

**22/00670/VAR  
NON MAJOR**

**Mr J Cunningham**

**BREWOD & COVEN**

Councillor W Sutton

Councillor J Bolton

Councillor D Holmes

**Fair Haven Shaw Hall Lane Coven Heath Staffordshire WV10 7HE**

**Remove Conditions 1 and 2 of application reference 15/00746/FUL (Appeal reference APP/C3430/W/15/3140299)**

<b>Pre-commencement conditions required: n/a</b>	<b>Pre-commencement conditions Agreed n/a</b>	<b>Agreed Extension of Time until n/a</b>
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## **1. SITE DESCRIPTION AND APPLICATION DETAILS**

Remove Conditions 1 and 2 of application reference 15/00746/FUL (Appeal reference APP/C3430/W/15/3140299)

Date of site visit – Not applicable

### **1.1 Site Description**

1.1.1 The application relates to a roughly rectangular shaped, 70m x 85m (approximately 0.6 ha.) field situated to the east of Shaw Hall Lane at Coven Heath. It is the frontage portion of a larger (total 1.3 ha.) field in the same ownership. The site is within the proposed GT Site Allocation boundary (reference GT 33) proposed for 4 permanent pitches in the South Staffordshire Publication Plan of the Local Plan Review.

1.1.2 Shaw Hall Lane is a rural, single vehicle width, highway serving a small, dispersed scatter of dwellings and a horticultural nursery in the immediate vicinity of the appeal site.

1.1.3 The site is located within the West Midlands Green Belt approximately 0.5 km north of the M54/A449 traffic island junction and Wolverhampton City boundary. Coven service village is located 1km to the north. The Staffordshire & Worcestershire Canal and the associated tree and hedge lined Canal Conservation Area bound the ownership site to the east. There is open land to the immediate north and south.

### **1.2 SITE HISTORY**

#### Planning Applications

15/00746/FUL The use of the land as a private gypsy and traveller caravan site consisting of 4 no pitches and ancillary development [Part-Retrospective] **Refuse** 8th December 2015

15/00746/COND Discharge Conditions 5i and 7i of Appeal Decision reference APP/C3430/W/15/3140299 (following refusal of planning permission, reference 15/00746/FUL). 7th April 2017

18/00805/VAR To make the personal temporary permission (15/00746/FUL) permanent.

19/00800/VAR To extend the period of the temporary consent (15/00746/FUL) to 02.12.2023 **Approve Subject to Conditions** 19th March 2020

20/00279/COU The use of the land as a private gypsy and traveller caravan site consisting of 4No. pitches

22/00670/VAR Remove Conditions 1 and 2 of application reference 15/00746/FUL (Appeal reference APP/C3430/W/15/3140299)

### Appeal Details

15/00040/ENF Without planning permission, the import of materials on to the Land to form a hardstanding area on part of the Land for the siting of caravans in association with the unauthorised use of the Land as a gypsy traveller site and the unauthorised development of an access on the Land, including fencing and gate and the unauthorised development of a brick, concrete and wood structure on the Land. **Appeal Dismissed** 2nd December 2016

15/00041/ENF Without planning permission, the import of materials on to the Land to form a hardstanding area on part of the Land for the siting of caravans in association with the unauthorised use of the Land as a gypsy traveller site and the unauthorised development of an access on the Land, including fencing and gate and the unauthorised development of a brick, concrete and wood structure on the Land. **Appeal Dismissed** 2nd December 2016

15/00042/ENF Without planning permission the unauthorised material change of use of the land from an agricultural use to a mixed use of agricultural and unauthorised use of part of the land as a residential gypsy traveller site. 2nd December 2016

15/00043/ENF Without planning permission the unauthorised material change of use of the land from an agricultural use to a mixed use of agricultural and unauthorised use of part of the land as a residential gypsy traveller site. 2nd December 2016

15/00050/REF The use of the land as a private gypsy and traveller caravan site consisting of 4 no pitches and ancillary development [Part-Retrospective] **Appeal Allowed** 2nd December 2016

## **2. APPLICATION DETAILS**

### **2.1 Proposal**

2.1.1 The application proposes making the 4 Gypsy and Traveller pitches, granted temporary planning permission at appeal in 2016 permanent. The site layout, approved under the discharge of conditions application (15/00746/COND) related to the appeal consent has 4 mobile homes (3 single and 1 double), a day room, 2 parking spaces for each pitch, 4 van spaces (1 per pitch) together with turning space and planting/amenity areas. There is no proposal to change this layout. The site is well screened behind the existing mature highways frontage hedgerow alongside Shaw Hall Lane.

