Robert Williams	On behalf of Mr G Twomlow (local resident)
Margaret Moss	Kingsbury Parish Council
Andy Jenns	Local resident

APPENDIX E



5b/57

7b/61

## Appeal Decision

Site visit made on 11 May 2020

by **David Murray BA (Hons) DMS MRTPI**  
 an Inspector appointed by the Secretary of State  
 Decision date: 1 June 2020

### Appeal Ref: APP/R3705/W/19/3242521 The Willows, Tamworth Road, Cliff, B78 2DS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs T Doherty against the decision of North Warwickshire Borough Council.
- The application Ref. PAP/2019/0427, dated 16 July 2019, was refused by notice dated 5 November 2019.
- The development proposed is the change of use of land to equestrian use and use as a single pitch gypsy site with day room, installation of septic tank and relocation of the access.

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issues are whether the proposal constitutes inappropriate development in the Green Belt, and if so, whether the harm to the Green Belt, together with any other harm, is outweighed by other factors, including the appellants' personal circumstances and the best interests of children in the household, so as to constitute the very special circumstances necessary to justify the development.

### Reasons

#### Background

3. The appeal site comprises a rectangular area of grassed land which lies in an area of countryside to the south of the hamlet of Cliff and to the east of the River Tame. The site fronts the A51 Tamworth Road which passes over the M42 to the south of the site, and there is a caravan/camping park on land partly to the north. The site and the surrounding area form part of the West Midlands Green Belt.
4. At the time of my visit I noted that there was a residential mobile home on the land together with two touring caravans, and a wooden building. A gap appeared to have been made in the roadside hedge to form a new access to the land and the part of the overall site used for the residential pitch was partly screened by timber fencing and trellis. The remainder of the site was fenced off as paddocks.

<https://www.gov.uk/planning-inspectorate>

5. I have taken account of a previous appeal decision made in November 2019 under ref. APP/R3705/W/19/3220135. This case involved a proposal by the present appellant to develop a gypsy site comprising 5 pitches with dayrooms, together with equestrian use, a ménage and stables, on the same appeal site. The appeal was dismissed.
6. The Council advises that following the unauthorised occupation of the site as a traveller's site in February 2019 an injunction was granted by the High Court to remove the unauthorised development. This was varied in March 2019 to enable the defendants to site one mobile home and two caravans on the land pending the above appeal decision. The Council says that the use as a gypsy/traveller's site has continued notwithstanding the injunction and there is contempt of the Court Order but that is a separate legal matter to this planning appeal.

*Policy context and principle of development*

7. The development plan comprises the North Warwickshire Local Plan Core Strategy (CS) adopted in 2014 and saved policies in the North Warwickshire Local Plan. It is apparent that the Council is also preparing a revised local plan – the Submission Local Plan 2018 (SLP) which has been submitted for Examination and the Examination in Public has now taken place. Although the Council relies on the policies in the CS, two emerging policies in the SLP are relevant and will be addressed in the relevant issue.
8. There are two main aspects to the proposal: the change of use to equestrian use and the use as a single pitch gypsy site. The equestrian use has not been shown to be contentious in principle and therefore this policy section concentrates on the proposed use as a gypsy site. The CS policies most relevant to the principle of the development are: NW3 applicable to the Green Belt; NW7 and NW8 in relation to development for gypsies and travellers; and NW12 concerning the general quality of development. However, Policy NW3 mainly indicates the extent of the Green Belt and how settlements and infill development will be treated and does not give other policy guidance on development within the Green Belt. Therefore, on this aspect greater weight should be given to guidance set out in the National Planning Policy Framework (NPPF).
9. The appellant's agent says that as the CS was adopted prior to the publication of the national 'Planning policy for traveller sites' (PPTS) in 2015, the above policies should be considered as 'out of date'. However, it is not the related timescale of the two documents that is most relevant but whether there is any substantial difference in the policy provision.
10. CS Policy NW7 deals with the overall provision of gypsy and traveller sites, which I will consider in a subsequent issue, but I note that the Council recognises that the requirements of this policy have been met in numerical terms and that paragraph 11(d) of the NPPF applies in that element of the plan.
11. Policy NW8 sets out a series of criteria for the assessment of proposals for gypsy and traveller sites and the Council submits that the proposal fails the final bullet point in respect of the effect on the landscape which I will also consider in a subsequent issue. However, the preliminary part of the policy makes clear that to be acceptable in principle proposals for gypsy and traveller

sites need to be located inside, adjoining or within a reasonable distance of a settlement boundary outside of the Green Belt, whereas the appeal site lies within the Green Belt. This policy is not materially at odds with the guidance in the PPTS particularly as set out in Policy E. Therefore, Policy NW8 should not be considered 'out of date' and section 38(6) of the Act applies<sup>1</sup> and the appeal should be decided in accordance with the development plan unless material considerations indicate otherwise.

12. I conclude on this issue that the principle of the proposed single pitch gypsy site and its associated development conflicts with the locational criteria set out in Policy NW8 the most relevant part in the development plan.

*Whether 'inappropriate development' in the Green Belt and effect on its openness*

13. Guidance in paragraphs 143-146 of the NPPF indicates that the erection of new buildings and some changes of use are 'inappropriate development' harmful to the Green Belt which should not be approved except in very special circumstances. I am satisfied that the proposed gypsy site would be 'inappropriate development' because of the nature of the use and the ancillary building and associated residential paraphernalia that would arise from the use, and it is not one of the specified exceptions put forward. The proposal therefore conflicts with the specific guidance in the NPPF.
14. In terms of the effect on openness, this has a visual as well as a spatial dimension. At the site visit I found that the mobile home, caravans and the proposed day room would be visible from Tamworth Road. The presence of these parts of the proposal together with the area of hardstanding for parking and screen fencing create a more urban physical form which detracts significantly from the otherwise mainly open rural character of the area and especially the area to the north of The Lodge.
15. I recognise that part of this visual impact stems from the loss of the roadside hedge removed for the access and the proposals seeks to introduce replacement landscaping/planting to help screen the site from the road in the long term. However, in the short to medium term I find that the proposal would have a discernible and harmful visual impact on the openness of the area when seen from the public realm of Tamworth Road. Moreover, even if the development was substantially screened from public view the development of the residential gypsy pitch would have a significant adverse impact on the openness of the Green Belt and would not preserve it. Thus, the proposal would be contrary to the guidance in paragraph 146 the NPPF even if it was regarded as mainly a change of use.

*Effect on the landscape*

16. Similar concerns apply regarding the effect on the general rural landscape of the area. Although I noted the scattered other development around the vicinity of the site, the dominant landscape character is one of open fields and a verdant form. The proposal to develop part of the open grassed field with a traveller site would not assimilate into the surroundings and landscape of the area even with the additional planting proposed. I assess the visual impact as significant and this adverse effect means that the proposal conflicts with the final bullet point of Policy NW8.

<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.



*Need for and supply of gypsy sites*

17. Policy B of the PPTS indicates that Councils must be able to identify and annually update a five years supply of deliverable sites for gypsies and travellers measured against locally set targets. CS Policy NW7 indicates that 9 residential and 5 transit Gypsy and Traveller sites will be provided between 2011 and 2028. This provision is based on a Gypsy and Traveller Accommodation Assessment (GTAA) undertaken in 2008. The appellant and the Council agree that since 2012 the Council has granted permission for up to 19 residential pitches and 12 transit pitches and on this basis it is demonstrated that the strategic requirements of Policy NW7 up until 2028 have already been met although the significant 'over-provision' may be an indication of more recent unmet local need.
18. I understand that emerging policy LP6 of the SLP repeats the requirements of CS Policy NW7. The appellant refers to and the Council acknowledges interim comments from the SLP Examining Inspector who questioned the figures set out in Policy LP6 as the evidence base is considered to be out of date. Accordingly, the Council has commissioned, along with neighbouring authorities, an update of the GTAA and publication of the results is awaited. These will no doubt feed into the further examination of the SLP and reflect the weight that can be given to Policy LP6 in due course. However, as the evidence stands at the moment there is nothing before me to show that the level of permissions granted for residential gypsy and traveller sites will not continue to meet the level of need identified.
19. I conclude on this issue that at the moment provision has been made by the Council though development management decisions for the supply of gypsy and traveller sites to meet and well exceed the previously identified local need but the emerging local plan will need to ensure that such provision reflects current and predicted future need.

*Personal circumstances and children*

20. The appellant's agent's statement sets out the background to the appellant's move to the appeal site; her medical condition and her family support who live locally. Further, the appellant has four children aged between 4 and 17 and the two youngest of these attend local schools. Moreover, they suffer from a medical condition and are registered with a local surgery. The headteacher of the school has written to say that the children attend school (or at that time pre-school) and are settled in school making friends and with good attendance.
21. Staying on the appeal site would continue to give the children a stable base in which to continue their education and social development and where both the appellant and the children would be able to obtain appropriate medical care including from the local surgery and hospital. The proposal would also enable the appellant to keep her horses on site rather than having to travel to tend them.
22. The appellant and her family are said to have been looking for an alternative site within a 30-50 mile radius for some time but that no alternative sites are available. The use of other 'brown field' sites was suggested by the Council at the previous appeal hearing but the appellant says these were not available for purchase or they may be allocated for alternative uses which are said to be cost prohibitive for the appellant. The use of other 'brown field' sites is said to

have been suggested by the Council at the previous appeal hearing but the appellant says these were not available for purchase or they may be allocated for alternative uses which are said to be cost prohibitive for the appellant.

23. The previous Inspector concluded that there were no known alternative sites for the appeal for the appellant and her family to turn to and that still appears to be the case.

*Other considerations*

24. Many other concerns about the proposal were put forward at application stage by the local community. I have had regard to these together with the individual letters and petition in support of the proposal submitted along with the appellant's case.
25. Some people allege conflict of the proposal with the route of the HS2<sup>2</sup> but I understand that the appeal site is not on land safeguarded for the route at the moment and therefore this is not an issue material to the decision. Concerns have also been expressed about the access to the site and the effect on highway safety, but I understand that the highway authority now raises no objection to the amended plans of the access and there is no other evidence before me to demonstrate that the proposal would harm highway safety.
26. No other factor has been shown to be of such importance that it is critical to the planning balance.

*Planning and Green Belt balance*

27. At the start of the planning balance I have borne in mind the requirements of the Public Sector Equality Duty and I have placed no other issue above the best interests of the children in this case.
28. Bringing my conclusions on the main issues together, I have found that the proposal for a single pitch gypsy site and equestrian use would conflict with the relevant CS Policy NW8 as the site is located in the Green Belt and would also result in a significant adverse effect on the local landscape contrary to the provisions of the final bullet point of that policy.
29. In terms of the Green Belt I have found that the proposal amounts to 'inappropriate development' and it would have a significant adverse effect on the openness of the Green Belt. Substantial weight has to be given to this harm in accordance with paragraph 144 of the NPPF.
30. This conflict with the development plan and Green Belt guidance in the NPPF has to be balanced with other factors.
31. The Council has been able to demonstrate a five year supply of new gypsy and traveller sites to meet Policy CS7 however the fact that the total provision for the plan period to 2028 has already been well exceeded may be an indication that the survey information is out of date and/or there is at present an unmet demand.
32. The appellant argues that because CS policy CS7 is spent as the allocations for gypsy and traveller sited have been met, therefore paragraph 11(d) applies to the decision process. However, I have found that Policy CS8 is still relevant to

<sup>2</sup> High Speed Rail Link 2 – London to the Midlands and the North

the main planning issues and in any event Footnote 6 related to this paragraph in the NPPF indicates that policies in the NPPF designed to protect areas of particular importance like Green Belts can provide clear reasons for refusing planning permission.

