

**20/00613/FUL
NON MAJOR**

Mr Shane Clee

ESSINGTON

**Cllr Warren Fisher
Cllr Christopher Steel**

The Paddock, Anvil Park, Bursnips Road, Essington, Wolverhampton. WV11 2RD.

Change of use of the land to Gypsy and Traveller residential use with the siting of four caravans, of which no more than two would be mobile homes, and the retention of a day room, a stables store building and a storage shed, together with the stationing of a Gypsy vardo (which would only be stored on the site).

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site Description

1.1.1 The application site is on the west side of Bursnips Road immediately to the south of, and sharing the same access with, an established 8 pitch gypsy and traveller site (Brickyard Cottage/Anvil Park) which is occupied by members of the appellant's family including his adult children, father and brothers. It is within the Green Belt.

1.1.2 The former quarry site abuts the site to the west and south. There is a loose knit ribbon of detached houses to the opposite side of Bursnips Road to the north east. The prevailing character of the area is rural. Wood Farm Golf & Leisure Club is to the east, on the opposite side of Bursnips Road.

1.1.3 Established screening hedges and trees bound the site on all sides, including the highway frontage.

1.1.4 The site is 1.2km north-east of Essington Village with a range of services and facilities including a primary school.

1.2 Relevant Planning History

1983 Gypsy caravan site, refused (83/00226)

1985 Retention of fencing, refused (85/ 00889)

1993 Stationing of 5 additional Gypsy caravans, refused (93/01038)

1994 Outline application for residential development, refused (97/00839) 1998 Variation of condition to permit the parking of one additional caravan, refused (98/00173).

2017, Change of use of the land to a single Gypsy and Traveller residential pitch with the siting of two caravans, of which no more than one would be a mobile home, and the development of a day room, together with stationing a Gypsy vardo (which would only be stored on the site), and development of a stables store building and a storage shed, for a temporary period of five years. Refused. Appeal allowed on 3-year term and personal basis at appeal (16/00432/FUL and appeal reference APP/C3430/W/16/ 3162671 of 25 July 2017).

Relevant planning history on adjoining site (Brickyard Cottage/Anvil Park.)

1987, 8 permanent gypsy and traveller pitches, refused. Appeal allowed (87/00305/FUL)

2009, wall fence and gates, refused. Appeal dismissed (09/00621/FUL). 2013, change of use to private gypsy caravan site, consisting of 15 pitches, 1 dayroom, 7 utility blocks and associated works, refused (13/00655/FUL)

2014, change of use of land to a private gypsy and traveller caravan site consisting of 13 no. pitches, 6 no. utility blocks and associated works, refused (14/00338).

2018, 2 additional gypsy and traveller pitches as an extension to the immediate north of the existing 'Brickyard Cottage/Anvil Park' site. Approved under adopted SAD Allocation Policy (18/00789/COU).

2017, discharge of development scheme condition, approved 16/00432/COND.

1.3 Pre-Application Discussions

1.3.1 None.

2. APPLICATION DETAILS

2.1 Proposal

2.1.1 Planning permission was granted at appeal in July 2017 for the use of this site as:

“a single Gypsy and Traveller residential pitch with the siting of two caravans, of which no more than one would be a mobile home, and the development of a day room, together with the stationing of a Gypsy vardo (which would only be stored on the site), and development of a stables store building and a storage shed”.

2.1.2 The appointed Inspector allowed the appeal for a temporary 3-year term and on a personal basis given the personal circumstances cited.

2.1.3 Permission was granted on a temporary 3-year basis as it was envisaged in the circumstances at the time that the on-going Development Plan position would deliver pitch allocations by the end of the 3-year term.

2.1.4 The application proposes 2 permanent Gypsy and Traveller pitches comprising a maximum number of 2 mobile homes under the definition of The Caravan Sites Act 1968; 2 touring caravan spaces; a detached timber clad and tiled roof built amenity/day room; a stables block and store room clad in timber with a tiled roof and a storage shed and stationary gypsy vardo. There are also shared lawned play and garden areas included in the proposed layout, and hard surfaced space for the parking and turning of the applicant's cars.