2.1.2 The mobile homes come under the definition of The Caravan Sites Act 1968 of max. size 20m x 6.8m x 3.05m internal height.

### **2.2 AGENTS SUBMISSION:**

2.2.1 The application is to vary the current temporary planning permission to a permanent one. The proposed use of the site complies with the Development Plan policies so far as they are relevant and up to date as very special circumstances exist. Furthermore, and significantly, the site has been consulted on in the SAD Options and has become a Preferred Option for the Council in 2021 (GT33 p159).

2.2.2 Mr. and Mrs. Cunningham are Romany Gypsy Travellers by birth, culture and descent, having been born and brought up in the traditional Gypsy way of life. The applicants and their family satisfy the definition of a

Gypsy and Traveller for the purposes of Annex 1 Planning Policy for Travellers Sites 2015 in that they have travelled nomadically to make a living all their lives.

2.2.3 As is the custom with traditional Gypsies, the family lives in an extended family group comprising three generations. This would be compatible with PPTS which states that The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

2.2.4 The family bought this site because they needed to have a stable base where the eldest child could attend school in an area where the family has local connections. The site was granted a temporary permission on Appeal in 2016 on the expectation that suitable alternative site would be available within that period. The Local Planning Authority extended that temporary period until 2023, which is now very close. The allocation of sufficient sites has not yet occurred and the family is very concerned that they will become homeless once the temporary permission expires next year. In the absence of a suitable alternative site this would result in a roadside existence which would be contrary to the best interests of their children, a factor that attracts substantial weight.

2.2.5 The following material considerations combine to clearly outweigh the harm caused by inappropriateness, together with the other harm identified, thereby constituting those very special circumstances:

- i) the need for further sites for Gypsies and Travellers a) nationally b) regionally c) locally and d) personally for these families;
- ii) the unavailability of suitable alternative sites;
- iii) the families' personal circumstances (including their status as Gypsies and Travellers) in particular their health and educational needs;
- iv) deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in South Staffordshire;
- v) the consequence of the Application being dismissed for the families;
- vi) the best interests of the children and Human Rights consideration.
- vii) The fact that the site has been consulted on in the SAD Options and has become a Preferred Option for the Council in 2021 (GT33 p159) and remains in the Regulation 19 Publication Plan for submission to Examination.

2.2.6 It is submitted that the harms identified in this case are clearly outweighed by other considerations such as to amount to very special circumstances sufficient to justify inappropriate development in the Green Belt. As the application complies with the Development Plan then full planning permission limited to Gypsies and Travellers should be granted for the use of this site.

2.2.7 In the November 2021, Preferred Options Report, the Council state:

As detailed in Chapter 4, the strategy for new Gypsy, Traveller and Travelling Showperson provision is to meet the needs of existing families that meet Planning Policy for Travellers Sites (PPTS) planning definition, as identified by the GTAA 2021 by continuing to deliver privately owned sites/pitches. The evidence supports an approach therefore of looking to allocate existing temporary or unauthorised sites to permanent (subject to other planning considerations) and looking to intensify and extend existing sites, rather than allocating wholly new sites that may have been suggested by none travellers. It is currently not possible to test an alternative strategy of dispersing new pitch allocations more widely across the district due to a lack of site options.