33. I have also placed considerable weight on the appellant and her family's personal circumstances. Being able to continue to live on site would enable the family to have a settled base with continued access to medical and educational facilities. I am sure that would be in the best interests of the children. Whereas a refusal of permission would be likely to lead to the family having to live a life on the roadside as no alternative site has been shown to be available.
34. Policy E of the PPTS indicates that subject to the best interests of children, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
35. Overall, I conclude that the benefits to the appellant and her family, including the best interests of the children living on site, do not outweigh the harm to the Green Belt and the conflict with the development plan that I have identified. Very special circumstances have not been demonstrated. A permanent permission is therefore not justified as the proposal conflicts with the development plan and the NPPF when these are both read as a whole, and this finding is not outweighed by other considerations. Neither has it been demonstrated that there are relatively short term special circumstances or benefits that justify either a limited period permission or a personal permission that over-rides the specific harm that would arise particularly to the Green Belt.

**Conclusion**

36. I conclude that a refusal of permission is necessary. Although this would result in an interference with the rights of the appellant and her family, such a decision is proportionate and necessary in the public interest. I conclude that the appeal should be dismissed.

*David Murray*

INSPECTOR

APPENDIX G



5b/64

7b/68

## Appeal Decision

Site Visit made on 13 October 2021

by **JP Sargent BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 December 2021

**Appeal Ref: APP/R3705/W/20/3260829**

**The Willows, Tamworth Road, Cliff, Kingsbury B78 2DS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs J Doherty against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2020/0341, dated 1 July 2020, was refused by notice dated 6 October 2020.
- The development proposed is Material change of use of land for stationing of caravans for residential use for Gypsy-Traveller family with associated development (relocated access, hard standing and package treatment plant).

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are
  - a) whether this is inappropriate development in the Green Belt,
  - b) what its effect would be on the landscape, and
  - c) if it would be inappropriate development, whether its harm by reason of inappropriateness and other harm is clearly outweighed by other considerations so as to amount to very special circumstances.

### Reasons

3. The *Planning Policy for Traveller Sites* (PPTS) states without qualification that *'traveller sites (temporary or permanent) in the Green Belt are inappropriate development'*.
4. Moreover, the *National Planning Policy Framework* (the Framework) says that keeping land permanently open is a fundamental aim of the Green Belt. It confirms that inappropriate development is, by definition, harmful. Criterion (e) of Framework paragraph 150 accepts that material changes in the use of land are not inappropriate, provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. Under Policy LP3 in the *North Warwickshire Local Plan 2021* schemes will be considered in line with the Framework apart from where more specific, localised criteria are applicable, none of which have been identified as relevant in this instance.
5. It appears to be accepted that the appellants and their children accord with the definition of gypsies and travellers found in the PPTS. I understand they now

<https://www.gov.uk/planning-inspectorate>

live immediately adjacent to the appeal site, and it is their intention to move onto it if the appeal is successful.

6. The site is part of a field that lies in the countryside outside any settlement boundary. The surrounding area has a generally rural appearance comprising fields and woodlands with a scatter of farm properties and dwellings. This proposal would be introducing a caravan with associated hardstandings and paraphernalia onto this land, a little away from other built form, and the development would be visible not just from Tamworth Road but also from in the surrounding landscape. As a result, I share the view of the Inspector who dismissed an appeal on the site for a similar development in 2020 (the 2020 decision) and consider it would erode the sense of openness currently experienced in the locality. Moreover, the site would acquire a more developed character, and so the proposal would conflict with the purpose of safeguarding the countryside from encroachment (Framework paragraph 138).
7. Local Plan Policy LP10, which concerns Gypsy and Traveller provision, states sites will be permissible outside of the Green Belt. It does not expressly say that such uses would not be permitted in the Green Belt. However, for the reasons given above concerning openness and encroachment, in my opinion the development would also not be assimilated into the surroundings and landscape without any significant adverse effect. Therefore, I consider it to be contrary to the final bullet point of the policy.
8. In coming to these findings, I accept that planting is to be introduced to soften the impact of the development. I also recognise that the amount of built development on the site would be reduced when compared to that proposed under the 2020 decision, as a day room is no longer intended and the static caravan would not be raised up. However, these points would not be sufficient to overcome my view that there would be a harm to openness and a sense of encroachment.
9. Accordingly, having regard to the PPTS and paragraph 150 in the Framework, I find this scheme would be inappropriate development in the Green Belt, failing to preserve openness and conflicting with one of the Green Belt's purposes.
10. The Framework states that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this regard I have had a number of different considerations put before me.
11. Firstly, the appellants' personal circumstances were highlighted. I have noted their health issues as submitted, and appreciate an on-going need for regular medical care that is provided locally. Moreover, I accept that these issues would be more readily tackled if the appellants had a fixed address allowing the care to be delivered in a consistent manner. These health matters are therefore something to which I afford significant weight. I understand too that being here means the appellants can look after relatives nearby, but I have little information about the nature of this care or where they live, and so the weight it can be afforded is limited.
12. Coupled with this is the second consideration of the effect of the COVID pandemic. I recognise that this must have significantly impacted on sectors of the Gypsy and Traveller community in a number of different ways, concerning



- employment opportunities, limited social contacts, the ability to move to new sites and the effects of living in crowded touring caravans. On the evidence before me the proposal would not alter the first 2 of these. In theory moving to new sites occupied in part by others could still be affected because, although restrictions are now less than they were, social distancing is still an issue and so moving onto somewhere another family already lives could be mutually unacceptable. As a result, with alternative sites being harder to find, increased travel would occur, meaning living in touring caravans could be more likely.
13. However, little firm evidence has been put forward to show it has in reality been a difficulty in finding other sites due to the pandemic, and I would expect that maintaining general standards of amenity would ensure social distancing was achieved to a great extent on a shared site. Moreover, if more travel results, it is reasonable to assume those living together in this way would form a 'bubble' for the purposes of social distancing. The weight I afford this is therefore not significant. Furthermore, the pandemic will pass in time, and so whilst the limited weight from these points could be used in favour of a temporary permission, it adds little in support of a permanent permission on the site.
14. A third area is the appellant's view that there is a shortfall in Gypsy and Traveller provision in the Borough. Under the *Public Sector Equality Duty* I am to have due regard, amongst other things, to the need to take steps to meet the needs of persons who share a relevant protected characteristic that is different from the needs of persons who do not share it, and in relation to this I appreciate the appellants' cultural heritage. The most recent *Gypsy and Travellers Accommodation Assessment* (GTAA), the *Report on the Examination of the North Warwickshire Local Plan* and the subsequently adopted version of the Local Plan all post-date the 2020 decision and so create a different planning context to that before the previous Inspector.
15. In the Local Plan there is a commitment to bringing forward a Gypsy & Traveller Development Plan Document (DPD) that will include allocations informed by the GTAA and any subsequent review. Notwithstanding the Council's contentions, it is therefore reasonable to assume that the need for gypsy and traveller sites in the Borough is not currently resolved. This scheme if granted permanently, would make a contribution to addressing such a need. However, no specific timetable for the DPD has been given, but rather it is to be forthcoming 'as soon as practicable'. The vagueness of this timescale means I cannot assume it will be in the near future, and so I am unable to treat its production as justifying a temporary permission. Rather, if persuaded by the arguments of need, I would have to favour the grant of a permanent permission.
16. Related to this point I recognise too that a Court Order requires the appellants and their children to leave their existing adjacent site if I dismiss this appeal. With such a shortfall, they say they would have nowhere to go and would face a roadside existence, and I have no reason to question this.
17. However, the PPTS in Policy E says, in relation to traveller sites,
- 'subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.'*

This policy accepts that there could be some occasions where such harm was, in fact, outweighed by personal circumstances and unmet need. However, as it anticipates such occurrences would be 'unlikely', it is reasonable to assume they would be improbable and would not be expected. Given this, although I have had full regard to the appellants' submissions, I find that their personal circumstances, the unmet need and the prospect of a roadside existence (exacerbated by the pandemic), even if taken together, are not so sufficient as to constitute one of the 'unlikely' instances where an exception to the general thrust of this guidance is justified.

18. Outside of settlements much of the Borough is designated Green Belt, but that situation is found in many authorities. Consequently, it cannot be a basis to justify a gypsy and traveller site in the light of the PPTS policy quoted above.
19. I therefore turn to be best interests of the children. At the outset I have regarded no other consideration as more important or, in advance of the assessment of the circumstances of the case, I have given none greater weight. However, these best interests will not always outweigh other considerations including those that impact negatively on the environment. I have nonetheless kept the best interests of the children at the forefront of my mind in reaching my decision.
20. I have relatively little information concerning the appellants' children. However, it can be assumed they would benefit from the opportunity this proposal offers to provide a settled base for their health, educational and social needs. This is demonstrated by the way 2 are currently doing well in their schooling, progressing with their learning and making friends. I appreciate too that a settled base can assist in home-schooling, whether that be by having easier access to tutors or by allowing time to be spent on education rather than travelling. However, such benefits of a settled base could apply to most if not all Gypsy and Traveller children. On the evidence before me, and acknowledging the appellants' children also have certain specific health issues, I am not satisfied that their needs are adequate to justify remaining in this immediate area. Given this, even if taken with the other considerations above, the best interests of these children are not sufficient to clearly outweigh the harm to the Green Belt so as to establish very special circumstances. As such, a permanent permission is not justified.
21. I now turn to consider whether a temporary permission would be acceptable. However, as there is only a vague timeframe for the production of the DPD, I cannot be confident that circumstances around this site or gypsy and traveller provision in the Borough will change in the foreseeable future to justify a permission for a shorter period. I have accepted that the granting of a temporary permission until the passing of the pandemic has the potential to be beneficial for this family given the difficulties of accessing other sites. However, there is little evidence to support this difficulty. I have been told no other sites are available anyway but, even if there was, this need not be a problem that would prevent occupancy. Consequently, I can only afford this limited weight. I therefore find that, again when taken with the other considerations listed above, a temporary permission would not be justified.
22. I accept that dismissing this appeal would cause some interference with the appellants' rights and those of their children under Article 8 of the First Protocol to the *European Convention on Human Rights*, as incorporated by the *Human*



*Rights Act 1998*. This is because this site would not provide the home they would need having been required to vacate their existing settled base under the Court Order. However, such rights are qualified, and interference may be permissible when the rights of the individual are balanced against those of the community. In this instance such interference on the rights of the adults and the best interests of the children would be proportionate given the public aim of safeguarding the Green Belt.

**Conclusion**

23. Accordingly, I conclude that this would be inappropriate development in the Green Belt that would harm openness, conflict with one of the purposes of the Green Belt, and would not be assimilated into the surroundings and landscape without any significant adverse effect. In the absence of any other considerations that clearly outweigh the harm by reason of inappropriateness, and any other harm, very special circumstances to approve this inappropriate development do not exist, and the proposal is contrary to Policies LP3 and LP10 in the Local Plan, the PPTS and the Framework. The appeal is therefore dismissed.

*JP Sargent*

INSPECTOR

APPENDIX I



APPENDIX J

Google Maps Cliff Hall Lane, Cliff, Tamworth



Cliff  
No reviews  
Tamworth



5b/70

7b/74

**PAP/2023/0191  
Land Adjacent to The Lodge, Tamworth Road, Cliff  
Site Visit – 5<sup>th</sup> August 2023 at 1000**

Present: Cllrs Bates, Bell, Humphries and Ridley together with A Bruce on behalf of the applicant and J Brown.

1. Members met on the A51 at the site of the existing access into the site next to The Lodge.
2. They were shown plans on the general location and the houses in Cliff were pointed out along with the other scattered properties along the road. The extent of the site could be seen from here and the trees along the western edge were clearly visible.
3. The proposed site layout was shown on the plans and the site of the “pitch” was identified in the far west, together with the bunds which were already on site.
4. Members then walked up to the site of the proposed new access and were able to see it in the setting of the road and the site as a whole. The northern boundary of the site was identified.
5. Cllrs Bates and Ridley together with A Bruce and J Brown then walked into the site following the line of the “access” between the bunds as shown on the plan to the site of the “pitch”. This was bounded to the west by the tree lined boundary where it overlooks the River Tame river bluff and the bunds surrounding the site on the other three sides.
6. Members returned to the access and the road.
7. The visit concluded at around 1020.