2.1.5 The additional physical development proposed, beyond that allowed temporarily at appeal/under the development scheme approved in 2017 under appeal condition requirements (16/00432/COND), is one additional mobile home, a space for one additional touring caravan, and a 4m wide extension to the approved day room. This application therefore seeks to replace the temporary pitch with 2 permanent pitches and associated supplementary buildings.

2.1.6 The position of the existing mobile home, day room, stables/storeroom, shed and vardo are as previously approved on a temporary basis.

2.2. AGENTS SUBMISSIONS: Summary

Background:

The application is to make permanent the current planning permission for Gypsy and Traveller residential use of the land which was granted for a temporary three-year period through appeal decision APP/C3430/W/16/ 3162671 of 25 July 2017.

The application also seeks to make a number of amendments to the way the site is used compared with the proposals approved on a temporary basis. The most important changes are to extend the day room building and to increase the number of caravans authorised on the site from two, (of which one can be a mobile home) to four, (of which two can be mobile homes). This means that the application is for the equivalent of two Gypsy and Traveller pitches.

The site will continue to provide accommodation for the applicant, Shayne Clee and his family. They are all ethnically Romany Gypsies under the PPTS definition of Gypsy and Travellers.

Development Plan Policy Assessment:

The proposals are not one of the uses or developments allowed under Core Strategy Policy GB1: Development in the Green Belt. The fact it is in the Green Belt means it is also contrary to criterion 8 (a) of Core Strategy Policy H6: Gypsies, Travellers and Travelling Showpeople.

Apart from in regard to criterion 8(a) Inspector Worthington found at para 32 of Appeal Decision 3162671:

'The proposal would comply with the other criteria of Core Strategy Policy H6. The site is well screened the proposal would cause no harm to the character and appearance of the surrounding area (criterion 8). Furthermore, it would not put an unacceptable strain on infrastructure or dominate existing settled communities. There is support from local residents and the proposal would promote strong social cohesion with existing families, both on the adjacent Anvil Park and with the local settled community nearby (criterion 7).'

Very Special Circumstances:

Para 16 of Planning Policy for Traveller Sites states:

'Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'.

That does not mean Traveller accommodation cannot be approved in the Green Belt, only that approval on the basis of personal circumstances and unmet need is unlikely. As in all planning matters, each case must be determined on its merits. In practice over the years a significant number of permanent sites have been granted in Green Belt, including Anvil Park itself, and the recent permission 18/00789/COU for two pitches on land to the north of Anvil Park.

Among the appeal decisions I am aware of which have granted permanent permission in Green Belt since the publication of the 2015 version of PPfTS are 2179237, 3136780, 280818, 3183666, and 3129221. Looking at those decisions, the key factors which in different combinations weighed in favour of the proposals, represented very special circumstances and led to the appeals being allowed were the lack of robust assessments of need, unmet need, the lack of alternative accommodation, the failure to make provision for Gypsies & Travellers falling outside the definition for planning purposes, the lack of a five year supply of

sites, the failure to make provision over an extended period, the need for any provision to be in Green Belt, personal circumstances, and the best interests of the children.

In the case of the current application, there are group of factors which come together to clearly outweigh the harm to the Green Belt and to constitute the very special circumstances for granting approval. Those factors are based on and similar to the reasons that Inspector Worthington used at paras 30 – 36 of her decision letter in determining that the appeal should be allowed for a temporary three-year period.

Need for Accommodation, Five Year Supply:

Firstly, there is a substantial level of unmet need in South Staffordshire

On the basis of the most up to date assessment of need, The Black Country and South Staffordshire Accommodation Assessment, May 2017 the Council is significantly short of having a 5 years' supply of deliverable sites and at least further 5 years' supply of specific deliverable sites or broad locations for growth. That study found (Table A.5) a need for 48 additional pitches 2016 -2021, representing a need for 10 additional pitches a year. Inspector Worthington found, para 22:

'The existence of unmet need, including the lack of a 5-year supply of deliverable sites, adds significant weight in favour of the appeal scheme'.

The allocations for 20 additional pitches through extensions to 12 existing sites through the Site Allocations Document (SAD), adopted in September 2018 are not adequate to provide a 5 years' supply of deliverable sites. The reason is that those allocations were based on the 2014 assessment, which suggested a much lower level of need than the later Black Country and South Staffordshire Assessment, May 2017.