Para. 5.9 The GTAA identified a need for 121 pitches over the plan period for those families that meet the planning definition of Gypsies and Travellers. Where possible, the Local Plan proposes to allocate pitches to meet our families 5-year need, as reflected in the GTAA 2021 and Pitch Deliverability Study 2021. Future pitch provision beyond the 5-year requirement (including Travelling Showperson needs) will come through the Development Management process with proposals considered against a criteria-based policy (see Chapter 6 - Policy HC8). Policy HC8 and any other relevant policies (e.g., DS1: Green Belt) will also be the mechanism

through the Development Management process for considering those families/individuals with an identified need but do not meet the planning definition of a Gypsy, Traveller or Travelling Snowperson. A need of 24 pitches over the plan period for those not meeting the planning definition was identified in the GTAA 2021. Para. 5.10 Proposed allocations are informed by the Council's Pitch Deliverability Study 2021 that identifies family need, engages with families to explore what options they have.

2.2.8 This site is occupied by an existing family that comes within the definition of Traveller in Annex 1 PPTS. They are plainly in need and form part of the need in both the GTAA as well as the SAD. The site itself has been found to be suitable by the Council and has hence been promoted for allocation in the SAD. This application compliments those findings and represents the best way to achieve a resolution of this matter.

#### 2.2.9 Agent Conclusion:

As the application complies with the Development Plan, the Framework and PPTS - as well as being entirely consistent with the Council's Preferred Approach - then permanent planning permission subject to reasonable conditions should be granted on the facts of this case.

### **3. POLICY**

#### **3.1 Constraints**

Newt - Impact Risk Zone Amber Name: AMBER ZONE:

Newt - Impact Risk Zone Green Name: GREEN ZONE:

SAC Zone- 13km Buffer Zone: 13km

#### **3.2 Within the Green Belt**

#### **3.3 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

### **3.4 Adopted Site Allocations Document - SAD 4 Gypsy and Traveller Pitch Provision.**

### **3.5 Joint Strategic and Site Allocations Local Plan Review (including Gypsy & Traveller provision assessment and future allocations).**

Issues & Options consultations were undertaken between 8th October 2018 and 30th November 2018. The Preferred Options consultation stage, commenced on the 1st November 2021 for a period of 6 weeks ending on 13 December 2021 (adjusted to account for Covid administrative impacts and consideration of the July 2021 revised NPPF), under the provisions of the revised 2020 Local Development Scheme programme. The application site is included as a Preferred Allocation site for 4 permanent pitches within the South Staffordshire Publication Plan, currently at consultation. Examination is anticipated in Summer 2023 and Adoption in Spring 2024.

### **3.6 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**

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
8 December 2022	n/a

### **Brewood & Coven Parish Council**

Received 21st November 2022

The Parish Council object to the removal of Conditions 1 and 2 on the grounds that to do so will render permanency to an inappropriate development in the Green Belt (as confirmed in the decision letter attached to 19/00800/VAR)

### **Local Plans Comments**

Received 23.12.2022

Principle of Development

The proposal seeks to remove the occupancy condition (1) and time limit of the permission to make the permission permanent (2).

Turning first to the issue of making the permission permanent, the Planning Inspector of the appeal considered it appropriate to time limit the permission stating at paragraph 126:

126. I therefore take the view that, despite the provisions of paragraphs 16 and 27, the failure of the Council to demonstrate a five year supply of pitches, the likelihood of an immediate need for additional pitch provision, the personal circumstances of most of the extended family, the advantages of having relatives close

to hand to provide childcare support, PSED and Human Rights considerations and the absence of suitable alternative accommodation at which help could be provided all weigh substantially in favour of granting temporary planning permission for the appeal scheme. However, that view does not extend to the granting of permanent planning permission.

Importantly, the inspector went on to state at paragraph 127:

127. The future allocation by the development plan of alternative sites suitable for the Appellant and his family is unlikely to include land outside the Green Belt.

Nonetheless, there seems to be a distinct possibility that the eventual Examination process may well bring forward sites not currently listed in the SAD 'Preferred Options' document against which comparison with the appeal site will be necessary. Until that process is complete, a reasonable chance remains that sites less harmful to the Green Belt in terms of relative impact on openness and encroachment and less intrusive in terms of visual amenity (for example, sites with a sounder claim to PDL status) will be released in a few years time.