## **General Development Applications**

**(7/c) Application No: PAP/2022/0261 and PAP/2022/0260**

**a) PAP/2022/0261**

**92 Coleshill Road, Hartshill, Nuneaton**

**Variation of Condition number 2 of planning permission PAP/2019/0036 (PAP/2018/0082) dated 4/3/19 relating to changes to the approved building, access, frontage and parking, in respect of demolition of existing three storey retail building and demolition of canopy on adjacent building. Erection of new retail unit.**

**b) PAP/2022/0260**

**92 Coleshill Road, Hartshill, Nuneaton**

**Variation of Condition number 1 of planning permission PAP/2020/0599 dated 23/8/21 relating to amendments to the layout of the car park, lighting columns, safety barrier and enclosure of cardboard and pallet store.  
both for**

**MAC Developments and Construction Ltd**

### **1. Introduction**

- 1.1 These applications are referred to the Board at the discretion of the Head of Development Control in light of the Board's previous involvement in the two sites. Additionally, the recommendation below is contrary to the Highway Authority's comments.
- 1.2 The two applications here relate to two adjoining sites, but in practice they concern a retail unit fronting the Road and its rear car park.

### **2. The Sites**

- 2.1 The shop fronts the road on its southern side and is a few metres east of its junction with School Hill in a wholly built-up area. There are retail uses neighbouring the site on its eastern side and the premises of a former retail unit are to the west. There is a Social Club at the road junction referred above and a dance school occupies the former Chapel opposite the site. There are residential properties close by, including directly opposite.
- 2.2 There is a vehicular access immediately to the west which leads to car parking areas to the side of the shop and to the rear of other frontage development. This also enables deliveries to be made to the rear of the shop. There are also larger car parks to the rear of the new shop. These are on built-up ground and beyond the retaining walls and screening fences are a number of residential properties in Chancery Lane which directly back onto the car park and there are other rear

gardens that have them as a side boundary. On the other side, there are bungalows in Willow Close which back onto the car park's retaining wall.

2.3 The general layout of the site and its setting is illustrated at **Appendix A**.

### **3. Background**

3.1 Planning permission was granted in 2018 for the demolition of a retail unit and its upper floors on this site and its replacement with a new retail unit. This was varied in 2019 so as to enable an increase in height of one metre for the new building. This permission was taken up and the building is now complete and operational. The site of this varied permission included the former vehicular access and the car parking areas to the side of the new shop and to the rear of numbers 94 to 102 Coleshill Road.

3.2 Planning permission was granted in 2021 for a new car park at the rear of the new retail unit including a change in levels, retaining walls and lighting. This increased the total available car parking provision for the new shop as well as for other frontage businesses and to enable deliveries. The car park is now constructed and in operation.

3.3 It became apparent during the implementation of both of the extant permissions referred to above, that the approved developments were not being wholly undertaken in accordance with the approved plans. As a consequence, the applicant has submitted the two applications now reported to the Board, in order to resolve the unauthorised matters.

3.4 They seek retrospective variations of the approved plans.

### **4. The Proposals**

#### **a) 0261 – The Shop**

4.1 This seeks a variation of condition 2 of the planning permission for the new shop through the substitution of new plans, to reflect the appearance and design of this building now on site. These include both elevation and layout changes.

4.2 The approved elevations are at **Appendix B**.

4.3 The revisions are shown on Appendix C. These include different glazing to all of the four elevations, an increased number of rooflights, the addition of down lighters on the north, west and south elevations, the addition of CCTV cameras on some elevations and a side extension which wraps around the rear of the unit.

4.4 The approved floor arrangement is also **Appendix B**.

- 4.5 The revisions are shown on **Appendix D**. These include squaring off the building at its entrance, a smaller internal retail area and expanded ground floor storage space together with ancillary office space on the first floor.
- 4.6 The approved layout is at **Appendix E**.
- 4.7 The revisions are shown on **Appendix F**. These include a different access arrangement onto the Road and a revised parking layout.

**b) The Rear Car Park**

- 4.8 This seeks variation of Condition 1 of the planning permission for the new rear car park through the substitution of new plans to reflect the layout and features now on site.
- 4.9 The approved layout is at **Appendix G**.
- 4.10 The revisions are shown on **Appendix H**. These include a different car parking space layout and new safety barriers.

**5. Representations**

- 5.1 Objections have been received to both applications from local residents. As well as raising specific concerns on each of the proposed variations, there are concerns raised on more general matters. These include:
- It is said that all communications to the Planning Division will be shared with the applicant contrary to privacy regulations.
  - There is no effective planning or building control enforcement action on this site.
  - It appears that a precedent is set in that retrospective applications will be approved regardless of their impact on local residents.
  - Do the cameras comply with the relevant Regulations?

**a) The Shop**

- 5.2 In respect of this proposal an objection has been received to the submitted plans citing the following issues:
- The building has no architectural or technical merit.
  - There is no community benefit.
  - The windows allow panoramic views thus removing privacy from surrounding residential properties.
  - CCTV cameras are directed towards private property.
  - The upper floor is alleged to be used as an employee gym.
  - The upper floor bathrooms and offices point towards this being a residential floor.
  - There is no fire escape.

- The lights dazzle motorists as well as light up the car park.
- The railings shown on the plan in front of the shop are incorrectly depicted.
- The opening hours of the shop have changed on their web site.
- There are existing CCTV cameras not shown.
- A gap between the new extension and the existing is not shown.

## **b) The Car Park**

5.3 There are four objections to the proposed car park application citing the following issues:

- The car park should not have been approved.
- It is visually intrusive and cuts out light to gardens.
- The lights are too bright and are on until after 2400 hours.
- The barrier placed around the edge of the car park is not a safety barrier – it is boundary treatment. It is not adequate if vehicles hit it.
- It is to be used as a lorry park.
- It is also used for children to drive cars.
- The barriers are illuminated even at night-time.
- There is no provision for the disabled to have safe passage around them.
- The attenuation tank doesn't exist.
- The cross section of the car park now shows that it did slope down at its southern edge, thus not requiring the sheet piling and the retaining wall as approved. This work was only needed if the car park was to be used for HGV parking.
- The existing lights causing light pollution.
- The recycling area remains on site.
- There is still a gap under the fence.

## **6. Consultations**

6.1 Environmental Health Officer – Requests that Electric Charging Points are added to the car parking areas.

6.2 Warwickshire County Council as Highway Authority – It objects to the changed access arrangements saying that road markings are not to a highway specification, that there has been no highway agreement to alter the access and that visibility appears not to meet the Authority's specification and thus a Road Safety Audit is required.

## **7. Development Plan**

The North Warwickshire Local Plan 2021 – LP29 (Development Considerations) and LP30 (Built Form)  
Hartshill Neighbourhood Plan 2017 - H12 (Hartshill Retail Centre)

## **8. Other Material Planning Considerations**

The National Planning Policy Framework 2023 – (the “NPPF”)

## **9. Observations**

### **a) Introductory Remarks**

9.1 There are several introductory comments to be made.

9.2 Firstly, whilst both of these applications are retrospective, Members are aware that unauthorised development is not illegal and planning legislation allows for the submission of such applications in an attempt to remedy issues. Should they be refused, then the Board will need to assess the expediency of enforcement action.

9.3 Secondly, these applications seek variations to approved development. These variations are material and hence that is why the applications are being treated under Section 73 of 1990 Planning Act and not Section 96 which deals with non-material amendments. The proposed variations in both applications do not, in officer’s opinion, change or alter the nature and scope of the development already approved. For example, they do not propose any change the use of the retail unit or the car parking areas.

9.4 Thirdly, this means that if there are refusals, the reasons can only address the proposed changes, not the principle of the grant of the two planning permissions, and any subsequent enforcement action, if expedient, would be confined to those variations.

9.5 Fourthly, this means that those objections questioning the grant of the original planning permissions will not carry any weight. Only those which address the proposed variations will carry weight.

### **b) The Shop**

9.6 The proposed changes are described generally in paras 4.3 to 4.7.

9.7 It is agreed that the amount of fenestration now on the building is significantly greater than that shown on the approved plans. In terms of the appearance, it is not considered that this is necessarily out of place along the front elevation as this is within a commercial frontage where there are other large shop windows. The side elevation facing westwards overlooks another commercial property – albeit presently vacant – and the large, glazed area on the east elevation looks onto the rear of the commercial street frontage. It is agreed however, that the new fenestration in the end rear gable is wholly new and that has wide views. The setting however is one where existing residential and commercial property has a degree of fenestration which already overlooks each other’s property



including residential areas. The rear gable is some distance from other residential property and there would be an angled line of vision to these properties. There is a change here, but it is not considered that it is wholly unacceptable given the dense setting of built and occupied buildings in the area.

- 9.8 The increased number of roof lights do not impinge on neighbour amenity.
- 9.9 The introduction of down-lighters does not have a material adverse impact as they are low-key and the setting is one of a well-lit area in any event, even during the night hours. It is also of weight that such works would amount to permitted development on commercial property. The lights on the front elevation are within a well-lit street with commercial property around and could not be singled out as causing a road safety hazard.
- 9.10 The visual impact of the cameras is very limited and permitted development rights enable such features on commercial property. The issue of whether they comply with privacy regulations is not a matter for this Board and the objector is advised to take this up privately with the Information Commissioner.
- 9.11 The change to the ground floor of the building at its entrance has no material impact.
- 9.12 The additional side and part rear extension again has no real adverse visual impact and is within the commercial setting of the built-up frontage. The fact that the plan does not show a small gap here would not lead to a refusal given its physical size and that there would be no material visual difference in appearance.
- 9.13 The changes to the access arrangements now need to be addressed.
- 9.14 Firstly, there is no objection to the changed layout here, there being no adverse impact.
- 9.15 The County Council's issues now need to be addressed. In this regard, the Board is asked to separate out highways matters from planning considerations.
- 9.16 For instance, the road markings and whether they meet the County Council's specification, is wholly a highway matter. It can take action under the Highways Act if it considers that they are in breach of its standards. This is a highway matter and one for that Authority to enforce if it wishes to do so. The plan in front of the Board does not illustrate any markings for that very reason.
- 9.17 Secondly, the County is saying that the length of the dropped kerb and its construction again has no highway permission. It is for that Authority to enforce if it considers that there is an issue. However, it has not done so or used any of its powers to investigate the matter, even although the application was submitted over twelve months ago. In respect of visibility, then the actual content of its

comments is not supported by any technical evidence to show that it is inadequate, or that it causes a significant highway safety issue.

9.18 It is acknowledged that from a planning perspective that the Council would wish to see matching plans which both the Planning Authority and the Highway Authority can approve. That may not be the case here and so the Borough Council has to determine the plans before it on their planning merits taking into account the Highway Authority's concerns. That determination will be based on the Development Plan unless material considerations indicate otherwise – in this case those considerations would be the comments of the Highway Authority. The relevant planning policy here is Local Plan Policy LP29(6) which refers to the need for a “safe and adequate” access. The NPPF at para 11 says that a highway refusal should only follow if there is an unacceptable impact on highway safety. The County Council has failed to provide any technical evidence to support an “unacceptable impact” here, or that it is not “adequate”. The Board therefore is asked to take a proportionate response to this situation. It is considered that the variations should not be refused on highway grounds because of the policy background above. The County Council has had many months in which to justify an “unsafe” access and it has not done so. However, in the event of a planning permission being granted, it would be appropriate to point out to the applicant on the Notice, that the Highway Authority may wish to instigate its own action under the Highways Act.