The numeric assessment of need should be seen against the high level of need and acute accommodation shortage in South Staffs and the surrounding districts reflecting the fact the areas has a significant Gypsy and Traveller population, but has made little progress in making adequate provision. A Statutory Declaration by Mrs Clee provides evidence of the shortage of accommodation, and of the difficulties for Gypsy people in purchasing suitable land.

Given the unmet need and the absence of a 5-year supply, weight should be given to the fact that the application proposals will provide 2 additional permanent Gypsy and Traveller residential pitches.

Secondly, there is no alternative accommodation available for Mr and Mrs Clee and one of their daughters There are no public sites in South Staffs. The allocations in the SAD are all for additional pitches within or extensions to established sites, and will be needed for those families. The approved extension for Anvil Park is needed for Mr Clee's brother's children. This means Mr and Mrs Clee and one of their daughters will be homeless with no appropriate alternatives available to them if the application is refused.

Sites need to be in the Green Belt:

Thirdly, the situation in South Staffs where nearly all of the district is either built up and developed or in the Green Belt means it is almost inevitable that the provision required will be in the Green Belt. That is what happened with the SAD. All of the allocations made

through it are extensions to existing Gypsy and Traveller sites on Green Belt land owned by Gypsy and Traveller families.

A relatively suitable Green Belt site:

Fourthly, if the Council were to make further allocations commensurate with the level of need established through the Black Country and South Staffordshire Accommodation Needs Assessment there is a strong likelihood that the application site would be one of the sites allocated. There are a group of reasons for this:

- The site is similar to the sites approved through the SAD process, that is small extensions, in this case of the equivalent of two pitches, to an existing established family site;*
- In practice if compared with the site to the north of the existing site, which was allocated through the SAD and was recently approved for two additional pitches through planning permission 18/00789/COU it*
- will be seen that the impact of the application site on the open landscape will be significantly less;*
- The site can only be accessed via the long-established adjoining Traveller site. If the application is refused, the land would remain vacant and unused;*
- The degree of harm to the Green Belt would be moderate. Inspector Worthington found, para 11:*

'The appeal site relates closely to the adjacent Travellers site and is enclosed by existing fencing and mature planting. It is not readily appreciated as part of the wider open land to the south and west which itself is somewhat semi-rural in character comprising part of a former quarry. Consequently, the harm caused to this purpose of Green Belt [safeguarding the countryside from encroachment] would only be small',

Personal Circumstances

Fifthly, the Personal Circumstances are exceptional in this case and should carry very significant weight in establishing that there are very special circumstances.

In her decision letter Inspector Worthington put a considerable stress on the family's need for a safe, secure place home, paras 26 – 29:

'The family would all benefit from having a settled base in order to access medical care. Whilst I am conscious that their health needs could be met by another settled site, as set out above, there is no evidence to suggest that there are any other sites available to them. Access to the required healthcare would be much more difficult if they had to revert to a roadside existence.

Moreover, the appellant strongly contends that his family needs to be living within a gypsy and traveller community and importantly, within close proximity to his own wider family where they are welcomed, protected and safe. He suggests that whilst gypsies and travellers routinely experience prejudice, what he and his family has gone through is an extreme example. I am sympathetic to this view and consider that as a result of their experience, they have particular accommodation needs which are specific to them and somewhat out of the ordinary.

The appeal site provides the appellant and his family with a home where they feel secure and gives them the opportunity to return to health and regain their confidence with the support

of their wider family. To remove them now would cause considerable distress and hardship and I find the arguments for them to remain at the appeal site on a temporary basis to be persuasive. Should this appeal be dismissed the family would be required to vacate the site which is now their home, and in the absence of any suitable alternative accommodation they would be likely to revert to a roadside existence. This would represent a significant interference with the home and family life of the appellant, his wife and his daughter. It seems to me that it would also be highly undesirable for the mental well-being of the appellant's wife and daughter in particular.

On this basis, in my view having a settled base at the appeal site would result in very tangible benefits to the appellant and his family and this adds a considerable amount of weight in favour of the proposal'.