Although the site was not included in the SAD allocations, the Council has progressed the emerging Local Plan to regulation 19 consultation which closed on the 23rd of December 2022. The Publication Plan identified this site as an allocation for Gypsy and Travellers (site GT33) accepting the principle of changing the pitches from temporary to permanent.

Although the emerging Plan has not yet been through examination, it is a clear indication that the Council considers this site is suitable for allocation. Especially in light of the districts unmet need as described below. A GTAA was carried out in 2022 as part of the evidence gathering for the Local Plan Review. The Council is unable to meet its full 5-year requirement (72 pitches) for gypsy and traveller pitches in the emerging Local Plan but identified suitable sites in the Publication Plan consultation to allocate 37 pitches towards the 5 year identified needs of families.

The Council therefore cannot currently demonstrate a 5-year supply of traveller sites.

#### 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 National Planning Policy Framework 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."

#### Very Special Circumstances (VSC)

As previously covered, the PPTS Paragraph 16 under Policy E states 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."

The proposal is located in the Green Belt and therefore Very Special Circumstances (VSC) will need to be demonstrated by the applicant.

#### Conclusion

In conclusion the case officer will need to balance the Green Belt harm with the very special circumstances case, including best interest of any children. If the case officer did consider that the proposal would be contrary to the adopted Development Plan, they would need to consider the allocation within the emerging Local Plan Review as a material consideration (in line with paragraph 48 of the NPPF) and if this and other benefits outweigh the conflict. Overall planning policy consider that the application to remove the time restriction is capable of being supported.

In terms of the removal of the occupancy condition (1), if the time restriction was removed from the permission, it would also be logical to also amend this condition. However, totally removing the condition would leave the site vulnerable to occupancy of those not meeting the definition of a gypsy or traveller. It is therefore recommended that the condition is amended to something like the below wording which has been used before:

Other conditions:

If the time restriction was removed it would also be prudent to consider how this would impact upon condition 6 (landscape) and if it is appropriate as currently worded.

Parish Council - (Comments received 23.11.2022), OBJECTS on the following grounds:

The removal of Conditions 1 and 2 on the grounds will render permanency to an inappropriate development in the Green Belt (as confirmed in the decision letter attached to 19/00800/VAR)

No neighbour Representations (Consultation period expired 08.12.2022).

### **Natural England**

27th February 2023

DESIGNATED SITES (EUROPEAN) - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for the following European designated site(s), Cannock Chase Special Area Conservation (SAC). It is anticipated that new residential development within this ZOI is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development. On this basis the development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development.

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Natural England advises that the specific measures (including financial contributions) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the

integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance, on the basis that the strategic solution will be implemented by way of mitigation.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

**Councillor Wendy Sutton - Brewwood And Coven Ward**

No Response Received

**Councillor Joyce Bolton - Brewwood And Coven Ward**

No Response Received

**Councillor Diane Holmes - Brewwood And Coven Ward**

No Response Received

**No Contributor responses received**

**5. APPRAISAL**

The application is referred to planning committee as it is not listed as an acceptable type of development within the Green Belt under Core Strategy Policy GB1: Development in the Green Belt.

1. **Policy & principle of development- Local Plan policy H6**
2. **Green Belt assessment**
3. **Visual Amenity / Impact on the Canal Conservation Area**
4. **Summary of Green Belt Impact**
5. **Case for very special circumstances**
6. **Ecology & biodiversity**
7. **Arboriculture**
8. **Other matters**
9. **Human Rights**



## **5.1 Policy & principle of development**

5.1.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made, in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan for South Staffordshire District comprises the Core Strategy (2012-2028) and the Site Allocations Document (2012-2028). The Council's emerging Local Plan (2018-2038) has undertaken the Regulation 19 stage. As such, whilst it has been the subject of public consultation, it is yet to be examined. Thus, the policies contained therein, carry some, albeit minimal material planning weight.