9.19 Taking all of these matters into consideration, it is recommended that the variations can be agreed.

### **c) The Car Park**

9.20 The proposed changes are identified in paragraph 4.10 above.

9.21 The revised layout has no planning implication as an adequate number of spaces is retained and the barriers are considered to be appropriate for the reasons given in the original permission – namely to control access.

9.22 The representations referring to the principle of the car park and repeating concerns dealt with at the time of its determination carry no weight as planning permission has been granted. This equally applies to the comments about the construction of the car park and the adequacy of the perimeter barrier and fencing.

9.23 There are comments about the lighting levels and the hours of illumination. These matters were dealt with by way of planning condition under the planning permission. If there are allegations of breaches, then these can be followed through. As indicated above, an approval of the variation application will lead to a fresh permission. It will be necessary to repeat these conditions on that Notice. The same consideration can be given to the lighting on the safety barrier arms.

- 9.24 It is agreed that the cardboard and pallet store remains on the site. It appears to be in breach of a planning condition attached to the permission. This is not a reason for refusal. It is a matter of enforcing the condition, or for the applicant to remedy. The condition however will need to be replicated on any fresh permission and updated in order to enable the opportunity to commence action.
- 9.25 The gap under the fence has been completed with timber planks.
- 9.26 There are ongoing representations speculating about the future use of the car park – namely as an HGV parking area. Members are aware that this is not a material planning consideration but, should there be a material change in the use of the parking area, then that can be followed through by the Council.
- 9.27 Taking all of these matters into consideration, it is recommended that the variations can be agreed.

#### **d) Other Matters**

- 9.28 A number of other matters have been raised by those making representations – para 5.1.
- 9.29 Firstly, there is a suggestion that there has been a breach of the privacy regulations. The receipt of objections and the subject matter of these will be notified to the applicant just as are the consultation responses. These are passed on in summary form or by subject matter. All officers are aware of the need to ensure private information is not forwarded.
- 9.30 Secondly, there is the allegation that enforcing the permissions here has been ineffective. It is agreed that there have been delays in securing compliance with planning conditions and in allowing the applicant time to update his plans. However, officers have visited the site on numerous occasions and the landowner has taken action to remedy matters – albeit not as quickly as recommended. Government advice is that formal action is seen as a “last resort”, particularly when the breaches are not material and where the developer/landowner is attempting to resolve matters.
- 9.31 Thirdly, no precedents are set with dealing with retrospective applications – para 9.2 above.

#### **e) The Notices**

- 9.32 As indicated above, should the recommendations below be agreed, it will be necessary to issue two fresh planning permissions. As a consequence, it will be necessary too to consider whether any of the existing conditions should be repeated on the new Notices or updated. The latter will be needed in order to accommodate the approval of details discharged by the original permissions. The recommendations below outline the fresh Notices, but a short commentary on each is now provided in order to assist Members.

9.33 In respect of the recommended Notice for the shop, then:

- a) The standard three-year date for starting a permission is no longer needed.
- b) The new approved plan numbers will need to be substituted for the original ones.
- c) Details approved as discharges of conditions on the original permission will need to be added.
- d) Conditions relating to construction works will need to be deleted.
- e) On-going conditions relating to the use of the shop need to be continued and updated to take account of a change to the Use Classes Order.
- f) An additional condition is required for the provision of electric charging points.

9.34 In respect of the recommended Notice for the car park, then:

- a) The new approved plan numbers will need to be substituted for the original ones.
- b) Details approved as discharges of conditions on the original permission will need to be added.
- c) On-going conditions relating to the use of the car park need to be continued.
- d) The date for the removal of the pallet and cardboard storage area needs to be updated.
- e) Additional conditions will be needed to ensure maintenance of the safety barriers, the closure of the gap below the perimeter fence and a time period for the making out of the car parking spaces as well as for the provision of electric charging points.

9.35 As is required by Regulations, the applicant has been advised of the likely conditions to be attached in the event of planning permissions being granted.

## Recommendations

### a) PAP/2022/0261 – The Shop

That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered R966/05B, 06B and 02C all received on 7/7/23 together with the following details already approved by previous condition discharges under PAP/2019/0036 – namely the details approved under references DOC/2019/0069 dated 21/10/19, DOC/2020/0036 dated 1/6/20 and DOC/2020/dated 11/9/20.

### REASON

To ensure that the development is carried out strictly in accordance with the approved plans.

2. The terms and conditions set out in the Delivery Management Plan approved under Condition 1 and referenced DOC/2020/0042, shall be maintained at all times.

REASON

In the interests of the amenities of the area

3. The parking spaces hereby approved shall not be used for any purpose other than the parking of cars.

REASON

To ensure adequate on-site car parking provision for the approved retail store and to discourage parking on-street in the interests of local amenity and highway safety.

4. The retail building hereby approved shall not be used for any purpose, including any other purpose in Class E (a) of the Town and Country Planning (Use Classes) Order 2020 as amended, or in any statutory instrument revoking and re-enacting that Order with or without modification, other than as a retail shopping unit.

REASON

To prevent the unauthorised use of the property.

5. There shall be no opening of the retail site for business purposes other than between 0700 hours and 2200 hours, Mondays to Sundays inclusive.

REASON

To prevent disturbance to the occupiers of nearby properties.

6. Within six months of the date of this permission, electric charging points shall be installed at no less than six of the car parking spaces as shown on the approved plan. These shall be maintained at all times.

REASON

In the interests of supporting sustainable development.

**b) PAP/2022/0260 – The Car Park**

That planning permission be granted subject to the following conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered R966/02C, the lighting specification and details received on 20/4/21, together with the details discharged under DOC/2021/0075 dated 14/1/22.

REASON

To ensure that the development is carried out strictly in accordance with the approved plans.

2. The car park hereby approved shall only be used as a customer and staff car park in connection with the retail uses within the blue line as shown on the approved plan. For the avoidance of doubt, there shall be no outside storage in the car park of any materials, plant, equipment or produce other than that directly related to the approved retail use.

REASON

In view of the circumstances of this case so as to control the use of the car park in the interests of highway safety.

3. There shall be no HGV parked, stored or kept at any time on the car park other than those making deliveries to the retail unit as approved under planning permission PAP/2022/0261.

REASON

In the interests of the residential amenities of the area and in the interests of highway safety.

4. The car park hereby approved shall only be in use for the purposes set out in condition 2 during the hours of 0630 to 2230. No vehicles shall be left on the car park outside of these hours other than those directly related to the approved retail use.

REASON

In the interests of the residential amenities of the neighbouring occupiers.

5. The primary vehicular access into the car park shall be from the arrangements approved under PAP/2022/0261.

REASON

In the interests of highway safety

6. All lights that are shown on the approved plan shall be turned off between 2230 and 0630 hours on every day.

REASON

In the interests of the residential amenities of neighbouring occupiers.

7. The pallet and cardboard store as shown on the approved plan shall remain on the car park no later than 31 December 2023. Thereafter it shall be removed and the site re-instated as car parking to the written satisfaction of the Local Planning Authority.

REASON

In the interests of the residential amenities of neighbouring occupiers.

8. The pallet and cardboard store as shown on the approved plan shall solely be for the use of the retail unit approved under planning permission PAP/2022/0261 and only used for that purpose. For the avoidance of doubt, it shall not be used by the general public.

REASON

In the interests of the residential amenities of neighbouring occupiers and highway safety.

9. The fencing that is erected around the southern and eastern perimeters of the car park shall be maintained at all times to the following specification - a mass per unit area of 9.4kg/m<sup>2</sup>.

REASON

In the interests of reducing the risk of noise pollution.

10. Within the next available planting season following the date of this permission, landscaping shall be provided along the outside of the southern boundary wall equivalent to that shown on the approved plan for the western wall.

REASON

In the interests of the visual amenities of the area.

11. The measures approved under condition 2 in respect of the closure of the gaps at the bottom of the fences along the southern and eastern car park boundaries shall be maintained at all times.

REASON

In the interests of the residential amenities of neighbouring property.

12. The terms and conditions set out in the Car Park Management Plan approved under condition 2 under DOC/2021/0075 shall be maintained in operation at all times.

REASON

In the interests of the general amenities of the area and highway safety.

13. The safety barriers approved under condition 2 under DOC/2021/0075 shall be maintained in good working order at all times.

REASON

In the interests of the general amenities of the area and highway safety.

14. The surface water drainage system as shown on the approved plan shall be serviced/cleaned on an annual basis with evidence of such action forwarded to the Local Planning Authority immediately following each inspection. This shall be accompanied by a schedule of action required as a consequence and the timescales for implementing such action.

REASON

In the interests of reducing the risk of flooding.



15. Within six months of the date of this permission, electric charging points shall be installed at no less than six of the car parking spaces as shown on the approved plan. These shall be maintained at all times.

REASON

In the interests of supporting sustainable development.

16. Within six months of the date of this permission, the car parking spaces as shown on the plan approved under condition 2 shall be fully marked and laid out on site in accordance with that plan and be maintained as such at all times.

REASON

In the interests of highway safety.

**APPENDIX A**

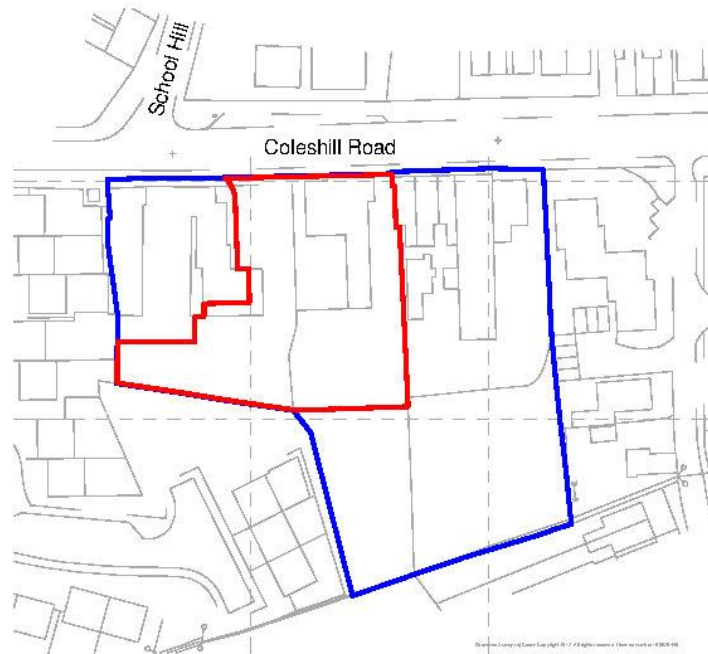
**PAP/2018/0082**

NORTH WARWICKSHIRE  
BOROUGH COUNCIL

**APPROVED**  
**15/05/2018**

UNDER THE PROVISIONS OF  
THE TOWN & COUNTRY PLANNING ACTS


**SUBJECT TO CONDITIONS**  
**ON NOTICE**



NORTH WARWICKSHIRE  
BOROUGH COUNCIL

**RECEIVED**  
**05/02/2018**

**PLANNING & DEVELOPMENT**  
**DIVISION**

Client <b>MAC</b>		Scale 1:1250		Job No 17/78		
Project proposed retail unit Coleshill Road Chapel End		Date Jan 2018	Drawing No 00		19 Station Road Hockley Leicestershire LE10 1AW Tel: 01455 635 665 Fax: 01455 618 971 www.hayward-architects.co.uk	
Drawing Location Plan		Author ZLM	Sheet A4	Drawing Status PLANNING		
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**APPENDIX B**

**PAP/2019/0036**


NUNEATON MUNICIPAL COUNCIL

**APPROVED**

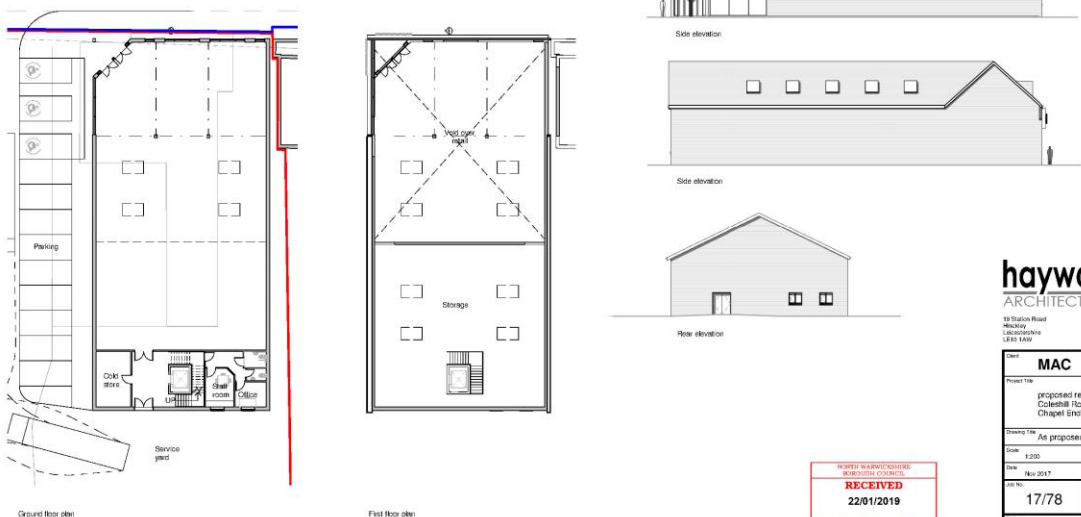
**04/03/2019**

UNDER THE CONDITIONS OF THE TOWN & COUNTRY PLANNING ACT 1990

**SUBJECT TO CONDITIONS ON NOTICE**



3D View



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**MAC**

Project Title  
proposed retail unit  
Coleshill Road  
Chapel End

Drawing Title  
As proposed

Scale 1:200	Author ZLM	Sheet A2
Drawn No. 17/78	Checked No. 14e	

Discipline  
PLANNING

NUNEATON MUNICIPAL COUNCIL

**RECEIVED**

**22/01/2019**

PLANNING & DEVELOPMENT DIVISION

**APPENDIX C**

**PAP/2022/0261**

NUNEATON MUNICIPAL COUNCIL

**RECEIVED**

**07/07/2023**

PLANNING & DEVELOPMENT DIVISION



**NORTH ELEVATION**                      **WEST ELEVATION**

**EAST ELEVATION**                      **SOUTH ELEVATION**



**Pickles Architecture**  
Architectural & Planning Services

**PROPOSED NEW CARPARK ON LAND AT COLESHILL ROAD, CHAPEL END. NUNEATON.**

Drawing Title  
PLANNING DRAWING ELEVATIONS

Job No.  
R966

Sheet No.  
06

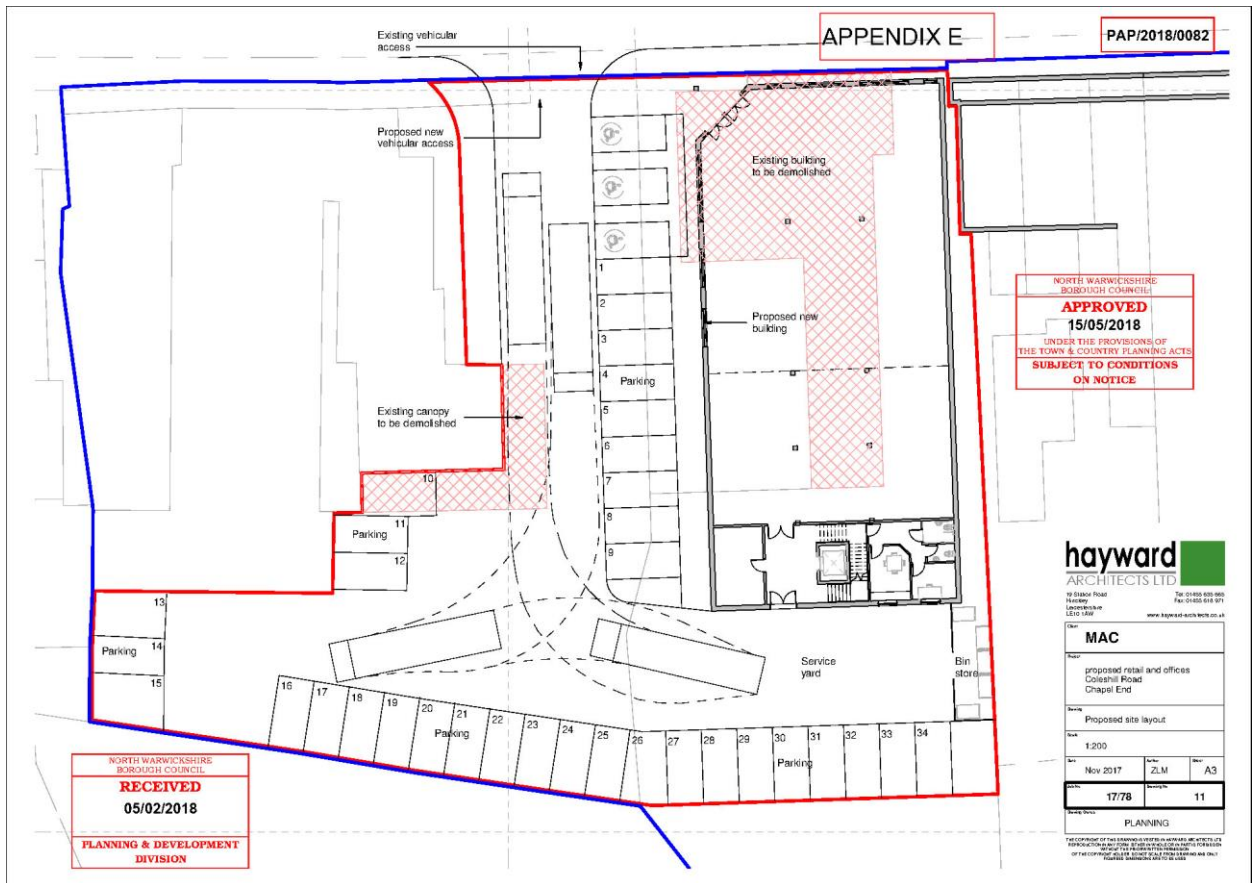
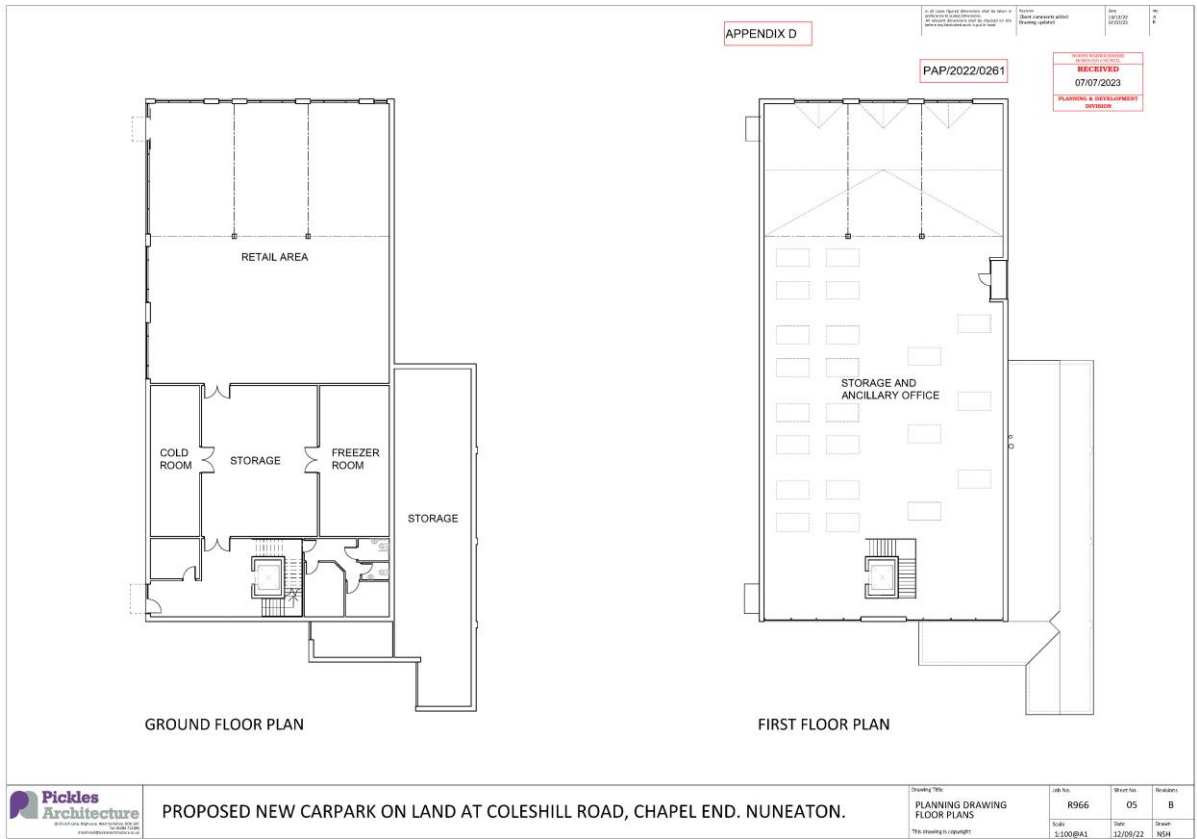
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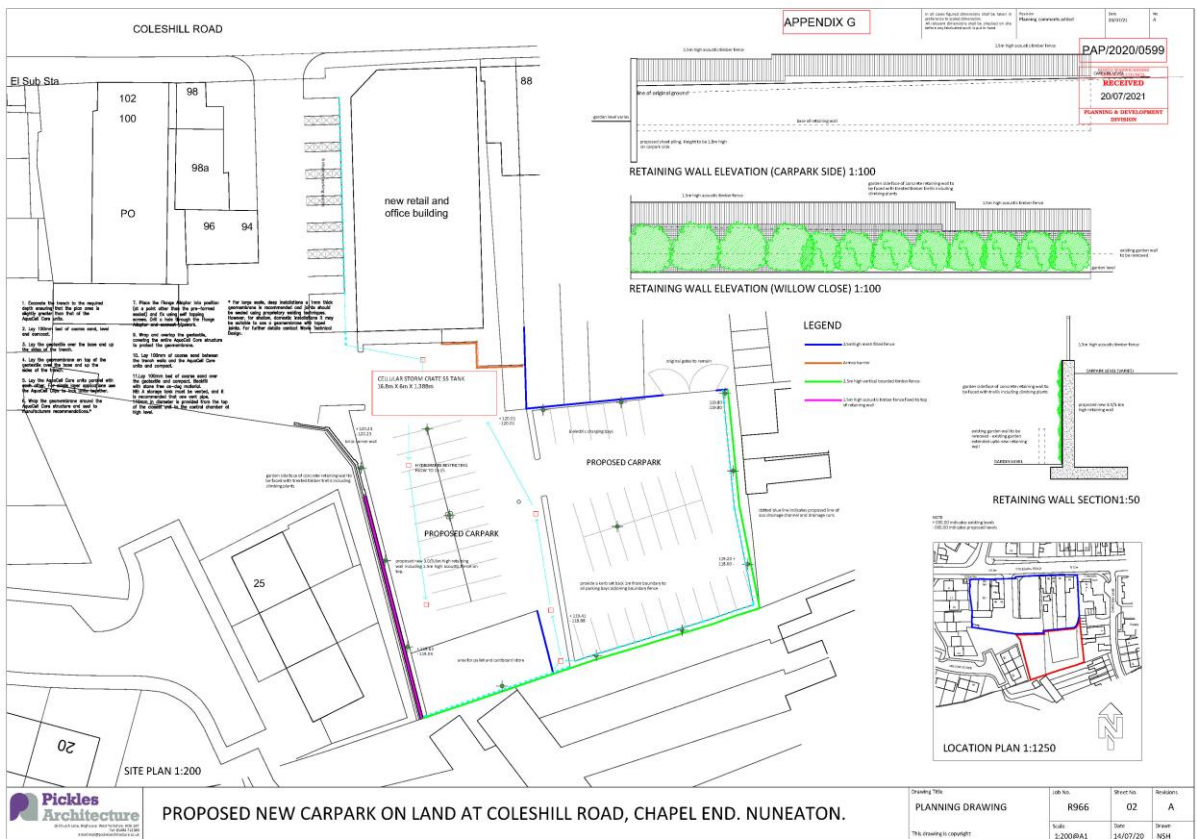
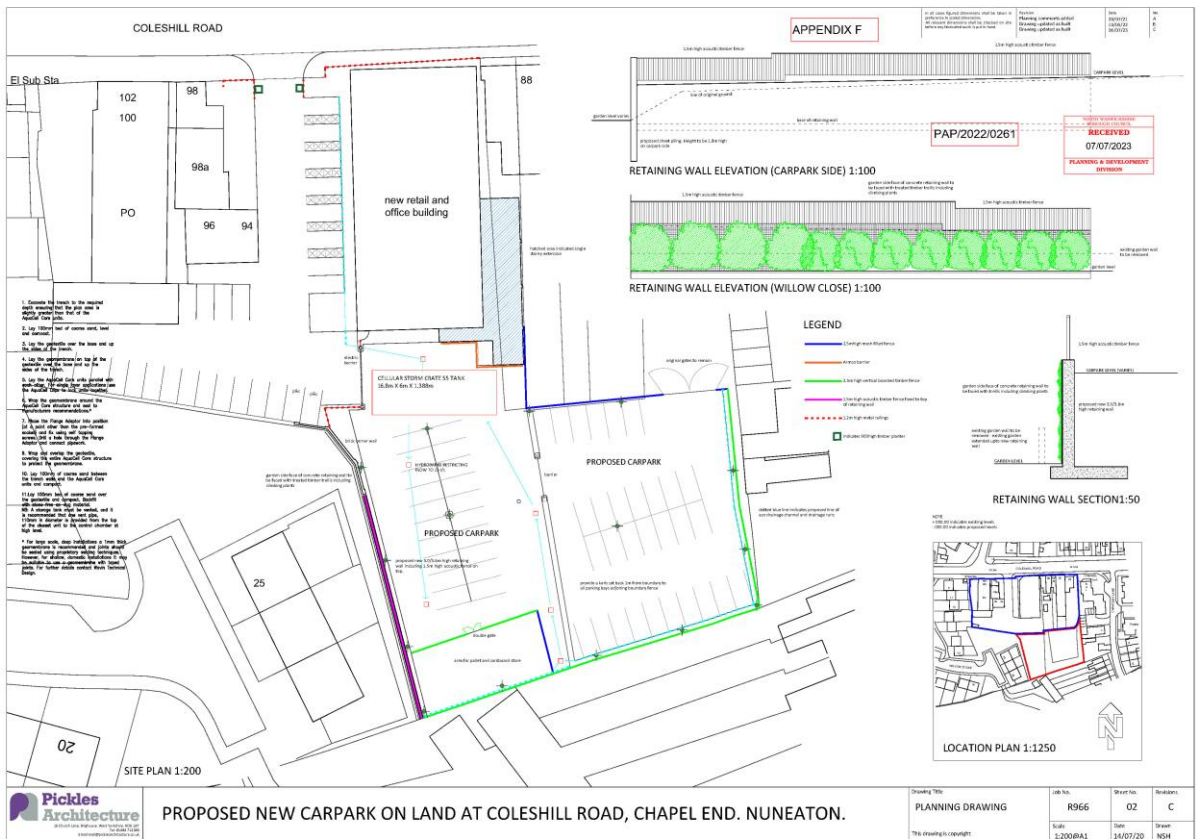
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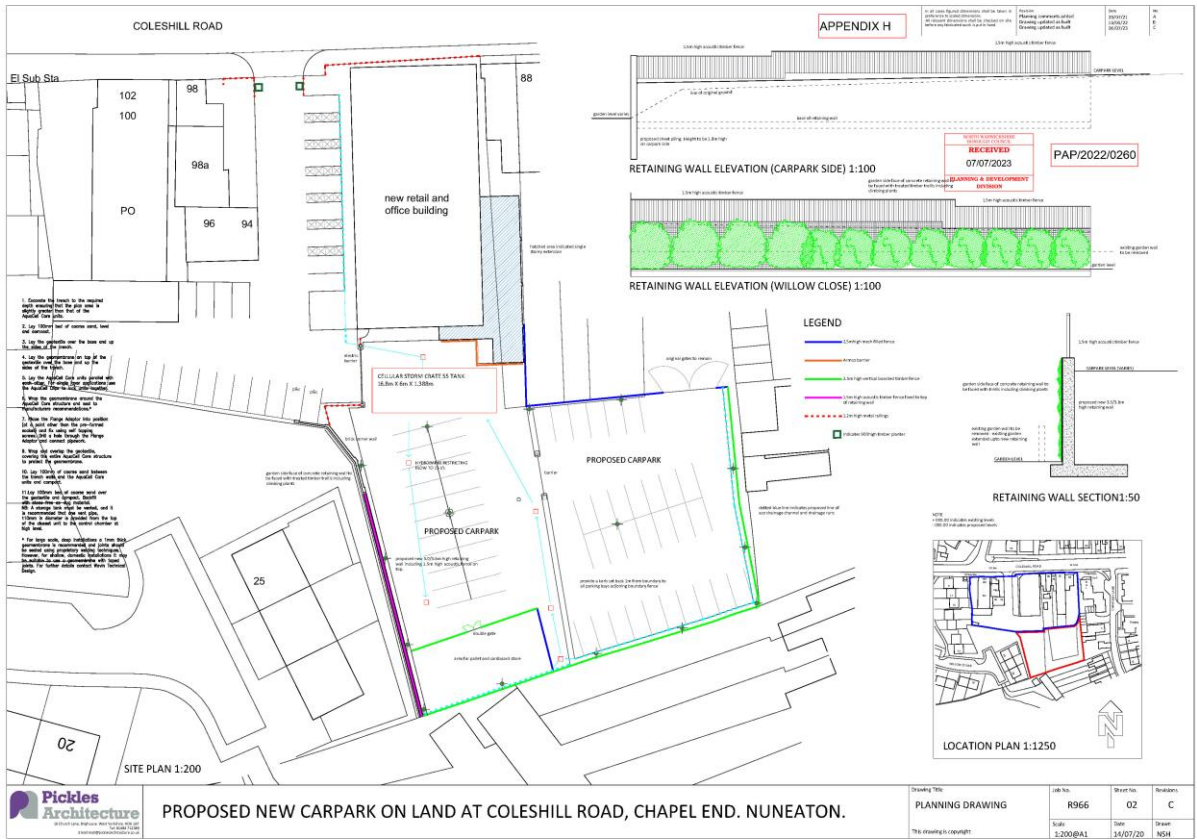
Checked  
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## General Development Applications

(7/d) Application No: PAP/2023/0076

Arden Livery and Menage, Tippers Hill Lane, Fillongley, CV7 8DJ

Conversion of existing western stable block into a three-bedroomed single-storey dwelling house; demolition of existing hay stores to the south side of the stable yard, provision of hard-surfaced parking area and improved access/turning area, for

Mr & Mrs Martin & Joy Langley

### Introduction

This application was referred to the September Board meeting, but determination was deferred to enable Members to visit the site. The previous report is attached at **Appendix A** and a note of the visit is at **Appendix B**.

### Observations

There have been no changes since the Board last looked at this case and thus the recommendation remains as set out in **Appendix A**.

### Recommendation

That planning permission be granted subject to the conditions as set out in **Appendix A**.

## General Development Applications

(5/e) Application No: PAP/2023/0076

Arden Livery And Menage, Tippers Hill Lane, Fillongley, CV7 8DJ

**Conversion of existing western stable block into a three-bedroomed single-storey dwellinghouse; demolition of existing hay stores to the south side of the stable yard, provision of hard-surfaced parking area and improved access/turning area, for**

**Mr and Mrs M and J Langley**

### 1. Introduction

1.1 This application is referred to the Board at the request of the local Member expressing concern about the impacts of the proposal on the Green Belt.

### 2. The Site

2.1 This a single storey stable block comprising nine stables and a tack room, together with a yard and hay-store to the south side of Tippers Hill Lane – a single track country lane – behind a roadside hedgerow. The building has masonry walls, fabricated timber trusses and a tiled pitched roof. The setting is one of open countryside with a scattering of other farm buildings and residential property.

2.2 There is a menage and other stables a little way to the east.

2.3 The site is illustrated at Appendix A

### 3. The Proposals

3.1 It is proposed to convert the stable block into a three-bedroom single storey house whilst demolishing the existing hay-store which stands immediately to the south as well as providing an improved access and parking arrangement.

3.2 These proposals are illustrated on Appendix B.

### 4. Background

4.1 The stable block was present on the site in 2006 as evidenced by aerial photography with the hay store appearing before 2013.

4.2 The menage was also present in 2006 with the stables to the east being present in 2016.



## 5. Consultations

Warwickshire County Council as Highway Authority – No objection subject to conditions

Environmental Health Officer – No objection subject to conditions

## 6. Representations

Fillongley Parish Council – It objects because:

- There is no planning permission for the stables. It considers that the eastern section of the stables was constructed after 2015.
- The residential conversion of stables to a dwelling is not an "exceptional" circumstance.

## 7. Development Plan

North Warwickshire Local Plan 2021 – LP2 (Settlement Hierarchy); LP3(Green Belt), LP13 (Rural Employment), LP29 (Development Considerations) and LP30 (Built Form)

Fillongley Neighbourhood Plan

## 8. Other Material Planning Considerations

The National Planning Policy Framework – (the "NPPF")

## 9. Observations

### a) Green Belt

9.1 The site is in the Green Belt. It is thus necessary to establish whether the proposal is appropriate or not appropriate development in the Green Belt as inappropriate development carries a presumption of refusal. The NPPF provides that definition. In this case, the proposal is for a material change of use of land as well as being the re-use of a building. The NPPF at paragraph 150 (d) and (e) says that such proposals are not inappropriate subject to a number of conditions. These are that the proposal should preserve openness, not conflict with the purposes of including land within the Green Belt and that the building should be of a permanent and substantial construction. In this case the building satisfies these two criteria in that it is structurally sound and capable of conversion without demolition and the need to rebuild. In respect of the openness condition, then the site is an active stables and yard with the daily activity associated with such a use. Additionally, the proposal includes the removal of a hay store. As such it is considered that the activity arising through its conversion would be less than that now being experienced and that the limited scope of the curtilage and the loss of the other building will preserve, if not improve openness in the locality. The proposal would not conflict with the five

purposes on including land within the Green Belt as the proposal makes use of an existing building and site without encroaching onto existing open land or new countryside. As such, the proposal is considered to be appropriate development in the Green Belt. The presumption is thus to support the proposal.

#### **b) Other Development Plan Policies**

9.2 There is support elsewhere in the Development Plan.

9.3 Policy LP13 of the Local Plan deals with proposals involving the re-use of rural buildings such as here. Whilst the policy identifies a preferred use for a rural business or service, the policy also says that tourism and locally affordable housing provision may be appropriate. The policy therefore lends some weight to a potential residential use.

9.4 The overall character of the proposed conversion is wholly acceptable and would not harm the appearance of the rural character. It is also noteworthy that the residential curtilage is small. The proposal would thus satisfy Local Plan policy LP30.

9.5 There is also unlikely to be any detrimental impact on the amenities of neighbouring residential property given the activity associated with the existing equestrian use and the separation distances. As such Local Plan policy LP29(9) is satisfied.

9.6 As the Highway Authority has no objection, Local Plan policy LP29 (6) is satisfied.

9.7 Additionally, Members will be aware of the permitted development rights that run with agricultural buildings – Class Q of Part 3 to Schedule 2 of the General Permitted Development Order 2015 as amended. This permits the residential conversion of agricultural buildings subject to certain conditions. It is of weight that if this building had been a farm building such as the one to be demolished, then it would have benefitted from this permitted development right. The same right would apply to nearby agricultural buildings along the Lane here.

9.8 Given this background, these matters add weight to supporting the proposal. It is accepted that the site is outside of a settlement boundary defined by the settlement hierarchy in Local Plan Policy LP2. Members will be aware however that most Class Q conversions are outside of settlement boundaries and that the existing stables use is dependant solely on private transport. Local services and facilities are not that distant in New Arley. Moreover nationally, appeal decisions relating to conversions away from settlements point to the site needing to be "isolated" for weight to be given to a refusal referring to an unsustainable location.

#### **c) Other Matters**

9.9 The Parish Council has raised two matters.

9.10 Firstly, the objection in respect of the Green Belt does not reflect the actual content of both national and local planning policy as set out in paragraph 9.1 above.

There has been no assessment to show that this is not appropriate development.

9.11 Secondly, the history of the site and the current buildings here could carry weight. However, the whole stable building and the hay store are "lawful" due to the passage of time – well over the four-year period set out in the legislation. It has to be pointed out too that had retrospective applications been submitted, they would have been recommended for approval in principle, given that equestrian uses are wholly appropriate in a rural area.

#### **d) Conclusion**

9.12 The proposal is considered to be in accordance with the Development Plan and thus that without there being significant and demonstrable harms identified, the proposal can be supported. The conditions recommended below include the removal of permitted development rights for further works to the building and within its curtilage.

#### **Recommendation**

That planning permission be **GRANTED** subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

#### **REASON**

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan, the existing and proposed floor plans and sections, titled Drg-01-A1 (Existing Plans and Elevations) received by the Local Planning Authority on 23 February 2023 and Drg-02-Rev A-A1 (Proposal Plans and Elevations) received by the Local Planning Authority on 14 June 2023.

#### **REASON**

To ensure that the development is carried out strictly in accordance with the approved plans.

3. The new works shall be carried out with facing brickwork and roof tiles of a similar style, colour and texture to those present on the existing building.

#### **REASON**

In the interests of the amenities of the area and the building concerned.

4. For the avoidance of doubt, this permission is for conversion of the existing building as indicated upon the approved plans, along with the insertion of windows and doors in the positions shown, removal of existing hay stores to the south side of the stable yard and blocking up of existing openings where necessary. It specifically does not grant permission for demolition and reconstruction of the building.

REASON

In the interests of the amenities of the area and the building concerned.

5. The development shall not be occupied until the existing access has been resurfaced with a bound material for a minimum distance of 7.5 metres as measured from the near edge of the public highway carriageway.

REASON

In the interest of Highway Safety.

**Pre-commencement**

6. No works other than demolition shall take place until a contaminated land assessment has been undertaken. If the assessment identifies potential contamination a further detailed investigation shall be carried out and details of remediation measures shall be provided where necessary. All works shall be carried out by a competent person and agreed in writing by the Local Planning Authority prior to commencement of development.

REASON

In the interests of the safe habitation of the property.

7. In the event that contamination is found under condition 7, at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON

In the interests of the safe habitation of the property.

8. Where remediation works have been carried out in pursuance with the preceding conditions 7 and 8, a post remediation verification report shall be submitted in writing to and approved by the Local Planning Authority before the development is first occupied.

**REASON**

In the interests of the safe habitation of the property.

**Pre-occupation conditions**

9. Prior to occupation of the dwelling hereby approved, a bin storage facility capable of holding a minimum of 3 x 240 litre wheeled bins shall be provided within the curtilage of each dwelling. The storage facility shall remain permanently available for that purpose at all times thereafter.

**REASON**

To enable effective storage and disposal of household waste and in the interests of the amenity of the area

10. Prior to first occupation of the dwelling hereby approved, details of the electric vehicle charging bays, each with an electric vehicle charging point, to be provided in accordance with the Council's standard (Parking Standards SPD) shall be submitted and approved in writing by the local planning authority. The details shall include signs and bay markings indicating that bays will be used for parking of electric vehicles only whilst being charged. Prior to first occupation the electric charging points and bays shall be installed in accordance with the approved details and shall thereafter be maintained for the life of the development. The frequency of the charging points should match the number of dwellings.

**REASON**

In the interests of facilitating sustainable travel and reducing air pollution

11. Prior to first occupation of the dwelling hereby approved, details of the bat and bird boxes shall be submitted to and approved by the Local Planning Authority in writing. Such details should be based on section 5 of the preliminary ecology appraisal [dated February 2021]. The approved measures shall be implemented in full prior to first occupation of the development and thereafter maintained as such.

**REASON**

In order to safeguard protected species from undue disturbance and impacts, and in order to secure an overall biodiversity gain.

12. Any gas boilers provided must meet a dry NO<sub>x</sub> emission concentration rate of <40mg/kWh. The specification of the gas boiler(s) shall be submitted to and approved in writing by the Local Planning Authority before they are fitted, and the approved specification shall be implemented prior to the first occupation of the development.

**REASON**

To achieve sustainable development by reducing emissions in line with Local and National Policy and as set out in the adopted 2019 Air Quality Planning Guidance.

**On-going**

13. No development whatsoever within Classes AA, A, B & E of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, shall commence on the land shown edged red on the approved plan, without details first having been submitted to and approved by the Local Planning Authority, in writing.

**REASON**

In the interests of the amenities of the area and to ensure that any harm to the Green Belt is fully assessed.

14. No development whatsoever within Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, or in any provision equivalent to that Part in any statutory instrument revoking and re-enacting that Order with or without modification, shall commence on the land shown edged blue on the approved plan, without details first having been submitted to and approved by the Local Planning Authority, in writing.

**REASON**

In the interests of the amenities of the area and to ensure that any harm to the Green Belt is fully assessed.

Notes

1. The developer is reminded that the Control of Pollution Act 1974 restricts the carrying out of construction activities that are likely to cause nuisance or disturbance to others to be limited to the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with no working of this type permitted on Sundays or Bank Holidays. The Control of Pollution Act 1974 is enforced by Environmental Health.



2. Before carrying out any work, you are advised to contact Cadent Gas about the potential proximity of the works to gas infrastructure. It is a developer's responsibility to contact Cadent Gas prior to works commencing. Applicants and developers can contact Cadent at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) prior to carrying out work or call 0800 688 588.
3. The proposed works may require building regulations consent in addition to planning permission. Building Control services in North Warwickshire are delivered in partnership with six other Councils under the Central Building Control Partnership. For further information please see Central Building Control - Come to the experts ([centralbc.org.uk](http://centralbc.org.uk)), and [https://www.planningportal.co.uk/info/200187/your\\_responsibilities/38/building\\_regulations](https://www.planningportal.co.uk/info/200187/your_responsibilities/38/building_regulations) ; guidance is also available in the publication 'Building work, replacements and repairs to your home' available free to download from <https://www.gov.uk/government/publications/building-work-replacements-and-repairs-to-your-home>
4. Condition number 5 requires works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team.

This process will inform the applicant of the procedures and requirement necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant/developer.

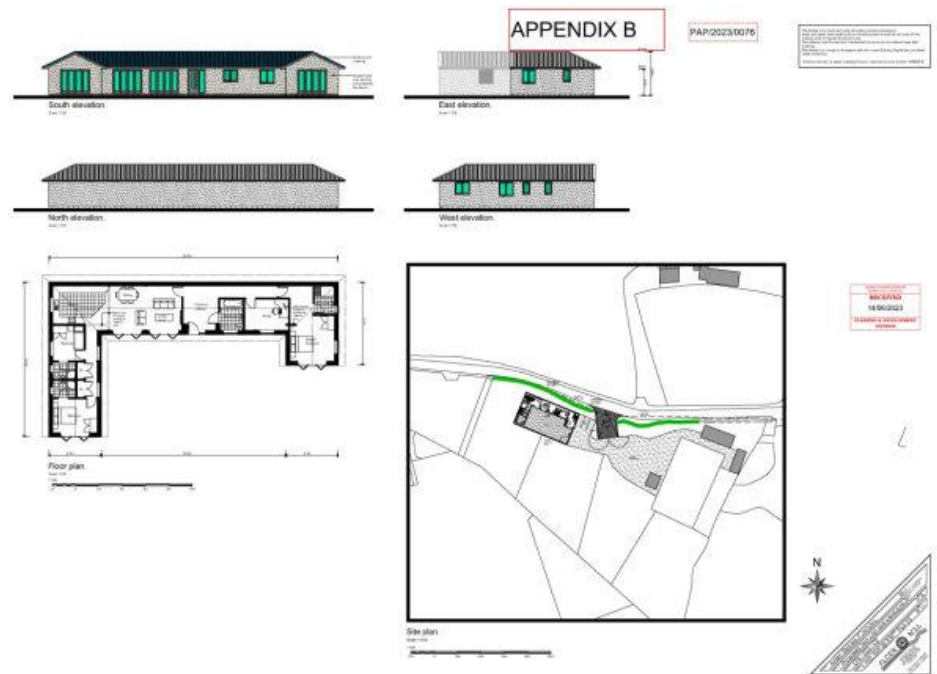
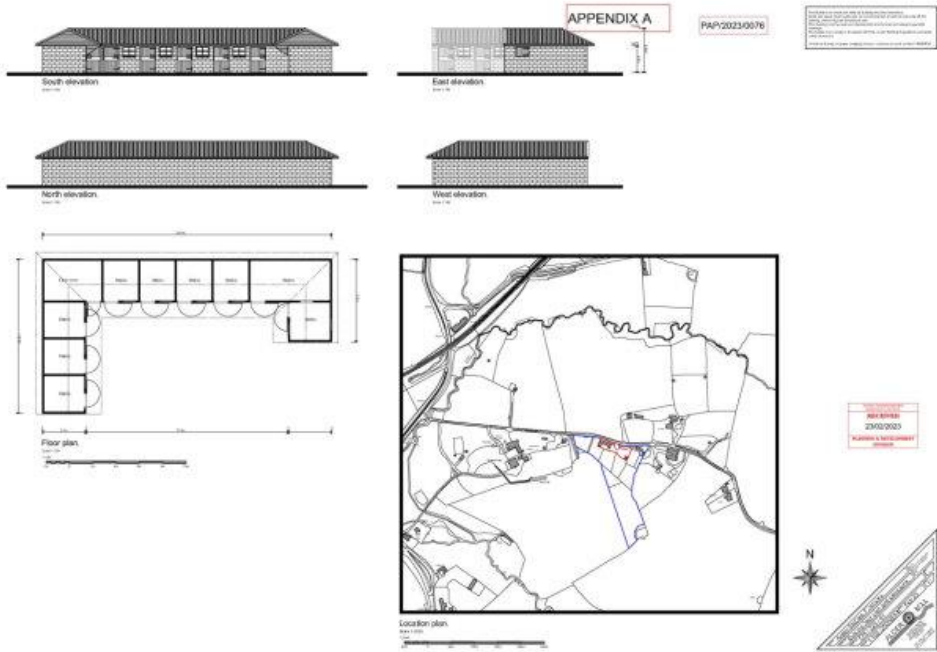
The Area Team may be contacted by telephone: (01926) 412515. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Street Works Act 1991 and all relevant Codes of Practice.

Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days' notice will be required. For works lasting longer than 10 days, three months' notice will be required.

5. Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow – so far as is reasonably practicable – from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.

6. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g., street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
7. In the event that contamination is found under condition 7, at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Where remediation works have been carried out in pursuance, a post remediation verification report shall be submitted in writing to and approved by the Local Planning Authority before the development is first occupied.
8. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £116. Although the Local Planning Authority will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows a period of 8 weeks, and therefore this timescale should be borne in mind when programming development.
9. Prior to the occupation of the approved dwelling(s), please contact our Street Name & Numbering officer to discuss the allocation of a new address on 01827 719277/19477 or via email to [SNN@northwarks.gov.uk](mailto:SNN@northwarks.gov.uk). For further information visit the following details on our website [https://www.northwarks.gov.uk/info/20030/street\\_naming\\_and\\_numbering/1235/street\\_naming\\_and\\_numbering\\_information](https://www.northwarks.gov.uk/info/20030/street_naming_and_numbering/1235/street_naming_and_numbering_information)
10. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.





## **APPENDIX B**

**PAP/2023/0076**

**Arden Livery and Menage, Tippers Hill Lane, Fillongley, CV7 8DJ**

**Site Visit – 23<sup>rd</sup> September at 1030**

Present – Cll'rs Bell, Dirveiks, Parsons, H Phillips, Reilly, Ridley and Simpson together with the applicants and J Brown.

1. Members parked in the car parking area and were shown plans of the site and its' setting together with the proposed conversion.
2. They then walked into the yard in front of the stables and saw the hay store to be demolished.
3. They then walked over to the other stables, buildings and the menage to the east of the site.
4. Whilst on site Members were able to see the surrounding area and the absence of other buildings.
5. The access into the site was also noted.
6. The visit ended at around 1045 hours.

## **General Development Applications**

**(7/e) Application No: PAP/2019/0473**

**The Paddocks, Church Lane, Corley, Coventry, CV7 8AZ**

**Garage, for**

**Mr Peter Veal**

### **Introduction**

This application was reported to the Board in March 2020. It resolved to grant a planning permission subject to the completion of a Section 106 Agreement which would restrict the use of the garage to that use and not to be used for any other purpose including a new residential use.

The report is attached at **Appendix A**.

### **Update**

The garage has now been completed but no Agreement has been completed.

Several inspections since the 2020 meeting have taken place and the building has always been in use solely as a garage.

The owner/applicant has not completed an Agreement.

### **Observations**

This application remains undetermined because of the absence of the Agreement.

In the circumstances, it is considered that a planning permission should now be granted subject to a planning condition restricting the use in lieu of the Agreement.

Members should be aware that the building will be lawful due to the lapse of time in March next year.

### **Recommendation**

That planning permission be **GRANTED** subject to the following conditions:

1. Standard plans number condition.

2. The building hereby approved shall be used solely as a garage incidental to the residential use of the property known as The Paddocks, Church Lane, Corley, CV7 8AZ and for no other purpose whatsoever. For the avoidance of doubt, it shall not be used for a residential use under Class C3 of the Town and County Planning (Use Classes Order)2020 as amended.

REASON

In order to satisfy Policy LP2 of the North Warwickshire Local Plan 2021.

(3) Application No: PAP/2019/0473

The Paddocks, Church Lane, Corley, Coventry, CV7 8AZ

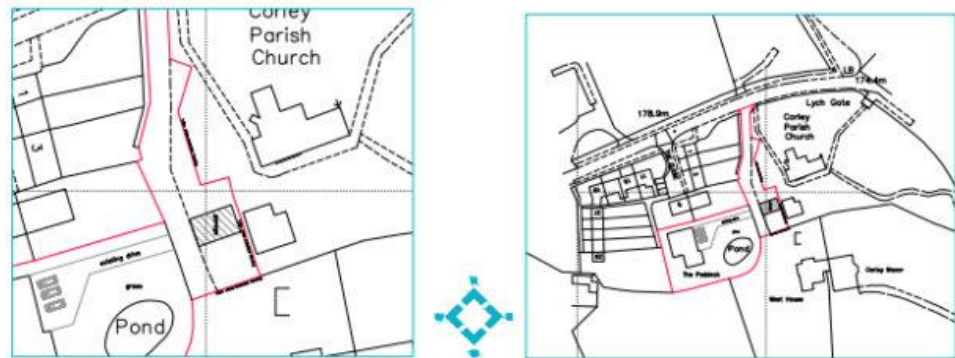
Garage, for

Mr Peter Veal

**Introduction**

This application is reported to the Planning and Development Board at the request of a local member concerned about the impact of the proposal.

**The Site**

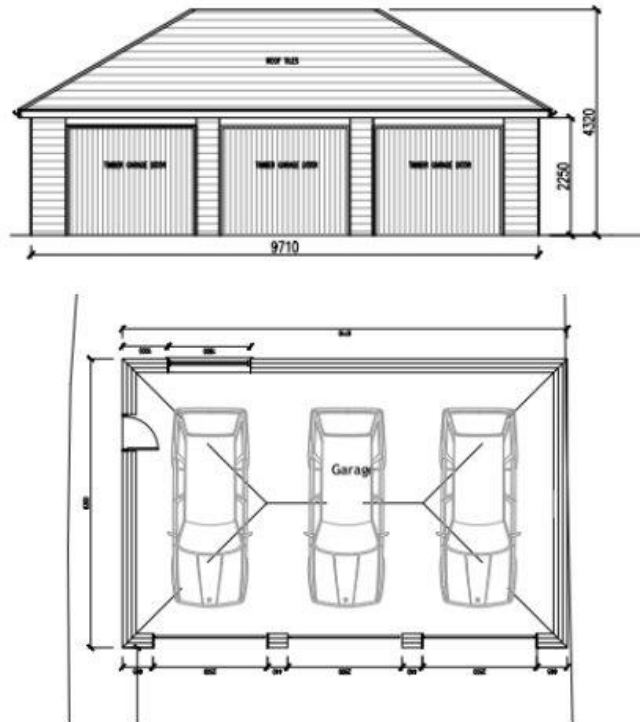


**Proposed Block Plan and Site Location Plan**

The application site is a detached 1980's single storey dwelling situated within the village of Corley, benefitting from a large curtilage that extends eastwards to the property's boundary with the Parish Church. It lies within the village's historic core, sited adjacent to the Grade 2 Star listed church and the Grade 2 listed Corley Manor House. The property falls inside the West Midlands Green Belt.

**The Proposal**

Planning permission is sought for the construction of a detached triple garage to the east of the site adjacent to the boundary with Corley Church and immediately to the east of a shared access road. The garage would sit at a 90 degree angle to the shared access and would be 9.71 metres wide, 6.3 metres deep and stand 4.32 metres tall to the apex of a hipped roof. Facing materials would consist of roof tiles, timber cladding and timber doors. It would be sited next to a Sunday school building in the church yard.



**Proposed Front Elevation Plan and Floor plan**

**Background**

Planning permission was refused last year (PAP/2018/0699) for the erection of a detached annex on the same area of the site.

**Development Plan**

The Core Strategy 2014 - NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development) and TPT6 (Vehicle Parking)

**Other Relevant Material Considerations**

The National Planning Policy Framework 2019 - (the 'NPPF')

The North Warwickshire Local Plan Submission Version, March 2018 – LP1 (Sustainable Development); LP3 (Green Belt), LP 15 (Historic Environment), LP31 (Development Considerations) and LP32 (Built Form)

Planning (Listed Building and Conservation Areas) Act 1990

### **Consultations**

Warwickshire County Council (Highways) - No objection subject to conditions.

### **Representations**

Corley Parish Council objects for the following reasons:

- This construction is unacceptable in this location
- The scale is not acceptable nor in keeping with the surroundings
- Concern is raised that garage will become a property in the future

### **Observations**

#### **a) Green Belt**

The site lies within the Green Belt. The NPPF defines appropriate forms of development in the Green Belt. The construction of new buildings is not included in this definition, but in this case the construction could satisfy one of the exceptions outlined in that definition. This is where the construction is considered to be "limited infilling in villages".

In this case it is considered that it would meet this exception. Corley is recognised as a settlement within the settlement hierarchy as set out in the Development Plan and the application site itself is within a built up area where there is a variety of different surrounding built forms. The residential curtilage is not to be extended and there are fall-back situations here where incidental outbuildings could be built under permitted development rights. Looking at other Green Belt characteristics then there is unlikely to be an adverse impact on openness given the surrounding development, the tree cover and the lack of public visibility. The development would also not conflict with the five purposes of including land within the Green Belt.

As a consequence it is concluded that the proposal is appropriate development in the Green Belt.

#### **b) Historic Environment**

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory obligation on local authorities to have special regard to the desirability of '*preserving the building or its setting or any features of special architectural or historic interest which it possesses*'. Core Strategy policy NW14 reflects this and seeks to protect and enhance heritage assets commensurate to their significance. The garage is considered to be sited within the setting of the listed church.

The heritage significance of the church is a product of its architectural appearance and historic association with the community of the parish, forming an important building at the nucleus of the village. It is considered that owing to the single storey nature and form of the building, the development would not adversely harm the church's setting beyond how the Sunday school arrangement has been carried out. It is considered that

the setting of the church would be preserved and thus protected. Consequently the development would accord with policy NW14; the NPPF and the statutory requirement as no harm would be caused.

Corley Manor lies further to the east and its significance is that it represents a retained building of architectural and historic interest in the evolution of the settlement. The proposal would have no direct impact on the Manor itself only its setting. However the proposal is some distance away and would not impinge visually on the curtilage of the Manor given surrounding development. As for the Church, it is not considered that any harm would be caused.

#### **c) Design**

No objection is offered from a design perspective. As indicated within preceding sections of this report, the single storey height of the building ensures that the garage would not form a dominant feature nor detract from the appearance and significance of other buildings in the vicinity. Facing materials would be conditioned to be provided prior to construction given the sensitivity of the site, ensuring that a harmonious facing appearance is achieved. However those proposed now are in keeping.

#### **d) Highway Safety**

Saved policy TPT1 states that development is only permissible in situations whereby there is sufficient capacity within the highway network to accommodate the traffic generated and the development would not be hazardous to traffic safety and visibility.

Visibility onto Church Lane is very restricted and therefore an independent use and resultant intensification of the access is not deemed to be acceptable here. Following negotiations and revised plans, the highways authority has removed their objection subject to the inclusion of a condition limiting use of the garage. This is a normal approach in circumstances such as this and would ensure that the development accords with Development Plan policy.

#### **e) Fall-back position**

In this case, the site is within a residential curtilage and thus there is a fall-back position which can be weighed against the impacts of a scheme. In these particular circumstances a garage of very similar proportions could be erected to the south of the dwellinghouse without the need for a planning application. The difference in terms of Green Belt and visual impacts would be negligible.

#### **f) Other Matters**

Members are aware that "speculation" about future uses of a building is not a planning consideration and no weight should be attached to this matter.



## Recommendation

That planning permission be **GRANTED** subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

### REASON

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the drawing numbered 3779-01F, received by the Local Planning Authority on 17 January 2020.

### REASON

To ensure that the development is carried out strictly in accordance with the approved plans

3. No development shall commence until details of the facing materials have been submitted to and approved by the local planning authority. The approved materials shall then be used and maintained thereafter.

### REASON

In the interests of the character and appearance of the area and the building concerned.

4. No development shall commence until a landscaping scheme has been submitted to and approved by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first use of the garage or the completion of the development, whichever is the sooner; and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

### REASON

In the interests of the character and appearance of the area

5. No laying of services, creation of hard surfaces or erection of a building shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of minimising the likelihood of flooding incidents and damage to the environment, property or life

6. The garage hereby permitted shall not be converted or used for any purpose other than as a domestic garage for the dwelling known as The Paddocks, Church Lane, Corley as such.

REASON

In the interests of highway safety and to prevent unauthorised use of the building hereby approved.

7. No development whatsoever within Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

REASON

In recognition of the very special circumstances warranting the approval of planning permission and to control future development in the interests of the openness of the Green Belt

## BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2019/0473

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	14/08/2019
2	Corley Parish Council	Objection	18/11/2019
3	Warwickshire County Council Highways	No Objection	02/01/2020

*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*