The weight to be given to the applicants need for a secure home has not reduced since the appeal, and, if anything, has increased

Reflecting what happened to them, Mr and Mrs Clee and their daughter are vulnerable and it is very important that they have a safe place to live. The application site is particularly suitable because they will be able to continue living with and supported by their other daughter and her family and embedded within their extended family on the adjoining site.

Any decision not to grant permission would require consideration to be given as to whether such a decision was proportionate relative to the family's right to respect to their private and family life under Article 8 of Schedule 1 to the Human Rights Act 1998. Given the particular circumstances in this case, such a decision would have profound effects on Mr and Mrs Clee and their daughter, not only because of denying them a safe home. Given the limited arguments against the current proposals we would question whether such a decision could be proportionate.

Such a decision would also impact on the Article 8 Rights of their other daughter, Crystal, and her family. They occupy a very small pitch on Anvil Park which is increasingly overcrowded as the children get older. The family is a very close one. Following the Supreme Court judgement in ZH Tanzania, on the basis such a decision would impact on the children an assessment would be required of the children's best interest which would need to be treated as a consideration of primary importance. Again, we would question whether such a decision would be proportionate.

Temporary Permission, Conclusions

Planning Practice Guidance indicates that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change at the end of that period. At the time of the appeal there was a reasonable expectation of a change of circumstances leading to accommodation being available for the family through the application site or alternative sites being allocated through adoption of the SAD, Inspectors Report paras 15, 16.

In practice the potential change of circumstances envisaged by Inspector Worthington has not occurred, and no site is available for the applicants.

Planning Conditions Guidance is that it will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can be granted permanently or refused if there is clear justification for doing so.

While there is no presumption that a temporary grant of planning permission will lead to permission being granted permanently, here there is unmet need, no five-year supply, no alternative accommodation available and an extremely strong case for approval. To make adequate provision for its Gypsy and Traveller population South Staffordshire will need to allocate or approve a significant number of additional pitches beyond the allocations in the SAD. Most sites will need to be on land currently in the Green Belt. The application site is exactly the kind of site which will perform well in any appraisal. On that basis a temporary permission would be inappropriate and taking account of the exceptional personal circumstances in this case, and the impact on their human rights, there are very special circumstances, and the application should be granted on a permanent basis.

Agents Comments in response to Coal Authority Representation:

Following the representations by the Coal Authority, the applicant has provided a Coal Mining Report relating to a residential development.

- *The report finds: The property is in a surface area that could be affected by underground mining in 1 seam of coal at 190m to 220m depth, and last worked in 1952.*
Any movement in the ground due to coal mining activity associated with these workings should have stopped by now.
In addition, the property is in an area where the Coal Authority believes there is coal at or close to the surface. This coal may have been worked at some time in the past. The potential presence of coal workings at or close to the surface should be considered, particularly prior to any site works or future development activity, as ground movement could still be a risk. Your attention is drawn to the Professional opinion sections of the report;
- *The property is not within a surface area that could be affected by present underground mining.*
- *The property is not in an area where the Coal Authority has received an application for, and is currently considering whether to grant a licence to remove or work coal by underground methods. The property is not in an area where a licence has been granted to remove or otherwise work coal using underground methods. The property is not in an area likely to be affected from any planned future underground coal mining. However, reserves of coal exist in the local area which could be worked at some time in the future. No*
- *notices have been given, under section 46 of the Coal Mining Subsidence Act 1991, stating that the land is at risk of subsidence.*
- *There are no recorded coal mine entries known to the Coal Authority within, or within 20 metres, of the boundary of the property.*
- *The Coal Authority is not aware of any damage due to geological faults or other lines of weakness that have been affected by coal mining.*
- *The property is not within the boundary of an opencast site from which coal has been removed by opencast methods.*
- *The property does not lie within 200 metres of the boundary of an opencast site from which coal is being removed by opencast methods.*
- *There are no licence requests outstanding to remove coal by opencast methods within 800 metres of the boundary. The property is not within 800 metres of the boundary of an opencast site for which a licence to remove coal by opencast methods has been granted.*
- *The Coal Authority has not received a damage notice or claim for the subject property, or any property within 50 metres of the enquiry boundary, since 31 October*

1994. There is no current Stop Notice delaying the start of remedial works or repairs to the property. The Coal Authority is not aware of any request having been made to carry out preventive works before coal is worked under section 33 of the Coal Mining Subsidence Act 1991.