5.1.2 This application is to retain the 4 pitches meeting acknowledged gypsy and travellers needs in accordance with the proposed Local Plan Review Site Allocation (GT 33). The details of the layout are as approved under the condition details of the temporary planning permission granted at appeal in 2016. There would be no additional physical impact on the Green Belt, landscape character or the amenity of the area.

5.1.3 The Local Plan Review is now at an advanced stage and carries some weight in the decision-making process in accordance with the advice of para. 48 of the NPPF.

5.1.4 The existing temporary planning permission expires in December 2023, before the adoption of the new Local Plan.

5.1.5 In line with Central Government advice, the application must be considered in the context of relevant Development Plan and National Planning Policy. Core Strategy Policy H6 is the relevant adopted Local Plan Policy that sets out a series of criteria against which proposals for new/extensions to existing gypsy sites should be assessed. The criteria can be summarised as follows:

- i. The applicants must meet the definition of gypsy and travellers;
- ii. Essential utility services are available to serve the site;
- iii. Site is designed to protect the amenities of proposed occupiers/ amenities of neighbouring properties;
- iv. Transit sites should have good access to highway network (NA);
- v. Sites for Travelling Show people should be large enough to accommodate ancillary yards for business use providing there is no adverse impact on residential amenity (NA);
- vi. The site can be adequately and safely accessed by vehicles towing caravans, is well related to the established local highway network and adequate space within the site to accommodate vehicle parking, turning space and to accommodate the occupants of the site;
- vii. The development is of an appropriate scale so as to not put unacceptable strain on infrastructure or dominate the nearest settled communities and avoid problems of community safety arising from poor social cohesion;
- viii. Should be suitably landscaped to limit impact on landscape character of the area;
- ix. In the Green Belt proposals should not be demonstrably harmful to openness;
- x. Should not be located in areas at high risk of flooding.

5.1.6 The proposal satisfies the site selection criteria set out in adopted Core Strategy Policy H6. The applicants have gypsy and traveller status; satisfactory services and adequate access are available. The site is well screened by established landscape features and is sustainably located; the proposed density and layout would not compromise neighbour amenities; and the site is not subject to flood risk.

## **5.2 Green Belt assessment**

5.2.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are their openness and their permanence.

5.2.2 The proposal intends to make the existing development on site permanent. Consequently, as found in

the original submission, because there was limited development at the site previously and the site would permanently have pitches on it, I attach "moderate weight" to the conflict with one of the 5 main purposes of including land in the Green Belt.

5.2.3 Openness is the most important attribute of Green Belts and any proposal should be assessed with reference to its nature, scale, bulk and site coverage.

5.2.4 Policy H6 requires development proposals to not cause "demonstrable harm to openness". The proposal would cause some material harm to openness given the sites location. Whilst there is a small amount of residential development opposite the site [west], immediately to the north, east, and south lies open fields.

### **5.3 Visual Amenity / Impact on the Canal Conservation Area**

5.3.1 Policy EQ3 seeks to protect the District's conservation area resources for the benefit of future generations. The application site is partially screened by existing hedgerow and tree planting along the western boundary which provides the only public views of the site from Shaw Hall Lane. Concerning the views from the canal tow path, any partial views are limited by the dense hedgerow that runs along the canal boundary. The visual impact of the development could be further reduced through additional landscaping along the eastern boundary which is proposed to secure by a 1.5m post & rail timber fence. It is therefore not considered that the proposal would cause any additional harm to the visual amenities of the Green Belt or on the Canal Conservation Area subject to additional planting on the eastern boundary.

### **5.4 Summary of Green Belt Impact**

5.4.1 To conclude, the proposed development would result in a reduction of openness but due to the screening at the site along with the limited numbers of pitches and associated development the harm would not be demonstrable. Consequently, there would be a degree of conflict with the eighth criterion of H6. When assessing the overall Green Belt impact, in the balancing exercise required to determine this application, "moderate weight" should therefore be attached to the reduction in openness, and "some weight" to the conflict with one of the five main purposes of including land in the Green Belt (encroachment), to add to the "significant weight" attributed to the harm caused by reason of the developments inappropriateness. In accordance with the requirements of the NPPF, the proposal cannot be approved unless there are very special circumstances that clearly outweigh the above mentioned harm.

### **5.5 Case for very special circumstances**

5.5.1 The pitches 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.

5.5.2 There is an acknowledged significant shortfall in the 5-year provision of Gypsy & Traveller pitches in South Staffordshire. The most recent independent assessment, the 2021 GTAA published in August 2021, demonstrates a need for an additional 121 pitches for households meeting the definition of gypsies and travellers for the period 2021-2038. 72 of these pitches need to be delivered in the first 5-year period 2021-2025. The proposed Publication Plan makes provision for the allocation of 37 pitches. This is a significant shortfall that must be given substantial weight in the planning balance of the determination of applications and appeals. Each application should be considered on its merits under the provisions of adopted criteria-based policy H6 and relevant policies and proposals of the emerging Local Plan.

5.5.3 This application performs well against each criterion test of Policy H6, and is a proposed allocation in the Local Plan Review, now at an advanced stage.

5.5.4 There are no alternative, suitably located sites available that could meet the needs of the applicants extended family.

5.5.5 The proposed development will assist by reducing shortfall by the provision of 4 additional permanent pitches in a location with relatively low Green Belt and landscape impacts and with good sustainability and accessibility credentials.

5.5.6 Given the acute, acknowledged shortfall in the supply of pitches demonstrated by the independent evidence base of the GTAA 2021, the lack of alternative available sites, the acknowledged Gypsy and Traveller status of the residents, the assimilated nature of the site, planning history and its proposed allocation at an advanced stage towards adoption; it is appropriate to grant permission for the 4 existing pitches to become permanent and none personal to assist in meeting the shortfall in supply in the District in accordance with prevailing Central Government and Local Plan Strategy and Guidance.

5.5.7 Conditions are required to ensure that the site is maintained in accordance with the layout, access, boundary and landscape details previously approved under the terms of the appeal decision.

## **5.6 Ecology & Biodiversity**

### **Protected Species**

5.6.1 The Wildlife and Countryside Act (as amended) 1981 covers the protection of a wide range of protected species and habitats and provides the legislative framework for the designation of Sites of Special Scientific Interest (SSSIs). The Conservation (Natural Habitats, &c.) Regulations 1994 implement two pieces of European law and provide for the designation and protection of 'Special Protection Areas' (SPAs) and 'Special Areas of Conservation' (SACs), together with the designation of 'European Protected Species', which include bats and great crested newts. The Countryside and Rights of Way (CROW) Act 2000 compels all government departments to have regard for biodiversity when carrying out their functions. Finally, The Protection of Badgers Act 1992 consolidated existing legislation on the protection of badgers. This legislation is intended to prevent the persecution of badgers. The act protects both individual badgers and their setts.

### **Biodiversity**

5.6.2 To comply with the guidance contained within Paragraphs 9, 108 and 118 of the NPPF and the Council's biodiversity duty as defined under section 40 of the NERC Act 2006, new development must demonstrate that it will not result in the loss of any biodiversity value of the site.

5.6.3 Due to the Local Planning Authorities obligation to "reflect and where appropriate promote relevant internal obligations and statutory requirements" (Paragraph 2 of NPPF) and the requirement, under paragraph 174 of the NPPF, for planning decisions to minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (along with emerging advice within the Draft Environment (Principles and Governance) Bill 2018); the applicant must display a net gain to biodiversity value, through development, as per the requirements of the EU Biodiversity Strategy 2020. Furthermore, Paragraph 180 of the NPPF, requires that "opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity".

### **Impact on Special Areas of Conservation**

5.6.4 Paragraph 182 of the NPPF advises that "The presumption in favour of sustainable development does

not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.