- *The Coal Authority has no record of a mine gas emission requiring action.*
- *The property has not been subject to remedial works, by or on behalf of the Coal Authority, under its Emergency Surface Hazard Call Out procedures.*

These findings suggest the level of risk to the current proposals from the coal mining history are minimal and insignificant. The implications for the day room were not raised in regard to the previous application 16/00432/FUL, nor the appeal in 2017, and it was not raised in regard to the recent neighbouring application 18/00789/COU.

In the light of this, the indication in the representation by the Coal Authority that a coal mining risk assessment prepared by a competent body is required would appear disproportionate.

3. POLICY CONTEXT

3.1 Within the Green Belt

3.2 Adopted Core Strategy

Strategic Objectives:

Strategic Objective 1: To protect and maintain the Green Belt and Open Countryside in order to sustain the distinctive character of South Staffordshire.

Strategic Objective 3: To protect and improve South Staffordshire's environmental assets.

Strategic Objective 6: To ensure that all new development is sustainable, enabling people to satisfy their basic needs and enjoy a better quality of life, without compromising the quality of life of future generations.

Strategic Objective 8: To ensure the delivery of decent homes for members of the community including the provision of more affordable housing which matches in type, tenure and size the needs of the residents of South Staffordshire and to meet the needs of an ageing population.

Core Policies:

Core Policy 1 - The Spatial Strategy for South Staffordshire

Core Policy 6 - Housing Delivery

Core Policy 11 - Sustainable Transport

Development Policies:

GB1 - Development in the Green Belt

EQ1 - Protecting, Enhancing and Expanding Natural Assets

EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape

EQ11 - Wider Design Conditions

EQ12 - Landscaping

H6 - Gypsies, Travellers and Travelling Showpeople
EV11 - Sustainable Travel
EV12 - Parking Provision

3.3 Adopted Site Allocations Document – SAD 4 Gypsy and Traveller Pitch Provision.

3.4 Joint Strategic and Site Allocations Local Plan Review (including Gypsy & Traveller provision assessment and future allocations). Issues & Options consultation undertaken between 8th October 2018 and 30th November 2018.

The needs/issues of the Gypsy and Traveller community will be consulted on at Preferred Options stage, now scheduled for Summer 2021 as a result of unavoidable practicable consultation slippage resulting from Covid 19 restrictions. The Preferred Options stage will include the consideration of new sites for gypsy and traveller pitches. The revised Local Development Scheme programme (June 2022) anticipates Publication of the Preferred Plan for consultation in Summer 2022, Submission to the Secretary of State in Winter 2022, Examination in Spring 2023, and Adoption in Winter 2023.

3.5 Other Policy Considerations:

Planning Policy for Traveller Sites
National Planning Policy Framework
Designing Gypsy and Traveller Sites - A Good Practice Guide Communities and Local Government
Gypsy and Traveller Accommodation Assessments (GTAA's)

4. CONSULTATION RESPONSES

Councillor comments: No Comments received (expired 25.08.2020).

Parish Council - No Comments (received expired 25.08.2020).

Local Plans - (Comments received 23.11.2020).

Introduction

The proposal seeks permission for a change of use of land to allow for 4 caravans, a day room, a stables store building, a storage shed and the stationing of a Gypsy vardo. The proposal seeks permission on a permanent basis.

The 16/00432/FUL application for this site granted change of use of land to allow for one pitch including two caravans, a stable store building, a storage shed, and the stationing of a Gypsy vardo on a temporary basis until 25/07/2020. Conditions limiting the number of caravans and the time scale were attached to lessen potential harm to the Green Belt. The 20/00613/FUL proposal includes two caravans in addition to that permitted (including one mobile home) in the previous application.

National Policy

The National Planning Policy Framework (NPPF) and Planning Policy for Traveller's Sites (PPTS) imposes a duty on Local Planning Authorities (LPA'S) to provide Gypsy and Traveller

pitches and plots to meet evidenced need over a plan period. The above proposal however is within the West Midlands Green Belt.