## **Recreation**

5.6.5 The agreed strategy for the Cannock Chase SAC is set out in Policy EQ2 of the Core Strategy, which requires that before development is permitted, it must be demonstrated that in itself, or in combination with other development, it will not have an adverse effect, whether direct or indirect, upon the integrity of the Cannock Chase SAC, having regard to avoidance or mitigation measures. In particular, dwellings within a 15km radius of any boundary of Cannock Chase SAC, will be deemed to have an adverse impact on the SAC, unless or until satisfactory avoidance and/or mitigation measures have been secured. The agreed upon mitigation measures to enable residential development within the Zone of Influence (Zol), are detailed within the Strategic Access Management and Monitoring Measures (SAMMMs) document.

5.6.6 Under the provisions of the Conservation of Habitats and Species Regulations 2017, the Local Planning Authority as the Competent Authority, must have further consideration, beyond the above planning policy matters, to the impact of this development, in this case, due to the relative proximity, on the Cannock Chase SAC

5.6.7 Natural England are a statutory consultee on the AA stage of the Habitats Regulations process and have therefore been duly consulted. Natural England have concurred with the LPA's AA. A signed UU has been submitted to the legal team. On this basis, it is concluded that the LPA have met its requirements as the Competent Authority, as required by the Regulations and therefore the proposal will comply with the requirements of the Development Plan and the NPPF in this regard.

5.6.8 There are no other issues in relation to biodiversity.

## **5.7. Arboriculture**

5.7.1 Paragraph 175 of the NPPF advises that permission should be refused for development resulting in the loss of aged or veteran trees, unless the benefits of the development outweigh the harm. Strategic Objective 3 and 4 seek to protect, conserve and enhance the District's natural environment, whilst Policy EQ4 states that “The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved”

5.7.2 There are no arboricultural issues.

## **6. Human Rights**

6.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report in having regard to the representations received and, on balance, is justified and proportionate in relation to the provisions of the policies of the development plan and national planning policy.

## **7. CONCLUSIONS**

7.1 The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the application.

7.2 The site falls within the West Midlands Green Belt wherein there is a strong policy presumption against inappropriate development. It is acknowledged that the proposed development represents inappropriate development and it is therefore essential to assess if the factors which weigh in favour of the application override the harm to the Green Belt by reason of inappropriateness combined with any other identified harm.

7.3 The proposal is in accordance with Core Strategy Policy H6 and is proposed for allocation within the proposed Site Allocations Document (Site GT33).

7.4 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. It is considered that very special circumstances exist that would clearly outweigh the harm to Green Belt by reason of inappropriateness.