While the NPPF is based upon a presumption in favour of sustainable development, it is clear from the framework that Green Belt Policy cannot be overridden by this presumption (see paragraph 11 and footnote 6). Likewise, the PPTS Paragraph 16 under Policy E further enhances this stance by stating that;

“Inappropriate development is harmful to the green belt and should not be approved, except in very special circumstances”

Paragraph 16 of the PPTS also comments that;

“Subject to the best interests of the child, personal circumstances, and unmet need are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.”

South Staffordshire Local Plan

The 2012 adopted Core Strategy contains Policy, H6: Gypsies, Travellers and Travelling Showpeople which sets out criteria for the determination of applications for gypsy and traveller sites and pitch requirements up to 2028. The Site Allocations Document (SAD) which was found sound in 2018, delivers the residual pitch requirements from Policy H6, with the allocations to meet these requirements set out in Policy SAD4. The site was not put forward and assessed for allocation and therefore subsequently has not been allocated in the SAD 4.

The SAD allocated pitches to ensure that the pitch requirements identified in the Core Strategy were met. New provision for gypsies and travellers has therefore come through the plan led system, namely the SAD. Additional provision will come through the Local Plan Review to enable sites to be located in the most suitable locations where the need is the greatest. Fundamentally, it is Local Plans view that all new provision for Gypsy and Traveller pitches should come through this plan-making process.

A new GTAA was carried out in 2017 with neighbouring authorities – the Black Country and South Staffordshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment - to update the needs evidence. This GTTSA 2017, undertaken as part of the 2017 SHMA with the Black Country authorities, identifies a need for 87 additional pitches over the 2016-2036 period; and a need of 48 over the 2016-2021 period. This assessment was prepared on the basis of a completely different methodology compared to the 2014 and 2008 GTAA's; and represents an increase in needs compared to the adopted Core Strategy. The updated needs requirement will be considered in the review of the Local Plan and will be included in the Duty to Co-operate discussions with neighbouring authorities as to how the identified needs can be collectively met. The SAD assists in meeting needs in the short term and the new Local Plan/Duty to Cooperate agreements will focus on meeting needs in the medium to long term.

Principle of the development

The site is in the Green Belt. Planning Policy for Traveller Sites (2015), the NPPF and Core Strategy policy GB1 all note that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The Planning Policy for Traveller Sites clearly states that traveller sites in the Green Belt are inappropriate development.

Following consideration of the proposal against Planning Policy for Travellers Sites (2015), Core Strategy Policy GB1 and the NPPF it is considered that the proposal constitutes inappropriate development in the Green Belt, and therefore 'Very Special Circumstances' are required in order for the application to be acceptable.

Very Special Circumstances

The applicants have submitted a personal circumstances declaration for a positive consideration of this proposal. This includes detail of personal need for permanent planning permission on this specific site and a shortage of accommodation for Gypsy

and Traveller sites. There is unmet need for Gypsy and Traveller pitches within South Staffordshire, demonstrated by a lack of 5-year supply and availability of permanent alternative sites.

The applicant sets out their family's personal circumstances in their declaration, including those relating to healthcare, mental well-being, and safety. This is due to the family experiencing previous attacks on the family's former home, of which at

appeal for the previous application, the Planning Inspector put significant weight on need for a secure base. The applicant sets out the need for permanent permission on the grounds of these factors. As noted at paragraph 16 of the Planning Policy for Traveller Sites (PPTS):

'Traveller sites (temporary or permanent) in the Green Belt are inappropriate development...subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'.

Core Strategy Policy H6 considerations

The case officer will need to consider the proposal against each of the criteria in Policy H6 and be satisfied that each of these have been met, in order for the proposal to be considered in conformity with the policy. As set out above, the proposal will be harmful to the Green Belt and therefore very special circumstances will need to be demonstrated in order to confirm to both Core Strategy Policy GB1 and Policy H6 (criteria 8(a)).

Conclusion

The present application for four caravans exceeds the previous condition granted in the 16/00432/FUL appeal decision for 1 pitch including 2 caravans on a temporary basis. The additional pitch is for the applicant's daughter who it is said are residing on an overcrowded neighbouring pitch. The applicant has put forward a case for VSC including lack of 5-year supply and need for additional pitches, lack of alternative pitches, personal circumstances and the characteristics of the site including small harm to the Green Belt. All these factors will need to be weighed up in the balance to determine whether the applicant has demonstrated VSC and whether a permanent consent is justified.

Planning Enforcement & Environmental Protection - (No Comments received expired 25.08.2020).

Environmental Health (Comments received 12.08.2020).

No objections to the proposed development. However, the applicant needs to be aware that should planning permission be approved they would need to apply for a caravan site license.

The Coal Authority (Comments received 11.08.2020):

Fundamental Concern. The application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority records indicate the site has been subject to probable shallow coal mining and the presence of a thick coal seam which outcrops to the east of the site that may also have been worked by illicit means. In addition, the site is just within the boundary of a site from which coal has been removed by surface mining (opencast) methods.

Whilst this planning application is predominantly for the change of use of land (siting of four caravans) together with the erection of what would appear to be a timber framed stable (non-habitable), we do not consider that a Coal Mining Risk Assessment would be proportionate to the level of development. However, we note that this proposal also includes the retention of a day room, therefore we would have expected the applicant to provide the LPA with relevant information on how the risk of former coal mining activity (land instability / mine gas) has been incorporated into the design of this particular building. As it would appear that no information has yet been provided, the Coal Authority currently objects to this proposal, as we do not consider that the applicant has demonstrated to the LPA that the day room is or has been made safe and stable (NPPF paras. 178-179).

The Coal Authority welcomes the opportunity to review and comment on further information submitted in support of this planning application.

County Highways – (Comments received 28.08.2020)

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

Site Notice - Posted 11.08.2020 (Consultation period expired 01.09.2020).

5. APPRAISAL

5.1 The application is to be heard at Planning Committee as it is contrary to policy GB1

5.2 Key Issues

- The principle of development in the Green Belt
- The mining impact assessment

5.3 The Principle of development

5.3.1 This 0.1 ha. temporarily approved appeal site is well screened by an established, physically defined mature tree and hedgerow boundaries, and comfortably has the capacity to accommodate an additional pitch in the form proposed.

5.3.2 The additional quantum of development proposed by the siting of one additional mobile/static home, the 4m wide extension to the existing 4.4m x 7.5m (resulting 11.5m)

3.2m high timber clad and pitched, tiled roof existing day room, and the parking of one additional touring caravan, would be readily assimilated within the screened confines of the site. There would be only moderate harm caused by increased loss of openness in these circumstances, and there would be no additional encroachment beyond the limits of the temporarily approved appeal site.

5.3.3 The proposal is by definition inappropriate development within the Green Belt and substantial weight has to be afforded to this automatic harm in the planning balance. The appeal was allowed in 2017 for 3 years on the basis of demonstrable unmet need, lack of 5-year proven supply, a lack of alternative available sites, and the personal very special circumstances of the applicants, including health needs and the best interests of children.

5.3.4 The site is not allocated in the current adopted Local Plan. The determination must be based on the application of adopted Core Strategy Policy H6 criteria and the circumstances put forward. There remains an acknowledged shortfall in pitch provision against the evidenced needs of the GTAA, and no proven 5-year supply or alternative available pitches within the District that could meet the needs of the family.

5.3.5 The proposal satisfies the site selection criteria set out in adopted Core Strategy Policy H6. The applicant has gypsy and traveller status; satisfactory services and adequate access are available; the site is well screened by established landscape features and sustainably located; the proposed density and layout safeguards neighbour amenities; the established hedgerow and tree defined boundaries and location in proximity to established development ensure that there is relatively low Green Belt impact; there are no cohesion issues; and the site is not subject to flood risk.

5.3.6 This site has capacity to accommodate 2 pitches (1 additional pitch and the 1 temporary pitch being made permanent) that would assist in meeting the acknowledged shortfall in provision against identified needs for additional pitches, without causing substantial additional harm by loss of openness, or encroachment into the Green Belt.

5.3.7 The 2 pitches would provide a settled base for the applicant's extended family with convenient access to schools, health services and a range of services and amenities. It would also provide convenient access to the strategic highways network for work travel convenience. Very special circumstances have been put forward that demonstrate health needs and the best interests of children would be met.

5.3.8 The proposed 11.5m x 4.4m extended utility building would be shared between the 2 pitches, which would minimise visual and openness impact in comparison with separate building provision. The extended building would include a bathroom, kitchen and sitting room. The proposed designs are a simple/rectangular plan forms with horizontal timber board cladding and shallow pitched tiled roofs that would respect the rural character of the area. The design and scale is acceptable.

5.3.9 It is acknowledged that there is a current shortfall in the supply of pitches in the District and that a 5-year supply cannot currently be demonstrated. The proposed development will assist in reducing the shortfall by the provision of 2 permanent pitches in a location with low Green Belt impact and good sustainability, accessibility, and social cohesion credentials.

5.4 The mining impact assessment

5.4.1 A mining impact assessment has been provided by the applicant and an updated response is awaited in response to re-consultation from the Coal Authority. Given the existing development on the site, and that minimal additional development is proposed on a site which received no previous objections in this regard including at appeal consideration, it is not considered that an objection could be sustained on these grounds as a reason for planning refusal.

6. CONCLUSION

6.1.1 The proposal is in accordance with Core Strategy Policy H6. This development of 2 permanent pitches to replace the one temporary pitch, within the screened physical confines of an appeal approved site will have relatively low Green Belt impact, performs well when assessed against Core Strategy Policy H6 and Site Selection criteria, and Very Special Circumstances exist to warrant approval, namely demonstrable family need for a settled base for education and health needs, combined with a lack of alternative site availability, and a lack of a demonstrable current 5-year supply.

6.1.2 The proposal will assist in meeting the delivery aims of the Development Plan and is in accordance with NPPF and PPTS policy and guidance for Gypsy and Traveller development.

6.1.3 As the development is inappropriate by definition within the Green Belt, and very special/personal circumstances are required as part of the justification/planning balance, consent should be on a personal basis and controlled as such by the imposition of planning condition.

8. RECOMMENDATION - APPROVE subject to the following conditions:

1. The development shall be carried out in accordance with the approved drawings: Proposed Site Development Scheme, Drawing Number SC07 and Proposed Dayroom/Utility building Floor Plans and Elevations, Drawing Number SC08; received on 21st July 2020.
2. Prior to the commencement of development details of external materials relating to the dayroom/utility building extension and for the surfacing of driveways and parking spaces, shall be submitted to and approved in writing by the LPA.
3. The use hereby permitted shall be carried on only by the following: Mr Shayne Clee, Mrs Julie Clee and Ms Julieanne Clee, and Mr Jonathan Smith and Mrs Crystal Smith and their dependent children.
4. When the premises cease to be occupied by those named in condition 3 above, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
5. The site shall not be occupied by any persons other than gypsies and travellers as defined in the National Planning Policy for Traveller Sites.
6. No more than one commercial vehicle shall be kept on the site for use by the occupiers of the caravans hereby permitted.

7. No vehicle over 3.5 tonnes shall be stationed, parked, or stored on this site.
8. No commercial activities shall take place on the land, including the external storage of vehicles/materials.
9. No more than 4 caravans, of which no more than 2 may be a static caravan/mobile home, shall be stationed on the site at any time.
10. The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reasons:

1. In order to define the permission and to avoid doubt.
2. To safeguard the visual amenity of the area and the existing building in particular in accordance with policy EQ11 of the adopted Core Strategy.
- 3, 4, 5 The proposal represents inappropriate development in the Green Belt and the development has been justified on the basis that its occupation by gypsies and travellers represents very special circumstances to outweigh the automatic harm to the Green Belt in accordance with Policy GB1 of the Core Strategy and the Planning Policy for Traveller Sites.
6. To restrict the impact of the development on the openness of the Green Belt in accordance with Policy GB1 of the Core Strategy.
7. In the interests of highway safety, in accordance with Policy EV11 of the Core Strategy
8. In the interests of highway safety, in accordance with Policy EV11 of the Core Strategy
9. To restrict the impact of the development on the openness of the Green Belt in accordance with Policy GB1 of the Core Strategy.
10. To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Proactive Statement

In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner based on seeking solutions to problems in relation to dealing with the planning application, in accordance with paragraph 38 of the National Planning Policy Framework, 2019.



The Paddock, Anvil Park, Bursnips Road, Essington, Wolverhampton. WV11 2RD.