## **8. RECOMMENDATION - APPROVE Subject to Conditions and completion of Unilateral Undertaking for Cannock Chase SAC**

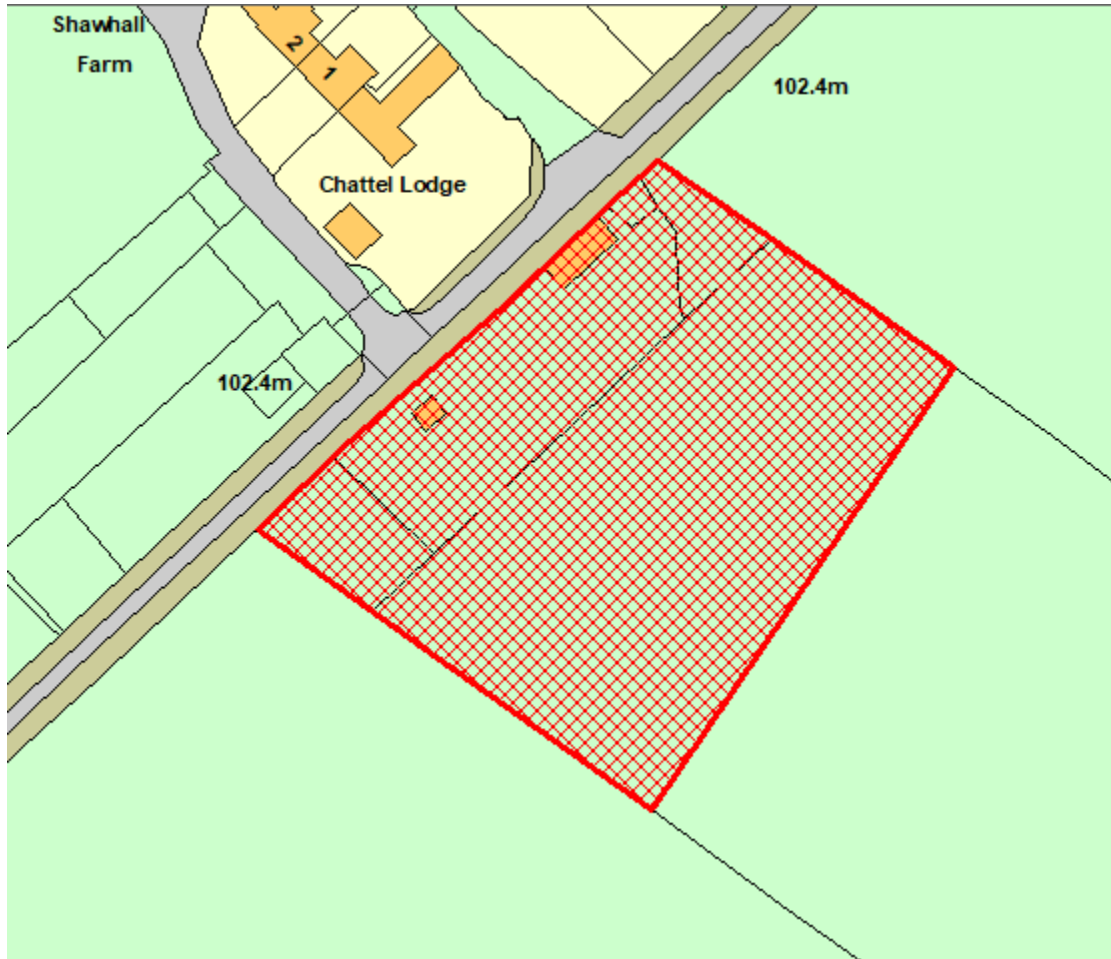
1. The site shall not be occupied by persons other than gypsies and travellers as defined in Annex 1 Glossary of the National Planning Policy for Traveller Sites (as amended) (or its equivalent in replacement national policy).
2. The site shall contain no more than four pitches. There shall be no more than eight caravans on the site at any one time, all of which shall be caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended. Of these, no more than four shall be static mobile homes, of which only one may be a double caravan, with the remainder all single caravans.
3. The site shall be maintained in accordance with the approved Site Development Scheme under Condition 5 of planning permission granted at appeal under reference APP/C3430/W/15/3140299 (application number 15/00746/FUL) If any tree or shrub included in the planting that forms part of the landscape scheme approved under appeal decision) is removed or destroyed, becomes seriously diseased or dies within the life of the permission, another tree or shrub shall be planted at the same place and shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
4. The day room shall not be occupied as a self-contained unit of residential accommodation at any time.
5. No more than one commercial vehicle per occupied pitch, which shall be solely for the use of the residential occupiers of the site and shall be less than 3.5 tonnes in weight, shall be stationed, parked or stored on this site. Other than vehicle parking as described, no commercial use shall take place at any time, including the external storage of materials.
6. The gate(s) at the site entrance shall be maintained at a distance set back at least 8 metres from the edge of the vehicular carriageway of Shaw Hall Lane and shall open away from the highway

## Reasons

1. 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 harm to the Green Belt under Policy GB 1 of the adopted Core Strategy and Chapter 13 of the NPPF.
2. 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 harm to the Green Belt under Policy GB 1 of the adopted Core Strategy and Chapter 13 of the NPPF.
3. To safeguard the amenity of the area in accordance with policies EQ4 and EQ11 of the adopted Core Strategy.
4. In order to define the permission, avoid doubt and to comply with Green Belt Policy.
5. In the interests of highway safety and to safeguard the amenity of the area in accordance with policy EQ4 of the adopted Core Strategy.
6. In the interests of highway safety.

## 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, 2021.



Fair Haven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE