

TO:- Planning Committee

Councillor Mark Evans , Councillor Bob Cope , Councillor Helen Adams , Councillor Jeff Ashley , Councillor Meg Barrow , Councillor Gary Burnett , Councillor Val Chapman , Councillor Philip Davis , Councillor Robert Duncan , Councillor Sam Harper-Wallis , Councillor Rita Heseltine , Councillor Diane Holmes , Councillor Victor Kelly , Councillor Kath Perry MBE , Councillor Robert Reade , Councillor Gregory Spruce , Councillor Christopher Steel , Councillor Wendy Sutton

Notice is hereby given that a meeting of the Planning Committee will be held as detailed below for the purpose of transacting the business set out below.

Date: Tuesday, 21 May 2024

Time: 18:30

Venue: Council Chamber Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX



D. Heywood
Chief Executive

AGENDA

Part I – Public Session

- | | | |
|----------|--|----------------|
| 1 | Minutes
To approve the minutes of the Planning Committee Meeting of 16 April 2024. | 1 - 2 |
| 2 | Apologies
To receive any apologies for non-attendance. | |
| 3 | Declarations of Interest
To receive any declarations of interest. | |
| 4 | Determination of Planning Applications
Report of Development Management Team Manager | 3 - 32 |
| 5 | Monthly Update Report
Report of Lead Planning Manager | 33 - 72 |

RECORDING

Please note that this meeting will be recorded.

Any person wishing to speak must confirm their intention to speak in writing to Development Management by 5pm on the Thursday before Planning Committee

- E-mail: SpeakingatPlanningCommittee@sstaffs.gov.uk
- Telephone: (01902 696000)
- Write to: Development Management Team
South Staffordshire Council
Wolverhampton Road
Codsall
WV8 1PX

PUBLIC ACCESS TO AGENDA AND REPORTS

Spare paper copies of committee agenda and reports are no longer available. Therefore should any member of the public wish to view the agenda or report(s) for this meeting, please go to www.sstaffs.gov.uk/council-democracy.

Minutes of the meeting of the **Planning Committee** South Staffordshire Council held in the Council Chamber Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX on Tuesday, 16 April 2024 at 18:30

Present:-

Councillor Helen Adams, Councillor Jeff Ashley, Councillor Val Chapman, Councillor Bob Cope, Councillor Robert Duncan, Councillor Mark Evans, Councillor Sam Harper-Wallis, Councillor Rita Heseltine, Councillor Victor Kelly, Councillor Kath Perry, Councillor Robert Reade, Councillor Christopher Steel, Councillor Wendy Sutton

36 MINUTES

RESOLVED: that the minutes of the Planning Committee held on 27 February 2024 be approved and signed by the Chairman.

37 APOLOGIES

Apologies were received from Councillors P Davis, B Bond, D Holmes and G Spruce.

38 DECLARATIONS OF INTEREST

There were no declarations of interest.

39 DETERMINATION OF PLANNING APPLICATIONS

23/00862/FUL – GOODS YARD, GOODS STATION LANE, PENKRIDGE, ST19 5AU - APPLICANT – NOKA FUTURE LTD, MRS KAMILE GUDLEIKE - PARISH – PENKRIDGE

Mrs Kamile Gudleike (applicant) spoke for the application.

Jane Johnstone spoke against the application.

Councillor Harper-Wallis as Ward Member understood the concern of local residents regarding the impact on their amenity.

RESOLVED: That the application be APPROVED subject to the conditions set out in the Planning Officers report.

40 MONTHLY UPDATE REPORT

RESOLVED: That the Committee note the update report.

The Meeting ended at: 19:25

CHAIRMAN

SOUTH STAFFORDSHIRE COUNCIL

PLANNING COMMITTEE – 21 MAY 2024

DETERMINATION OF PLANNING APPLICATIONS

REPORT OF DEVELOPMENT MANAGEMENT TEAM MANAGER

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

To determine the planning applications as set out in the attached Appendix.

2. RECOMMENDATIONS

2.1 That the planning applications be determined.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	The reasons for the recommendation for each application addresses issued pertaining to the Council's Plan.
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	Determination of individual planning applications so not applicable- see below for equalities comment.
SCRUTINY POWERS APPLICABLE	No	
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	N/A	
FINANCIAL IMPACT	No	Unless otherwise stated in the Appendix, there are no direct financial implications arising from this report.
LEGAL ISSUES	Yes	Town and Country Planning Act 1990 Planning (Listed Buildings and Conservation Areas) Act 1990 Planning (Consequential Provisions) Act 1990 Planning (Hazardous Substances) Act 1990 Planning and Compensation Act 1991 Planning and Compulsory Purchase Act 2004

OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	Equality and HRA impacts set out below.
IMPACT ON SPECIFIC WARDS	Yes	As set out in Appendix

PART B – ADDITIONAL INFORMATION

4. INFORMATION

All relevant information is contained within the Appendix.

Advice to Applicants and the Public

The recommendations and reports of the Development Management Team Manager contained in this schedule may, on occasions, be changed or updated as a result of any additional information received by the Local Planning Authority between the time of its preparation and the appropriate meeting of the Authority.

Where updates have been received before the Planning Committee’s meeting, a written summary of these is published generally by 5pm on the day before the Committee Meeting. Please note that verbal updates may still be made at the meeting itself.

With regard to the individual application reports set out in the Appendix then unless otherwise specifically stated in the individual report the following general statements will apply.

Unless otherwise stated any dimensions quoted in the reports on applications are scaled from the submitted plans or Ordnance Survey maps.

Equality Act Duty

Unless otherwise stated all matters reported are not considered to have any adverse impact on equalities and the public sector equality duty under section 149 of the Equality Act 2010 has been considered. Any impact for an individual application will be addressed as part of the individual officer report on that application.

Human Rights Implications

If an objection has been received to the application then the proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application aims to secure the proper planning of the area in the public interest. The potential interference with rights under Article 8 and Article 1 of the First Protocol has been considered and the recommendation is considered to strike an appropriate balance between the interests of the applicant and those of the occupants of neighbouring property and is therefore proportionate. The issues arising have been considered in detail

in the report and it is considered that, on balance, the proposals comply with Core Strategy and are appropriate.

If the application is recommended for refusal then the proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The recommendation to refuse accords with the policies of the Core Strategy and the applicant has the right of appeal against this decision.

Consultations Undertaken

The results of consultations with interested parties, organisations, neighbours and Councillors are reported in each report in the Appendix.

CONSULTEES

CH – County Highways
CLBO – Conservation Officer
CPO – County Planning Officer
CPRE – Campaign to Protect Rural England
CPSO – County Property Services Officer
CA – County Archaeologist
CS – Civic Society
EA – Environment Agency
EHGS – Environmental Health Officer
ENGS – Engineer
FC – The Forestry Commission
HA – Highways Agency
LPM – Landscape Planning Manager
HENGs – Engineer
NE – Natural England
PC – Parish Council
OSS – Open Space Society
STW – Severn Trent Water
SWT – Staffordshire Wildlife Trust

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

N/A

6. PREVIOUS MINUTES

Details if issue has been previously considered

7. BACKGROUND PAPERS

Background papers used in compiling the schedule of applications consist of:-

- (i) The individual planning application (which may include supplementary information supplied by or on behalf of the applicant) and representations received from persons or bodies consulted upon the application by the Local Planning Authority, and from members of the public and interested bodies, by the time of preparation of the schedule.
- (ii) The Town and Country Planning Act, 1990, as amended and related Acts, Orders and Regulations, the National Planning Policy Framework (NPPF), the Planning Practice Guidance Notes, any Circulars, Ministerial Statements and Policy Guidance published by or on behalf of the Secretary of State for the Department for Communities and Local Government.
- (iii) The Core Strategy for South Staffordshire adopted in December 2012 and Supplementary Planning Documents
- (iv) Relevant decisions of the Secretary of State in relation to planning appeals and relevant decisions of the courts.

These documents are available for inspection by Members or any member of the public and will remain available for a period of up to 4 years from the date of the meeting, during the normal office hours. Requests to see them should be made to our Customer Services Officers on 01902 696000 and arrangements will be made to comply with the request as soon as practicable. The Core Strategy and the individual planning applications can be viewed on our web site www.sstaffs.gov.uk

Report prepared by: Helen Benbow - Development Management Team Manager

App no	Applicant/Address	Parish and Ward Councillors	Recommendation	Page
23/00966/FUL NON MAJOR	Mrs Avril Watton Land At Orton Hall Farm Flash Lane Orton WOLVERHAMPTON WV4 4TF	WOMBOURNE Cllr B Bond Cllr D Kinsey Cllr M Perry	REFUSE	9-22
24/00024/FUL NON MAJOR	Mr Tony Sutton Himley Hall Himley Road Himley DUDLEY DY3 4DF	HIMLEY Cllr R Lees BEM	APPROVE Subject to conditions	23-32

23/00966/FUL
NON MAJOR

Mrs Avril Watton

WOMBOURNE
Councillor Barry M Bond
Councillor Daniel M Kinsey
Councillor Martin J Perry

Land At Orton Hall Farm Flash Lane Orton WOLVERHAMPTON WV4 4TF

The erection of a dwelling following the demolition of a barn in respect of which planning permission had been granted for conversion to a dwelling.

Pre-commencement conditions required: n/a	Pre-commencement conditions Agreed: n/a	Agreed Extension of Time until 24.05.2024
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Date of site visit - 14 December 2023

1. SITE DESCRIPTION AND APPLICATION DETAILS

1.1 Site Description

1.1.1 The site is on Flash Lane close to its junction with Orton Lane and Showell Lane, approximately 2km north of Wombourne village centre.

1.1.2 The site was formerly occupied by a disused cattle shed. The cattle shed has now been demolished and a shallow area excavated in preparation for building works with drainage partially completed. A section of the yard wall which fronts Flash Lane has also been removed as well as a section of wall to the rear of the site. The site is now open in nature albeit enclosed by temporary fencing and a laurel hedge has been planted in-between the site and the parking area to the northeast.

1.2 Application Details

1.2.1 Planning permission is sought for the erection of a dwelling on land at Orton Hall Farm. The proposed dwelling is the same proportions/dimensions as the former cattle shed, as allowed on appeal (ref 21/00885/FUL) but now proposes a new build rather than a conversion as the former cattle shed has been demolished. As previously, the dwelling would be single storey and measure 144sqm in area, 5m in height to the ridge of the roof and 2.7m to the eaves.

1.2.2 Vehicle access would be via the existing access to the north from Flash Lane which serves the residential dwellings adjacent to the site. This would be an extension of the existing hardstanding courtyard which is used for communal parking. The main entrance to the dwelling would be from this courtyard.

1.2.3 The applicant has submitted the following documents with the application:

- Design and Access Statement
 - Appendix 1 Appeal Decision
 - Appendix 2 Photos of Site
 - Appendix 3 Heritage Impact Assessment
 - Appendix 4 Court of Appeal Decision Corbett v Cornwall
 -

1.3 SITE HISTORYPlanning Applications

Application reference number	Date Validated/ Processed	Date determined	Decision	Proposal	Comments
21/00885/COND2	08/06/2023	27/07/2023	Application Returned	Discharge Condition 3 allowed at appeal. App/C3430/W/22/3293404	It was during the assessment of this application that the build was found to have been demolished
21/00885/COND	30/03/2023	06/06/2023	Approved by Letter of conditions 4, 5 and 6	Discharge Condition 4,5 and 6 allowed at appeal. App/C3430/W/22/3293404 Landscaping proposals / manufacturer and details of bat and barn owl boxes to be used / images of site fencing erected to safeguard existing hedge planting	
23/00216/VAR	13/03/2023	27/03/2023	Application Returned	Application Reference Number: APP/C3430/W/22/3293404, 21/00885/FUL. Date of Decision: 21/06/2022 Condition Number(s): 4/ 5/ 6 Conditions(s) Removal: Conditions required to be removed prior to work commencing on site	Incorrect application type applied for, refund issued.
21/00885/FUL	17/08/2021	21/12/2021	Refused	Proposed conversion and extension of agricultural barn to a residential dwelling	Application allowed on appeal, decision date 04/07/2022
10/00692/FUL	15/09/2010	10/11/2010	Approved with conditions	Oak-frame extension to barn (unit 7)	
03/00817/COU	02/07/2003	18/02/2004	Approved with conditions	Change of use of farmhouse, cottage and outbuildings to form 14 residential units	

1.4 The planning history to this site is key to the recommendation by officers to refuse this current planning application. The relevant details are outlined within the main body of this report.

2. POLICY

2.1 Constraints

Within the West Midlands Green Belt
Newt - Impact Risk Zone Green
D Class Road D4129

2.2 Policies

South Staffordshire Core Strategy 2012:

Core Policy 1: The Spatial Strategy
Policy GB1: Development within the Green Belt
Core Policy 2: Protecting and Enhancing the Natural and Historic Environment
Policy EQ4: Protecting, Expanding and Enhancing the Character and Appearance of the Landscape
Core Policy 3: Sustainable Development and Climate Change
Policy EQ9: Protecting Residential Amenity
Core Policy 4: Promoting High Quality Design
Policy EQ11: Wider Design Considerations
Policy EQ12: Landscaping
Core Policy 9: Rural Diversification
Core Policy 11: Sustainable Transport
Policy EV11: Sustainable Travel
Policy EV12: Parking Provision
- Appendix 5 Parking Standards
- Appendix 6 Space About Dwellings Standards

2.3 Supplementary Planning Documents

South Staffordshire Design Guide 2018
Sustainable Development SPD 2018
Green Belt and Open Countryside SPD 2014

2.4 National Planning Policy Framework 2023

Section 5 - Delivering a sufficient supply of homes
Section 11 - Making effective use of land
Section 12. Achieving well-designed and beautiful places.
Section 13 - Protecting the Green Belt
Section 16 - Conserving and enhancing the historic environment

3. CONSULTATION RESPONSES

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
4 January 2024	n/a

Councillor Barry Bond - Wombourne North Ward

No Response Received

Councillor Daniel Kinsey B.E.M - Wombourne North Ward

6th December 2023

I'm sure you will recall my feelings on this. Given the original intention to retain and convert the original remaining barn walls into a dwelling and support from the planning inspectorate, I fully support the proposals here as a means of not only tidying up the existing site, with implications for the roadway and security of the existing dwellings on the corner of Flash Lane and Orton Lane.

I must acknowledge the taking-down of the original walls which was done on the recommendation of 'professionals'. The owner themselves always saw these walls as integral, and actually sought to retain the bricks, etc with the express intent to rebuild on proper foundations - their understanding of doing what was right. It is my feeling that the owner here has previously been let down with a variety of complications arising which has led to this point. I get absolutely no sense that they are trying to gain any advantage beyond the permission originally granted by the inspectorate, and given the presence of the original materials and clear commitment to do the right thing, I fully support the proposals made.

As it stands, the site detracts from the local historic landscape (the oldest settlement in the Parish) and both requires and deserves improvement that retains local character.

Councillor Martin Perry - Wombourne North Ward

No Response Received

Wombourne Parish Council

20th December 2023

We have no comments to make, and will leave this to the Planning Officer to determine the outcome of this application.

Conservation Consultation

12th February 2024

The application seeks to re-build a former barn that was previously given permission for conversion. The site of the former barn is associated with Orton Hall Farm, the outbuildings of which have now been converted to residential use.

The barn was given permission for conversion, but subsequently demolished. The footings of the proposed structure remain, as do materials from the demolition. This retention of materials will allow the historic fabric (whilst altered) to remain on site.

Whilst the main buildings are not listed, they are of local historical significance and are within the setting of White Cross House, which is Grade II listed. The barns to the rear of the farmhouse contribute positively to the rural character of the area.

Having looked through the heritage statement that has been produced to accompany the application I would concur with the findings. The loss of barn has had a detrimental impact upon the character and legibility of the site. The re-instatement of the building as per the approved plans will allow the re-establishment of the site.

Whilst not an ideal situation, it is accepted that the best outcome for the site in this case will be for the reconstruction of the barn as per the previously approved plans. The materials will be key, and, in this case,

there are reclaimed materials on site. These will need to be re-used and any additional materials required to match.

Conditions:

No development hereby approved shall be commenced, until details of all external materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Public consultation responses

Two public representations have been received. Neither object to the proposals but raise the following matters:

- The visual amenity of the site has denigrated and there are also concerns regarding security and potential crime whilst the building works are in hiatus.
- The roof line height of the development should not exceed the original roofline of the now demolished barn.
- Building materials and design should reflect the nature of the existing adjacent developments, and so be in keeping so far as is practicable with the former brick and tile barn, and not present as an incongruous feature.
- The dwelling should match the previous planning application and inspections are taken accordingly to ensure that no more errors of judgment are made.
- this would clean up the site as the area deserves to be improved not only for the safety and security of the existing dwellings but for the historic landscape it is.

4. APPRAISAL

4.1 Key Issues

- **Principle of development**
 - Is the proposal in a sustainable location?
 - Whether or not the proposal constitutes inappropriate development in the Green Belt
 - Level of harm to the Green Belt
 - Very special circumstances
- **Layout, design & appearance**
- **Access, parking & highway safety**
- **Residential Amenity**
- **Ecology & Trees**
- **Human Rights**

4.2 Principle of development

4.2.1 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).

4.2.2 The relevant principles are whether or not the proposal directs development to an accessible and

sustainable location (Core Strategy Policy CP1), whether the proposal constitutes inappropriate development in the Green Belt for the purposes of Core Strategy policy GB1 and the National Planning Policy Framework; and finally, if the development is deemed inappropriate, whether the harm to the Green Belt, and any other identified harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. These policies are reiterated locally within Policies CP1 (The Spatial Strategy) and GB1 (Development in Green Belt) within the South Staffordshire Core Strategy, 2012.

4.2.3 Is the proposal in a sustainable location?

4.2.4 With regard to delivering housing in the most sustainable locations, Core Strategy Core Policy 1 states that 'Throughout the district, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy'. Policy CP1 defines the most accessible and sustainable locations as main service villages. The application site is not within a main service village, or any other form of settlement identified within the Core Strategy and is physically and functionally separate from the nearest main Service Villages of Wombourne and the urban area of Penn to the east of the site. In terms of walking, access to services to the east would be via an unlit road with no footpath and approximately 30-minute walk to Springhill Lane shops. There is a footpath south to Wombourne, however, this would also be a 30+minute walk to the majority of services. As a result, future occupiers of the dwelling are likely to be reliant on the use of a private car to access everyday facilities and services. The proposed location of the dwelling would therefore be contrary to Core Strategy Core policy 1, which directs development to the most accessible and sustainable locations, in accordance with the settlement hierarchy.

4.2.5 Whether or not the proposal constitutes inappropriate development in the Green Belt

4.2.6 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt.

4.2.7 South Staffordshire Core Strategy Policy GB1 and National Planning Policy Framework (NPPF) paragraphs 154 and 155 set out the exceptions where a new building would be acceptable within the Green Belt. However, none of the exceptions apply here. The proposed dwelling is therefore inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4.2.8 Level of harm to the Green Belt

4.2.9 Paragraph 142 of the NPPF states that, '...the essential characteristics of Green Belts are their openness and their permanence'.

4.2.10 The National Planning Policy Guidance (NPPG 22 July 2019) provides guidance on matters which may need to be taken into account in assessing the impact on the openness of the Green Belt. Openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume.

4.2.11 The application site is agricultural land, adjacent to the public highway and visible along Flash Lane up to 280m southwest from the site as the road rises. The site can be seen from Orton Lane directly to the east over an existing low brick wall, but nearby buildings screen any prolonged views from Orton Lane. The proposals would create a dwelling along with associated domestic paraphernalia, the parking of vehicles and an increase in activity where none currently exist. There is also likely to be future pressures for

extensions and the erection of outbuildings although this could be controlled to some extent by removing permitted development rights.. This impact on openness would be mitigated somewhat by the single storey size of the dwelling and proximity to existing converted buildings. However, the proposed dwelling does extend built form outwards rather than being within a cluster. As a result, it is considered that the proposals would lead to a moderate impact on openness visually and also spatially, particularly as development would be located on land where there currently is none.

4.2.12 The building of a new dwelling on agricultural land would also conflict with one of the five purposes of the Green Belt which is 'c) to assist in safeguarding the countryside from encroachment'. This is because the proposal would create residential development within the Green Belt where there currently is none.

4.2.13 In conclusion, the proposed dwelling would be inappropriate development, cause moderate harm to the openness of the Green Belt and conflict with the purpose of safeguarding the countryside from encroachment.

4.2.14 Very special circumstances

4.2.15 NPPF Paragraph 153 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.'

4.2.16 The submitted design and access statement sets out the applicants' case for very special circumstances (VSC). These are summarized below:

- That the proposed building would be identical to the dwelling which would have been created pursuant to the previous appeal decision permission which was deemed to comply with policies relating to visual impact and effect on the character and appearance of the area.
- The Site is currently unsightly and has a harmful visual impact. If permission is not granted, the Site is likely to become derelict and have an even more harmful visual impact.
- The effect of the application would be a significant positive impact on a non-designated heritage asset.
- That the Barn was demolished inadvertently due to a misunderstanding by the applicant's advisors. The applicant did not instruct her builder to demolish the Barn. The applicant faces significant financial hardship if consent is not obtained to develop the Site for residential purposes.

4.2.17 With regard to the first point, the previous approval cannot now be implemented as it was for the conversion of a building that no longer exists. The previous appeal decision did not consider the impact of Core Strategy policy GB1 and the Green Belt policies set out in National Planning Policy Framework against which this application needs to be considered. As a result, this proposal must be assessed on the site as it is now, which is an open site, devoid of buildings. As a result, this part of the VSC case relating to the previous Inspector's does not carry any weight in the planning balance and no fall back position exists.

4.2.18 With regard to the second point, the site is currently unsightly as it is a building site where the land had been excavated in preparation for building a new dwelling. That work has stopped pending the outcome of this application and therefore the current condition of the site is considered temporary and not a valid fall back to compare to this proposal. Should permission be refused, the site would remain open and the temporary fencing would be removed. It noted that a laurel hedge has been planted which would establish a boundary to the existing dwellings and the remaining site area would recolonize with vegetation if left. The demolished materials comprise bricks which have been retained onsite and these could be used to rebuild/create a courtyard boundary to the collection of converted barns adjacent to the site. A proposal for which planning consent is unlikely to be required. For the reasons above, this point is given limited weight as the site is unlikely to remain as a building site.

4.2.19 With regard to the third point, the council's heritage officer has commented that the loss of barn has had a detrimental impact upon the character and legibility of the site. Whilst the former appearance of the site was derelict in nature with the remains of the cowshed, the brick walls of the cowshed and boundary wall facing Orton Lane did form a continuous boundary to the cluster of converted barns and were part of the historic fabric of the wider site. The reuse of the bricks would therefore allow the historic fabric (whilst altered) to remain on site. Whilst the reintroduction of the building in its original location would clearly add an authenticity to the wider farmstead, this being a positive element to the proposed development, this needs to be weighed against all other material planning considerations. Pertinent to this point, it is noted that recent discharge of condition (materials), for the approved conversion of the barn, proposed reclaimed bricks. This is surprising as a far greater extent of wall was demolished than was necessary to replace historic feature along the highway. It is therefore unknown how much of the historic fabric is appropriate or available to be reused. This matter is therefore afforded limited weight.

4.2.20 Furthermore, with regard to the impact on heritage, the proposal would significantly alter the appearance of the site compared to the former cowshed, with the introduction of white render, glazing (over 50% of the south elevation), rooflights and garden area. The garden area would become enclosed by hedgerows to provide privacy to the private amenity space and southern elevation of the proposed dwelling. This would likely obscure views of the any reused walled material and, as a result, the original materials would visually become a minor reference to the previous layout and historic high walled boundary. As a result, it is not agreed that the application would be a significant positive impact on a non-designated heritage asset. It is considered that the proposed reuse of the original bricks (those that are useable, which as explained above is unknown) in an altered form would provide a modest benefit to the non-designated heritage assets. Should permission be refused, there is an opportunity to use the original bricks to rebuild a courtyard boundary to the existing buildings and parking area, which would have a greater positive impact to the wider heritage value of the site than the proposed dwelling. There would also be a lesser impact on the openness off the Green Belt. It is considered that there would be a greater than theoretical possibility that this would occur, and therefore this potential benefit to the character of the site is given some weight.

4.2.21 With regard to the last point, the previous permission was clear in its description, 'Proposed conversion and extension of agricultural barn to a residential dwelling'. It is unknown whether, during the course of construction it became clear that the barn was not capable of conversion or, that it would simpler and more cost effective to demolish and rebuild. No specific reason has been given for the demolition of the building. Nevertheless, whether it was capable of conversion or not, the barn was demolished, and the area excavated for the construction of a new dwelling. Consequently, this proposal must be considered in the context of the construction of a new dwelling. As a result, the misunderstanding that resulted in the demolition and the personal circumstances of the applicant can not be afforded weight in the planning balance.

4.2.22 At this point it is necessary to emphasis that approval for the conversion of the former barn was only granted on the proviso that it was capable of conversion. The inspector notes verbatim, that:

It is recognised that the barn is not substantial in that most of the doors are missing and there is no roof at all. Nonetheless, the walls are largely extant, there is a concrete floor, and double wooden doors face Flash Lane. Furthermore, the appellant's Structural Inspection report states that the building, with some repair, is able to be converted. It is reasonable to consider the former barn is a building that is able to be altered and extended, as allowed for in in policy GB1 and the Framework, as opposed to being demolished and replaced or rebuilt.

As such the development as a whole would accord with policy GB1, paragraph 149 of the Framework and Core Policy 1, which also guards against inappropriate development in the Green

Belt. It is therefore not inappropriate development.

As such, now that the building has been removed that the development by its very definition is inappropriate development in the Green Belt. The “fallback” position that the presence of the barn afforded to the appeal decision is now not present. This represents an in principle matter for the development currently proposed. It is worth further emphasis at this juncture that significant weight was given to the conversion of the building (as appropriate development in the Green Belt) because the appeal submission was accompanied by a professionally produced structural inspection that concluded, again verbatim:

In our opinion the remaining parts of the building are suitable for repair and conversion into domestic accommodation.

The fact that the building is not present is the in principle difference between the previous approval (appropriate development in the Green Belt) and this current proposal (inappropriate development in the Green Belt). This consideration should be afforded significant weight.

4.3 Layout, Design and Appearance

4.3.1 Policy EQ4 of the Core Strategy advises that, ‘the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long-distance views’. Core Policy 4 similarly seeks to promote high quality design and respect and enhance local character and distinctiveness of the natural and built environment. Policy EQ11 advises that new development should seek to achieve creative and sustainable designs that consider local character and distinctiveness, whilst having regard to matters of use, movement, form and space. Finally, the Council's Design Guide SPD amplifies the principles set out in Policy EQ11 of the Core Strategy.

4.3.2 The NPPF (Section 12) advises that “good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”. The document continues to state that “development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”.

4.3.3 The site previously contained the remains of a brick-built cattle shed and boundary wall which have now been demolished. The site is now open and devoid of structures. The proposal would comprise a new dwelling which would include use of the bricks that remain (of those that are usable, amount still unknown) from the demolition. Whilst the proposals would allow the historic fabric (whilst altered) to remain on site, the proposed dwelling is substantially different from the former cattle shed, with extensions, timber cladding, render, and the number/shape and placement of roof lights departing from the simple uncluttered character of the original structure. The proposed materials are not in keeping with the nearby building styles at Orton Hall Farm which are brick/stone built and retain their agricultural character. Contrary to the inspector’s report, the extent or glazing, positioning and style would not match the windows in the converted farmhouse. Neither does the proposal accord with the Design SPD which supports careful attention to maintaining a rhythm in the window openings (p38), an uncluttered roof without being broken up with features such as roof lights (p44), and minimal fussy adornments as this tends to create a generic suburban character that disguises the building’s history and interest (p55).

4.3.4 Overall, whilst the remnants of the cattle shed walls could be reused there are insufficient features to avoid disguising its use as a former cattle shed contrary to the guidance set out in the council’s Design Guide SPD. As a result, it is considered that the proposal would adversely impact on the rural character of site and wider area contrary to Core Strategy Policy EQ11 and the Design Guide SPD.

4.4 Access, Parking & Highway Safety

4.4.1 Policy EV12 states that the Council will require appropriate provision to be made for off street parking in development proposals in accordance with adopted parking standards. These are set out in Appendix 5 and require 2 spaces for 2 bed dwellings. The proposal is for a 2-bedroom dwelling and provision is made for 2 parking spaces in accordance with Policy EV12 and Appendix 5 which relate to parking standards.

4.4.2 Vehicle access would be from the existing access from Flash Lane which serves the residential dwelling adjacent to the site. County Council Highways do not object subject to the development not being brought into use until the parking and turning areas have been provided in accordance with the approved plans. Any permission should include the recommended condition.

4.4.3 In conclusion, it is considered that the proposal provides sufficient parking and would not impact highway safety in accordance with Core Strategy policy EV12 and Appendix 5.

4.5 Residential Amenity

4.5.1 In accordance with Core Strategy Local Plan Policy EQ9, all development proposals should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution, odours and daylight. Appendix 6 sets out minimum separation distances between facing habitable room windows and towards flank walls.

4.5.2 The proposed dwelling is single storey and a sufficient distance from nearby dwellings with proposed boundary treatments that avoid any potential neighbour amenity issues such as loss of light or privacy. The proposals meet the internal, external, and side access space standards as set out in Core Strategy Appendix 6 – Space About Dwelling Standards.

4.5.3 In conclusion, the proposal does not harm the amenity space around the dwelling or the amenity of neighbours or occupants and is therefore in accordance with Core Strategy Local Plan Policy EQ9 and Appendix 6 – space about dwellings standards.

4.6 Ecology & Trees

4.6.1 Core Strategy Policy EQ1: Protecting, Enhancing and Expanding Natural Assets states that permission will be granted for development that would not cause significant harm to species that are protected or under threat and that wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme.

4.6.2 Core Strategy policy EQ4 states that 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. It also states that permission will not be granted for development which would cause significant harm to sites or habitats of nature conservation including trees and hedgerows and species which are protected or under threat.

The site is within a green risk impact zone for Great Crested Newts which is considered to be low risk and there are no ponds within or close to the site. The proposal therefore complies with Policy EQ1 in this regard.

4.6.3 The council's ecology officer, as well as the previous appeal decision, has commented that the development should provide biodiversity gain through provision of including, but not limited to, two integrated bat tubes or bat boxes located on a south-facing aspect of the building, and one barn owl box on

the northwest-facing aspect of the building, and a suitable condition could ensure this was provided.

4.6.4 As included in the inspectors' decision a condition should also be attached to any permission requiring details of new trees as mitigation for any trees removed, and protection of any retained trees by strong fencing. In accordance with Core Strategy Policy EQ1 the suggested conditions should be included in any permission to protect existing trees or shrubs are necessary to protect the character and appearance of the area.

4.7 Human Rights

4.7.1 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.

5. CONCLUSIONS

5.1.1 The proposed development is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the openness of the Green Belt. The proposal would also create a moderate level of visual and spatial harm to the openness of the Green Belt and also cause direct conflict with the purpose of safeguarding the countryside from encroachment. This harm shall be attributed substantial weight in the planning balance. In addition to the Green Belt harm there is harm by way of the proposals being within an unsustainable location and adversely impacting the rural character of the area.

5.1.2 The applicant has advanced a number of considerations by way of very special circumstances. Full consideration has been given to the case presented by the applicants; however, these have either no weight, limited weight or in the case of the reuse of bricks some weight in the planning balance. No material consideration exist that would justify a decision otherwise than in accordance with the Development Plan.

5.1.3 For the reasons above, it is not considered that these considerations clearly outweigh the substantial weight that must be attached to the Green Belt harm and other harm as identified in this report.

5.1.4 Taking the above into consideration I am recommending the application be refused.

6. RECOMMENDATION – REFUSE

Reasons

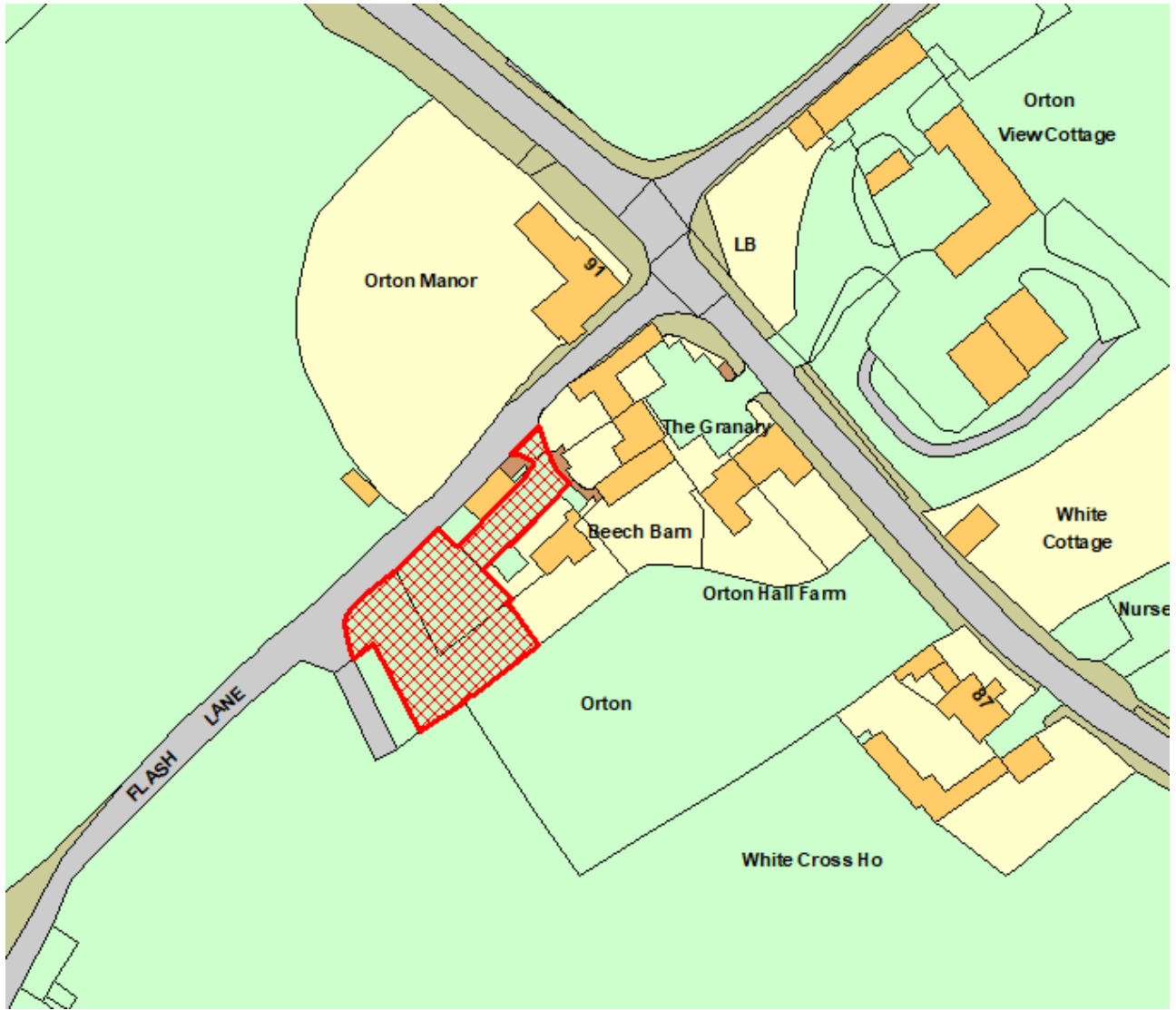
1. The site is within the Green Belt and the proposed development is considered to be inappropriate development as set out in policy GB1 of the adopted Core Strategy. The development is therefore harmful to the Green Belt, contrary to policy GB1 of the adopted Core Strategy.
2. The Local Planning Authority has considered the reasons advanced but does not consider that these reasons constitute the very special circumstances required to clearly outweigh the harm to the Green Belt by reason of inappropriateness, visual and spatial harm, conflict with the purposes of the Green Belt and other harm resulting from the proposal, contrary to the NPPF.

3. The application site is physically and functionally separate from the nearest main Service Village of Wombourne and the urban area of Penn to the east. Future occupiers of the dwelling would be reliant upon the use of a private car to access everyday facilities and services. The proposed location of the dwelling would therefore be contrary to Core Strategy Core policy 1 being an unsustainable location. The proposals would also create an isolated home in the countryside contrary to NPPF paragraph 84 where none of the exceptions apply here.
4. The proposal would adversely impact on the rural character of the immediate and wider area contrary to Core Strategy Policy EQ11 and the Design Guide SPD.

Proactive Statement -The Local Planning Authority has worked in a positive and proactive manner in accord with National Planning Policy Framework 2023, paragraph 38, by attempting to seek solutions with the applicant to problems associated with the application. A solution could not be found and so the development fails both with regards to the NPPF and the adopted South Staffordshire Core Strategy 2012.

Plans on which this Assessment is based:

Plan Type	Reference	Version	Received
Location Plan			01 December 2023
Proposed Site Plan	1025.02.1001		14 November 2023
Proposed Ground Floor Plan	1025.02.1101		14 November 2023
Proposed Elevations	1025.02.1501		14 November 2023
Proposed Elevations	1025.02.1502		14 November 2023



Land At Orton Hall Farm Flash Lane Orton WV4 4TF

24/00024/FUL
NON MAJOR

Mr Tony Sutton

HIMLEY
Councillor Roger Lees BEM

Himley Hall Himley Road Himley DUDLEY DY3 4DF

Planning permission is sought for railings and CCTV to improve security of the Himley Hall Sailing Club Boat Park.

Pre-commencement conditions required:	Pre-commencement conditions Agreed	Agreed Extension of Time until
n/a	n/a	24 May 2024

SITE DESCRIPTION AND APPLICATION DETAILS

1.1 Site Description

1.1.1 Himley Hall (Grade II* Listed) is a significant and prominent Hall, of great historical, architectural and heritage value. Himley Hall is set within its own extensive grounds characterised by openness and woodlands and is linked to Baggeridge Country Park to the northeast.

1.2 The Proposal

1.2.1 The application proposes to enclose the boat park for security purposes. It is proposed to erect a vertical bar, black powder coated metal fencing around its perimeter. Five CCTV posts will be erected. During the application a planting plan has been submitted.

1.3 Applicants Submission

- Heritage Impact Statement
- Crime Prevention Report
- Ecological Survey

Date of site visit - 12 March 2024

2. SITE HISTORY

Planning Applications

87/01123 Renewal Of Permission For Portakabin **Approve Subject to Conditions** 2nd February 1988

86/01091 Stationing Of Portakabin **Approve Subject to Conditions** 10th February 1987

96/00003/LBC Internal Alterations To Provide Storage Area **Approve Subject to Conditions** 29th March 1996

07/00980/LBC Refurbishment of ground floor north wing for wedding receptions and conferences **Approve Subject to Conditions** 16th November 2007

08/00040/LBC Replacement of lead flashings on main gate lodges with lead-free equivalent **Withdrawn** 18th February 2008

09/00511/LBC Alterations to external toilets **Approve Subject to Conditions** 3rd September 2009

10/00087/TREE CONSERVATION AREA - 18 Lime trees - Reduce in height to between 6-10 metres

12/00864/TREE TPO 251/2010 - 33 Lime trees and 1 Acer.
Reduce height by between 20% and 50% of 32 Limes and 1 Acer
Remove rubbing lib on 1 Lime
19/00226/ADV To display 3 non illuminated free standing signs
21/00497/OTHERS Roof mounted solar PV. 62.16kWp fitted with K2 ballasted frame using black cells with black trim modules 11th May 2021
21/00721/TREE Section 211 Conservation Area Notification. Remove 4 Ash trees 23rd August 2021
21/00969/TREE Section 211 Conservation Area Notification. Fagus sylvatica (Beech) - Pollard at 6 metres 9th November 2021
21/00979/TREE Fagus spp. (Beech) - Pollard 23rd November 2021
21/01043/TREE Section 211 Conservation Area Notification. T3294, Quercus rubra (Red Oak) - Fell and T3295, Quercus rubra (Red Oak) - Crown reduction by up to 5 metres in height and up to 3 metres from lateral branches 24th November 2021
21/00993/FUL Installation of air source heat pumps and construction of timber fenced compound. Installation of photo-voltic panels on roof. **Approve Subject to Conditions** 11th March 2022
21/00999/LBC Installation of air source heat pumps and construction of timber fenced compound. Installation of photo-voltic panels on roof. **Approve Subject to Conditions** 11th March 2022
21/01085/TTREE Tree Preservation Order 10/00251. T4, Populus spp. (Poplar) - Fell. T2, Fagus spp. (Beech) – Fell 17th December 2021
22/00520/TREE 1 x Lime tree, Tag197, remove partially snapped branch 27th May 2022
22/00547/TREE T1 and T2, Fraxinus spp. (Ash) x 2 - Complete dismantle and Remove 12th July 2022
22/01104/FUL The creation of a playground at Himley Hall **Withdrawn** 13th April 2023
23/00726/FUL New childrens play area containing mainly timber play elements in between existing trees and associated works. **Approve Subject to Conditions** 20th October 2023

3. POLICY

Constraints

Green Belt
Coal Authority Low Risk Area
Conservation Area Name: Himley Village And Parkland Conservation Area
Grade II* Himley Hall
Great Crested Newt Green Impact Zone

Policies

National Planning Policy Framework
National Planning Practice Guidance

Core Strategy

Core Policy 1: The Spatial Strategy
Policy GB1: Development in the Green Belt
Core Policy 2: Protecting and Enhancing the Natural and Historic Environment
Policy EQ1: Protecting, Enhancing and Expanding Natural Assets
Policy EQ3: Conservation, Preservation and Protection of Heritage Assets
Policy EQ4: Protecting and Enhancing the Character and Appearance of the Landscape
Core Policy 4: Promoting High Quality Design
Policy EQ9: Protecting Residential Amenity
Policy EQ11: Wider Design Considerations
Core Policy 14: Open Space, Sport and Recreation
Policy HWB1: Protection of Open Space, Sport and Recreation Facilities
Policy EV12: Parking Provision

Appendix 5: Car parking standards

Supplementary Planning Documents

Green Belt and Open Countryside SPD

South Staffordshire Design Guide

4. CONSULTATION RESPONSES

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
15 February 2024	21 February 2024

Himley PC

21st February 2024

Himley Parish Council supports the application.

Councillor Roger Lees BEM

No Response Received

Conservation Consultation

27th February 2024

The application is for alterations to the existing boat yard within Himley Park. The site is located within the Himley Conservation Area and is within the Grade II registered park. The site is also within the setting of the Grade II* Himley Hall.

The site is adjacent to the lake and has been in this location for a number of years. The boats themselves are a prominent feature within the parkland landscape.

The boats are currently surrounded by a low timber post and rail fence, which has proved insufficient in terms of the security required for the club in what is an exposed and vulnerable location. It is accepted that there are security concerns which this application seeks to address.

The proposals will seek to introduce a far larger and more modern fencing to the site. Whilst this kind of fencing would not normally be acceptable within the registered park, in this instance alternative locations for the boats have been considered and the existing park is considered to be the best option.

The form of the boat park doesn't appear to be altering from its existing form, just the addition of new fencing and CCTV. The boats themselves are a highly visual feature within the landscape and care will need to be taken to ensure that the proposed fencing does not draw additional attention to the park.

In principle there are no objections to the proposals, however there will need to be additional information provided with regards to the landscaping required to screen the fencing. This should not be a solid line of planting at a uniform height as this will accentuate the straight line of the fencing which is not in keeping with the historic character of the parkland. In this case it would be best to have a variety of planting to help to break up the massing and linear nature of the fence. Details of how this will be achieved will need to be agreed prior to the determination of the application.

Comment received 25/04/2024 in relation to planting plan:

A planting plan has been submitted for the application. There are a number of trees proposed to help screen the new fencing within the landscape. The proposed mix of trees would appear appropriate for the location. Therefore, subject to South Staffs Arboriculture being happy with the proposed scheme, there are no conservation objections to the proposed planting scheme.

Senior Arboricultural Officer

15th April 2024

I can confirm that the species choice and nursery stock specified on the planting plan are appropriate. The Deodar Cedar appears to be positioned suitably far away to allow it to develop into its mature size, whilst being close enough that it will provide an effective visual screen in years to come; it also being of a species typical for a park setting such as this.

The Amelanchier is a smaller growing specimen that is not more common in parklands only due to its relatively recent rise in popularity, whilst the Hawthorn and Hornbeam are frequently planted native species that can also make good specimen trees.

Therefore, I have no objection to the specification supplied.

Senior Ecologist - South Staffordshire

30th April 2024

Following submission of the planting plan for the sailing club application as referenced above, I have reviewed the new documentation and am satisfied with the details. Providing this planting is secured appropriately I have no objection to the application and do not consider that any further conditions or informative notes are necessary.

The ecological survey submitted with the application also indicates that European protected species are likely absent from the site, and no further consideration of the Habitat Regulations is necessary in relation to this application.

I am also satisfied given the scale of the proposal that no significant effects to statutory wildlife sites or habitats are likely to occur as a result of the proposed development.

Historic England

13th February 2024

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

Staffordshire Gardens and Parks Trust

9th March 2024

The application site lies within the grade II Registered Park and Garden surrounding the grade II star listed Himley Hall. The site also lies within the designated Himley Conservation Area. The basis of the present day layout and landscape character of the historic park is little altered from that laid out in the 1760s to the design of Lancelot 'Capability' Brown one of the foremost landscape practitioners of the 18th century. It is therefore a site of considerable historic significance.

A key element in the 18th century design was the sweeping vista westwards from the mansion house across open lawns towards the lake. Today this view encompasses the present intrusive and untidy boat storage area subject of the current application. The Trusts have no objection in principle to measures to address the appearance of the boat store nor to installing enhanced security arrangements but feel that these should be carried out in a way which minimises their impact in the historic landscape: this should include the repositioning of the store to a less prominent location.

The Trusts are concerned that the current application envisages retaining the present location of the store. The proposed erection of a utilitarian 1.8 metre tall boundary fence with taller attendant CCTV masts around a rigid square compound will accentuate its intrusive presence at variance with the surrounding open landscape characterised by softer, more flowing features. As indicated in our pre-application comments of 8 June 2023 to the applicants (copy attached) about a possible reorientation of the storage facility the Trusts do not support retention or reinforcement of the present open location which causes harm to the significance of the heritage assets.

The Trusts are disappointed that the applicant has misunderstood our suggestions to either reposition the facility in the open glade behind the starter hut at the north end of the adjacent woodland or on the rough car park area against its eastern boundary. Visually a new fenced enclosure against the latter would appear subordinate to the treed background. Additional planting around the southern and eastern boundaries of the enclosure this would further soften its impact and help blend it into its setting.

Given that there do appear to be realistic alternative options for the siting of the storage compound and the harm that the current proposals will cause to the significance of the conservation area and RPG the Trusts object to this application.

Dudley Metropolitan Borough Council

6th February 2024

Based on the information provided, the Local Planning Authority have no further comments to make in respect of the proposed application.

Contributors

No Response Received

5. APPRAISAL

The application has been referred to a planning committee meeting as the proposal represents in inappropriate development in the Green Belt, contrary to Local Plan Policy GB1 and Paragraph 154 of the NPPF.

5.1 Policy & principle of development

5.2 Impact on the Heritage Asset

5.3 Access, Parking & Highway Safety

5.4 Residential Amenity

5.5 Ecology & Biodiversity

5.6 Arboriculture

5.7 Human Rights

5.1 Policy & principle of development

5.1.1 The site is located within the Green Belt. Paragraph 152 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5.1.2 Paragraph 154 of the National Planning Policy Framework sets out that the construction of new buildings in the Green Belt is to be regarded as inappropriate development. A 'building' is defined in Section 336 of the Town and Country Planning Act 1990 to include any structure or erection and it therefore includes fences and gates. Fences and gates are not explicitly cited within the exceptions included at paragraph 154. Consequently, the fencing and CCTV poles is inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt.

Very Special Circumstances

5.1.3 Paragraph 153 of the NPPF provides that when considering any planning application, 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.

5.1.4 The boat park is a long-established feature within Himley Hall. The design of the fencing is open in nature (black vertical bars) and will therefore not have a material impact on the openness of the Green Belt than the existing situation. In support of the application the applicant has submitted a crime prevention report from Staffordshire Police, which confirms the recent thefts at the site. Recommendations are made to install a 1.8m high fencing to prevent access to the boat yard and CCTV cameras to act as a deterrent, whilst funds are secured by the Trust for the new fencing.

5.1.5 The boat park is an existing use and functions in providing its members with storage provision to partake in outdoor recreation, which is in principle an appropriate use in Green Belt. It has been concluded that the design of the fencing and the CCTV poles will cause minimal harm on the openness of the Green Belt and clear justification has been provided for its requirement. On balance it is considered that very special circumstances have been demonstrated.

5.2 Impact on the Heritage Asset

5.2.1 Chapter 16 of the NPPF and Policy EQ3 of the adopted Core Strategy state that care and consideration must be taken to ensure no harm is caused to the character or appearance of a heritage asset. Heritage assets are buildings, sites, monuments, places, areas or landscapes identified as significant features in the historic environment. Conservation areas are designated under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and defined as "an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance." The NPPF stipulates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

5.2.2 The site is located within the Himley Conservation Area and is within the Grade II registered park. The park is the work of Lancelot "Capability" Brown and forms the setting of the Grade II* listed Himley Hall.

5.2.3 The edges of the lake have been altered over time to facilitate the use of the lake for boating. The

boats have been in this location for a number of years and are a prominent feature within the landscape. The low timber post and rail fence, has proved insufficient in terms of the security required for the club in what is an exposed and vulnerable location. The Councils Senior Conservation Officer has commented that there are no objections to the proposal given that the boats themselves are a highly visual feature in the landscape and clear justification has been provided for the need for new fencing and CTTV poles.

5.2.4 The Staffordshire Gardens and Parks Trust, have raised concerns with the boat store being kept where it is and request for an alternative location in the park setting. Prior to the submission of this application pre-application discussions took with the applicant regarding alternative locations for the boats and these raised arboricultural and ecological issues, and as such the existing park is considered to be the best option. In order to ensure that the proposed fencing does not draw additional attention to the boat park, a planting plan has been submitted, which proposes a variety of species at different heights to help break up the massing and linear nature of the fencing and these details will be secured by a condition. This planting scheme, as suggested by the Senior Conservation Officer, was submitted after the comments provided by the Staffordshire Gardens and Parks Trust. Taking all of the considerations in account it is not concluded that the proposal would result in any significant harm being caused to the designated assets beyond that of the existing situation, particularly to a degree that would warrant refusal of the proposed development.

5.3 Access, Parking & Highway Safety

5.3.1 There are no access, parking or highway considerations as a result of this proposal.

5.4 Residential Amenity

5.4.1 In accordance with Local Plan Policy EQ9, all development proposals should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution, odours and daylight.

5.4.2 The boating area is set within the extensive grounds of Himley Hall and as such the application poses no neighbouring amenity issues. There is no conflict with policy EQ9 of the Local Plan.

5.5 Ecology & Biodiversity

5.5.1 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). To comply with the guidance contained within Paragraphs 9, 112 and 122 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.

5.5.2 The Councils Senior Ecologist has raised no concerns with the proposal and has recommended additional planting as suggested by the ecological report. A planting plan has been produced in agreement with the Councils Conservation Officer and Arboricultural Officer however this is not for a formal hedge, as initially requested by the Ecologist as this would have accentuated the linear nature of the area. The Councils Senior Ecologist has reviewed the revised planting scheme and has expressed no concerns.

5.5.3 The site is in a Green Impact Zone for Great Crested Newts. As the proposal is of a low risk an informative to the decision notice is appropriate.

5.6 Arboriculture

5.6.1 Paragraph 186 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"

5.6.2 The application does not result in the loss of any trees. With regards to the planting plan the arboriculturist has confirmed that the species choice and nursery stock are appropriate for the park landscape. There is no conflict with policy EQ4.

5.7 Human Rights

5.7.1 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.

6. CONCLUSIONS

6.1 The proposed fencing and CCTV poles represent an inappropriate form of development in the Green Belt and very special circumstances have been clearly demonstrated in the application to outweigh the harm caused (i.e. limited harm to openness, necessary for outdoor recreation and security).

6.2 Heritage concerns have been raised given the parks sensitive setting and alternative locations within the park have been explored and discounted. The existing boats are a long established prominent feature, and on balance it is not considered that the proposal would cause any significant further harm. The planting plan includes a variety of species at different heights to help break up- the massing and linear nature of the fencing and improve the appearance of the boat store from views of Himley Hall. Approval is therefore recommended.

RECOMMENDATION - APPROVE Subject to Conditions

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
3. The landscape scheme shown on the approved plan(s) 'planting plan' received 15th of April; shall be implemented concurrently with the development and completed within 6 months of the completion of the development. The Local Planning Authority shall be notified when the scheme has been completed. The planting shown on the approved plan(s) shall be retained and maintained for a minimum period of 10 years by the applicant or land owner from the notified completion date of the scheme. Any plant failures that occur during the first 5 years of the notified completion date of the scheme shall be replaced with the same species within the next available planting season (after failure).

Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.

Informative - Please note that the application site is within a Green Impact Risk Zone for Great Crested Newts. Whilst the proposal is considered to be low risk, there is the possibility that those species may be encountered once work has commenced. The gaining of planning approval does not permit a developer to act in a manner which would otherwise result in a criminal offence to be caused. Where such species are encountered it is recommended the developer cease work and seek further advice (either from Natural England or NatureSpace) as to how to proceed.

Proactive Statement - In dealing with the application, the Local Planning Authority has approached decision making in a positive and creative way, seeking to approve sustainable development where possible, in accordance with paragraph 38 of the National Planning Policy Framework, 2023.

Plans on which this Assessment is based

Plan Type	Reference	Version	Received
Proposed Site Plan			24 April 2024
Landscape Plan			15 April 2024
Other Plans	CCTV Lamp Post		14 January 2024
Other Plans	Fencing Options		7 January 2024



Himley Hall, Himley Road, Himley, DUDLEY DY3 4DF

SOUTH STAFFORDSHIRE COUNCIL

PLANNING COMMITTEE – 21 May 2024

Planning Performance report

REPORT OF THE DEVELOPMENT MANAGEMENT TEAM MANAGER

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

1.1 This report has been updated to be reflective of the current and most relevant issues.

1.2 A monthly report to ensure that the Committee is kept informed on key matters including:

1.3 Monthly Updates on:

- Procedural updates/changes
- Proposed member training
- Monthly application update
- Update on matters relating to Department for Levelling Up, Housing and Communities (DLUHC)
- Any recent Planning Appeal Decisions

1.4 Quarterly Updates on:

- The latest data produced by the Department for Levelling Up, Housing and Communities (DLUHC)

2. RECOMMENDATION

2.1 That Committee notes the content of the update report.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	
SCRUTINY POWERS APPLICABLE	Has an Equality Impact Assessment (EqIA) been completed?	
	No	
KEY DECISION	Report to Planning Committee	
	No	

TARGET COMPLETION/ DELIVERY DATE	9 th May 2024	
FINANCIAL IMPACT	No	There are no direct financial implications arising from this report.
LEGAL ISSUES	No	Any legal issues are covered in the report.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	No other significant impacts, risks or opportunities have been identified.
IMPACT ON SPECIFIC WARDS	No	District-wide application.

PART B ADDITIONAL INFORMATION

Monthly Updates

4. Procedure updates/changes

- 4.1 It is proposed to increase pre-application fees from the 3rd June 2024. This is to align with the increased planning fees, set nationally, inflation and to more accurately reflect the input of officer time. The proposed fee scale is outlined in appendix 1 of this report.
- 4.2 Continued progress has been made in the last month with the introduction of a new workflow system within Development Management. This is intended to speed up internal processes and automate simple tasks, removing the need for manual intervention. Work is progressing well.
- 4.3 We are currently advertising for a full-time permanent Senior Planning Officer in Development Management. This is a replacement post following resignation of the current post holder.

5. Training Update

- 5.1 The schedule of both mandatory and optional training has now been completed. It is the intention to undertake training for members on bespoke topics going forward before alternate planning committees (5-6pm) in the Council chamber.
- 5.2 The following training sessions have now been scheduled:
- June 18th 2024 Trees and Arboriculture – Delivered by Gavin Pearce
 - August 20th 2024 Planning Conditions – Delivered by Helen Benbow and Pardip Sharma.
- 5.3 Any area of planning and/or topics members would like guidance on then do let the author of this report know.

6. Monthly Planning Statistics

April 2024	Decided	In Time	%	With agreed EoT or PPA
Major	1	1	100%	0
Minor	12	12	100%	6
Householder	34	34	100%	16
Other	3	3	100%	1

7. Update on matters relating to Department for Levelling Up, Housing and Communities (DLUHC)

- 7.1 The application for “Digital Planning Improvement” funding was awarded (100K) and meetings with DLUHC have commenced. CLT have agreed to the creation of a temporary 2-year fixed term post to support the progress of this project.
- 7.2 The consultation on “An accelerated planning system” has been agreed by the Council and the representations submitted.

8. Appeals

- 8.1 This section provides a summary of appeals decision received since the last report. Appeal decision letters are contained within the relevant appendix.

8.2 **Planning Reference:** 22/01170/FUL

Site Address: Kingsford House, Kingsford Lane, Kinver, Staffordshire DY11 5SB

Date of Inspectors Decision: 26 April 2024

Decision: Dismissed (Appendix 2)

The development proposed was replacement of existing stables and garage with new garage and ancillary building.

The main issues were related to the sites location within the Green Belt:

- whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect of the proposal upon the character and appearance of the area;
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

The inspector noted that whilst the proposal was previously developed land with regards to the policy it would have greater impact on the openness of the Green Belt due to the size of the replacement buildings. The inspector also stated that the land level changes

across the site combined with the size of the proposed footprint that the development would not be subservient to the host dwelling. Indeed, it was commented that the building would be akin to a dwelling within its own right, therefore eroding the spacious character of the area. Very special circumstances are not considered to have been forthcoming to outweigh the harm caused by this proposed development.

- 8.3 **Planning Reference:** 23/00437/FULHH and 23/00436/FULHH
Site Address: 58A Springhill Lane, Lower Penn WV4 4TJ
Date of Inspectors Decision: 12th April 2024
Decision: Dismissed (Appendix 3)

This appeal deals with two applications for development. The first relates to the erection of an outbuilding and the second to boundary fencing.

The main issues:

- Whether or not the proposal would be inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area; and,
- If the proposal is inappropriate development, whether or not there are any other considerations which clearly outweigh the harm by reason of inappropriateness, and any other harm, so as to amount to the very special circumstances necessary to allow the development.

The inspector dismissed both appeals noting that both developments would constitute inappropriate development in the Green Belt resulting in limited harm to openness, this was however afforded significant weight. The inspector did go onto however note that the developments would not have an unacceptable effect on the character and appearance of the area. The inspector concluded that all other considerations do not clearly outweigh the substantial weight given to the harm caused to the Green Belt.

- 8.4 **Planning Reference:** 23/00623/TTREE.
Site Address: 39 Copper Beech Drive, Wombourne, Staffordshire WV5 0LH
Date of Inspectors Decision: 2nd May 2024
Decision: Dismissed (Appendix 4)

The work proposed was crown reduction over garden of 5 Gittens Park by up to three metres.

The main issues were:

- the effect of the proposed works on the character and appearance of the area;
- whether or not the reasons given provide sufficient justification for the works..

Whilst the tree is located within the rear garden of 39 Copper Beech Drive the proposed works would be to the crown of the tree overhanging the rear garden area of number 5 Gittens Park. The inspector noted that the whilst the tree has a significant lean the specimen “remains in apparent good health with a full and verdant crown and main structural elements that appear free from any obvious defects”. The proposed works to the tree were considered to result in material harm to the character and appearance of the area and as such clear and convincing justification must be provided. In this case it was considered that the justification and evidence provided was insufficient to justify the harmful works to the tree crown.

- 8.5 **Site Address:** Land on east side of Teddesley Road, Penkridge, Stafford ST19 5RH **Date of Inspectors Decision:** 1st May 2024
Decision: Allowed (Appendix 5)

The original appeal decision was challenged under s288 and s289 of the Town and Country Planning Act 1990 (the Act). The consent Order of the High Court confirmed that the previous decision letter contained an error of law in that it failed to take into account the harm that had been found to heritage assets when considering the overall planning balance. The Court ordered that the decision be quashed in accordance with these findings.

The main issues were:

- Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
- The effect of the development on the openness of the Green Belt and the purposes of including land within the Green Belt;
- The effect of the development on the character and appearance of the area;
- The effect of the development on heritage assets;
- The effect of the development on the Special Area of Conservation;
- The need for Gypsy and Traveller sites;
- The personal circumstances of the appellant;
- The question of intentional unauthorised development;
- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

This is a complex case to summarise and members are encouraged to read this appeal decision in full. However, in summary the development was allowed as whilst the inspector found that the development was inappropriate in the Green Belt and that harm to the Conservation Area was found, albeit less than substantial, the significant unmet need for pitches as manifested in a lack of a five year supply was attributed substantial weight in the planning balance. Further, the personal circumstances of the occupiers was also afforded significant weight.

9. Quarterly Updates

9.1 Planning Statistics from DLUHC

Description	Target	Q1	Q2	Q3	Q4	Cumulative
23 Major	60%	100%	100%	100%	100%	100%
22 Major		75%	100%	100%	89%	91%
21 Major		100%	100%	100%	85%	93%
23 Minor	70%	92%	89%	94%	85%	90%
22 Minor		89%	90%	86%	100%	91%
21 Minor		82%	84%	81%	89%	84%
23 Other	70%	93%	93%	93%	96%	94%
22 Other		93%	96%	96%	96%	95%
21 Other		88%	87%	83%	87%	86%

Stats for the rolling 24 month to December 2023

Total (overall) - 93%
 Major - 95%
 Minor - 91%
 Other - 94%

This category includes Adverts/Change of Use/Householder/Listed Buildings.

Position in National Performance Tables (24 months to December 2023)

Majors 100th from 329 authorities
 Non-Major 83th from 329 authorities

Report prepared by:

Helen Benbow

Development Management Team Manager

Increase in Planning Pre-Application Fees from 3rd June 2024

Appendix 1

Application type	Current Fee	New Fee
Householder	£103	£129
Adverts	£126	Hoardings £289 Other Adverts £82.50
Other (such as change of use or agricultural buildings)	£126	£289
Minor (1-9)	£498.75	£500
Small-scale Major (10-30)	£1323	£1500
Large-scale Major (31-99)	N/A	£2500
Large-scale Major (100 to 199)	£2646	£3000
More than 200 dwellings	£4242	£4500
Development Team Meeting	Included for no extra fee for any major pre-application enquiry upon request.	£500 in addition to the above fees.



Appeal Decision

Site visit made on 7 February 2024

by **J Moore BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 April 2024

Appeal Ref: APP/C3430/D/23/3325235

Kingsford House, Kingsford Lane, Kinver, Staffordshire DY11 5SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr G Pargeter against the decision of South Staffordshire District Council.
 - The application Ref is 22/01170/FUL.
 - The development proposed is replacement of existing stables and garage with new garage and ancillary building.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. As such, neither party is prejudiced by a lack of consultation on the revised Framework.

Main Issues

3. The appeal site is within the Green Belt, and therefore the main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal upon the character and appearance of the area; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

4. Kingsford House is a large, detached dwelling located towards the rear of its extensive plot at the corner with Bird's Barn Lane. The existing garage and stable block are located on the opposite side of the driveway to the dwelling, at slightly different land levels, with the garage located further towards the side boundary of the plot than the stable block. There is also a summerhouse located at the rear of the plot, shown on the existing plans. A garden shed is also indicated on the existing plans, but this was not in place at my visit.

Inappropriate development?

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances; and that the construction of new buildings within the Green Belt is inappropriate development.
6. However, there are a limited number of exceptions to this, including that at paragraph 154g) which refers to limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
7. Policy GB1 of the South Staffordshire Core Strategy 2012 (CS) sets out that development in the Green Belt will be assessed in accordance with national policy. The policy therefore broadly accords with the Framework, but it is not fully consistent with it, as it does not include the exception within paragraph 154g). The Council accepts that the proposal would satisfy the definition of PDL as set out in the Framework, and I find no reason to consider otherwise.
8. The proposal would result in the demolition of the existing garage and stable block. According to the Council, these buildings are about 47m² and 57m² respectively and have a ridge height of about 3m, and an eaves height of about 2.5m. The proposed building would have a footprint of about 182m². While the eaves height would be about 2.4m, the ridge height would vary from about 4.5-6m due to changes in land levels. These figures are not disputed by the appellant.
9. In respect to openness, it is clear that the proposed building would be of a considerably larger footprint and volume than the buildings to be demolished. While the appellant seeks to trade off the existing stables and garage to help justify the proposals, such an approach is not generally supported by the Supplementary Planning Document: Green Belt and Open Countryside 2014, which also sets out that ancillary buildings are usually low and constructed from more natural materials such as timber.
10. Even though the proposed building would partly overlap the footprints of the existing buildings to be demolished, it would be of a significantly greater bulk and mass than the two buildings. Therefore, the proposal would result in a greater spatial impact upon the openness of the Green Belt.
11. The proposal would be screened to some degree by existing vegetation and boundary fencing. Nevertheless, due to the lie of the land, together with its siting and overall scale, the proposal would be in prominent view from Kingsford Lane and the higher land towards the east.
12. In summary, the proposal is PDL in terms of the Framework and the proposal would have a greater impact upon the openness of the Green Belt. Therefore, the proposal would not accord with paragraph 154g) of the Framework.
13. I therefore conclude that the proposal would be inappropriate development in the Green Belt. It conflicts with Policy GB1 of the CS and the fundamental aims of the Framework.

Character and appearance

14. From the evidence before me, the appeal site is located outside of any settlement boundary, near to the wooded area of the westerly side of Kinver Edge, from where there are views of the surrounding landscape with its rolling landforms. The area is rural in character, with sporadic built forms nestled within the rolling landscape. The stable block has an appearance akin to a rural outbuilding being of timber construction, while the brick garage is located close to the side boundary of the plot and is well screened by vegetation.
15. Due to the change in levels of land, the proposed building would vary in ridge height from about 4.5m to about 6m and its overall footprint would be similar to that of the host dwelling, such that it would not appear subservient to its host.
16. I note that the proposed building would include multiple glazed openings of a considerable size within the south-easterly elevation, which faces towards Kingsford Lane. These features would combine with the overall scale, footprint and ridge height of the proposed building to give an appearance akin to a dwelling in its own right, and thus eroding the spacious character of built forms in the area.
17. The proposed clay roof tiles would conform to the guidance within the Supplementary Planning Document: South Staffordshire Design Guide 2018 (SPD). The building would be externally clad in oak weatherboard. Such materials would appear sympathetic to the rural character and appearance of the area.
18. Having regard to all of the above, and despite the use of harmonising materials, the scale, volume and massing of the development would not respect the scale of spaces and buildings in the area, and it would therefore fail to follow the design principles of the SPD.
19. I therefore conclude that the proposed development would harm the character and appearance of the area. It conflicts with Policy EQ11 of the CS, and the design principles of the SPD, which seek to ensure that proposals respect character and distinctiveness including that of the surrounding development and landscape; and that in terms of scale, volume, massing and materials, development should contribute positively to the streetscene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area.

Other considerations

20. The appellant suggests that a number of structures could be erected within the domestic curtilage through permitted development rights, which would result in the same visual appearance as the proposal. The application of such rights could represent a fallback position.
21. My attention is also drawn to a letter from the Council to the appellant dated October 2019 which concerns a response to a pre-application enquiry for an extension to the existing stable block and conversion to a dwelling for a dependant relative. The letter details a 1.2m extension to the stable block and is clearly for a different form and scale of development than the appeal scheme. For these reasons, it is not directly comparable.

22. I have not been provided with clear and compelling evidence to demonstrate how any other structures would meet the limitations as set out in the GPDO¹. I have seen nothing to suggest the appellant would genuinely pursue such options if this appeal failed. On this basis, and in the absence of any prior approval consent or lawful development certificate, I therefore cannot be certain that even if there was a realistic prospect of such a fallback, that it would result in the same or greater harm than the scheme before me. Consequently, this consideration attracts very limited weight.
23. The appellant states that the proposal would be of a sustainable construction, be of low energy usage, and would accord with clause r of Policy EQ11 which seeks to provide parking in discreet but planned locations within the development. While the proposal includes a garaging element, this would be in a comparatively less discreet location.
24. I accept that the proposed glazing and orientation of the building would assist with solar gain and maximise natural daylight levels. The appellant states that the proposed building would be highly insulated, use LED lighting and be installed with ASHP technology, but this is not robustly demonstrated, nor is there any proposed mechanism before me to secure such matters.
25. Nevertheless, such features could accord with Policies CP3, CP4, EQ5 and EQ11 of the CS (either in whole or part), which when taken together seek to ensure that development is sustainably constructed and/or designed in order to achieve high quality design. Such features would also support the objectives of the Framework to tackle the effects of climate change. Therefore, these matters attract limited weight in favour of the proposal.

Green Belt Balance

26. The Framework makes clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations for planning permission to be granted. I have found that the proposal would be inappropriate development within the Green Belt, which is, by definition, harmful. The Framework requires me to give substantial weight to any harm to the Green Belt. I have also found that the proposal would harm the character and appearance of the area.
27. Although there are limited benefits that weigh in favour of the scheme, they do not individually or cumulatively clearly outweigh the substantial harm to the Green Belt and other harm resulting from the development. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

Conclusion

28. For the reasons given above, the appeal should be dismissed.

J Moore

INSPECTOR

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).



Appeal Decisions

Site visit made on 14 February 2024

by **A Veevers BA(Hons) DipBCon MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal A Ref: **APP/C3430/W/23/3327663**

58A Springhill Lane, Lower Penn WV4 4TJ

- 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 Mariusz Wojcik against the decision of South Staffordshire Council.
 - The application Ref is 23/00437/FULHH.
 - The development proposed is erection of outbuilding.
-

Appeal B Ref: **APP/C3430/W/23/3327681**

58A Springhill Lane, Lower Penn WV4 4TJ

- 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 Mariusz Wojcik against the decision of South Staffordshire Council.
 - The application Ref 23/00436/FULHH.
 - The development proposed is erection of boundary fencing.
-

Decision

1. **Appeal A** – The appeal is dismissed.
2. **Appeal B** – The appeal is dismissed.

Preliminary Matters and Background

3. As set out above there are two appeals on this site. The proposals differ in terms of the type of development. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.
4. Since the appeals were submitted, a revised version of the National Planning Policy Framework (the Framework) has been published. Other than the paragraph numbers, the provisions in the revised Framework relating to 'Proposals affecting the Green Belt' are the same as those that were in the previous version of the Framework when the council made its decision. Therefore, I am satisfied that no one would be prejudiced by this change to the national policy context. I have referred to the updated paragraph numbers.
5. Planning permission has previously been granted for a dwelling now constructed and occupied at the appeal site and a detached garage¹ (the 2018 permission). Evidence details that the garage has not been built but instead a

¹ Appeal Ref APP/C3430/W/18/3198392

detached outbuilding for purposes ancillary to the use of the dwelling has been constructed in the rear garden, as indicated on the application and plans submitted with Appeal A. In addition, a close boarded timber fence has been erected along the eastern boundary of the site which is the subject of Appeal B.

6. The application forms indicate that the erection of the fence commenced without consent on 1 March 2022 and the erection of the outbuilding on 1 April 2022. Both structures were completed on 31 January 2023. At the time of my visit, I observed that both the fence and the outbuilding had been erected. The outbuilding was in use as a home gym and store and there was no vehicular access to it.
7. I also saw that a timber clad single storey extension had been added to the outbuilding. As I cannot be certain that the works that have taken place thus far are fully in accordance with the submitted plans, for the avoidance of doubt, I have assessed the appeals as proposed developments. The fact that the outbuilding and fence have already been erected does not affect my decision.
8. It has been drawn to my attention by the Council that a Breach of Condition Notice² was served on the owners of land adjacent to the appeal site in January 2022 in respect of the failure to comply with condition 2 (plans) of the 2018 permission and a subsequent fine was imposed. However, both appeals before me are appeals under s78 of the Act³ specific to the appeal site. Neither are applications under s73 of the Act to vary or amend the 2018 permission. It is not within my remit under these appeals to reach a conclusion on such a matter and risk fettering the discretion of any future decision maker/s in this regard.
9. Therefore, my assessments have focussed on the merits of the respective schemes as they have been presented to me irrespective of the status of the 2018 permission and any enforcement proceedings.

Main Issues

10. The Council's decision notices identify similar reasons for refusal for both appeals. Therefore, the main issues in both appeal A and B are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area; and,
 - If the proposal is inappropriate development, whether or not there are any other considerations which clearly outweigh the harm by reason of inappropriateness, and any other harm, so as to amount to the very special circumstances necessary to allow the development.

² Under s187A of the Town and Country Planning Act 1990 (as amended)

³ Town and Country Planning Act 1990 (as amended)

Reasons

Whether inappropriate development

11. The appeal site comprises a large detached dwelling set back from the road and positioned in a substantial sized plot. It is located within a row of residential development characterised by large dwellings with moderate spacing in-between and bordered by a mix of mature hedging, trees, fences, railings and low walls. The site is accessed to the side off a private access drive and is located in the Green Belt.
12. Paragraph 154 of the Framework states the construction of new buildings in the Green Belt should be regarded as inappropriate in the Green Belt subject to exceptions. There is no dispute between the parties that Appeal B amounts to inappropriate development in the Green Belt and I see no reason to disagree. However, in relation to Appeal A, the appellant argues that the proposal would not be inappropriate.
13. The Council considered Appeal A against exception (d) of paragraph 154 as a replacement building in the Green Belt on the basis that the proposed outbuilding would be materially larger than the garage allowed by the 2018 permission. However, evidence indicates that the garage was never built and therefore the proposal would not replace a building that previously existed on the site, nor does the appeal relate to an application to vary or amend the 2018 permission.
14. More relevant to Appeal A, indeed the basis on which the application was made, is the exception listed in paragraph 154(c) of the Framework - the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
15. Criteria A (d) of Policy GB1 of the South Staffordshire Council Core Strategy 2012 (CS) refers to extensions to an existing building and is consistent with the Framework in this regard.
16. Although there is no specific allowance for new detached garden structures within the listed exceptions to inappropriate development at paragraph 154, the Courts⁴ have found that it is common practice for ancillary structures to be considered as extensions under paragraph 154(c) where they would amount to a normal domestic adjunct and can include structures that are physically detached from the building of which they are an extension. Having regard to the use of the proposed building and its proximity to the host dwelling, that would be the case here.
17. The Framework does not define what constitutes a disproportionate addition and therefore an assessment of whether a proposal would amount to a disproportionate addition, paragraph 154(c) refers to 'size'. This can, in my view, refer to volume, height, footprint, floorspace or overall perception of size and is a matter of planning judgement. The Council's Green Belt and Open Countryside Supplementary Planning Document 2014 (SPD) is more explicit and advises that anything above the 20-40% increase in floor area over and above the original building would be likely to harm the openness of the Green

⁴ *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin) and Sevenoaks DC v SSE & Dawe [1997]*

Belt. It goes on to advise that the reason for applying a floor area figure rather than footprint is because single storeys can have a limited impact on the openness of the Green Belt whereas multiple storey or bulky additions can have a significant impact whilst remaining within the percentage limit.

18. In the absence of any figures being provided by either party in relation to proportionality, my judgement in this case, based on the information before me and observations at my site visit is that, even if the dimensions of the proposed outbuilding fell within the percentage range given in the SPD, the building would still represent a disproportionate addition due to its height.
19. Due to the sloping nature of the site the dwelling is elevated above the outbuilding. Even so, the submitted plans indicate that the outbuilding would be little less than 7m to the ridge. This would be a significant height, essentially to provide a useable first floor, which would result in a considerable bulk and a height not too dissimilar to the height of the dwelling. Moreover, the scale of the building would be exacerbated by the gap between it and the dwelling. In the context of the form and size of the dwelling, the outbuilding would therefore introduce a height and mass that would constitute a disproportionate addition. Consequently, the proposal would not meet the exception criteria in paragraph 154(c) of the Framework.
20. I therefore conclude that both appeal proposals would be inappropriate development which would be harmful to the Green Belt. The proposals would conflict with Policy GB1 of the CS which seeks to protect the Green Belt from inappropriate development. There would also be conflict with paragraph 152 of the Framework in this regard.

Effect on openness

21. Having concluded that the proposals would be inappropriate development in the Green Belt, while only referred to within the Council's officer reports rather than the decision notices for the appeals, it is necessary to consider the impact of the proposals on the openness of the Green Belt. Paragraph 142 of the Framework states that the essential characteristics of Green Belts are their openness and permanence. The openness of the Green Belt can have both spatial and visual dimensions.
22. In the case of Appeal A, the proposed building would be of a height which would be clearly visible between No.60 Springhill Lane and the appeal property from Springhill Lane when approaching the site from the west. Although the building would be partially screened by trees, the considerable gap between the two properties and gaps between trees would allow clear views of the steeply pitched roof of the outbuilding. Because of surrounding buildings when viewed from other directions, the outbuilding would not be as apparent, although the roof of the building would protrude above the height of the building located close to the rear boundary. The outward expansion of permanent built form at the proposed height would increase the amount of development on the site and would therefore cause some loss of openness in both spatial and visual terms.
23. With regard to Appeal B, no details are before me to indicate the form of any previous boundary treatment on the appeal site. Nevertheless, the erosion of three-dimensional space arising from the overall length and height of the fencing in itself results in an erosion of openness. Views across the site would

be limited due to the height of the fence which further diminishes the openness of the Green Belt.

24. However, the appeal site lies within a ribbon of development and outbuildings, a car park and a nursery building lie to the rear. In this context and taking the appellant's reference to perception set out in the case of Goodman⁵ into account, I find both proposals would cause limited harm to the openness of the Green Belt conflicting with the Framework's aims in that regard. Nevertheless, as an essential characteristic of the Green Belt is openness, I give significant weight to that harm.

Character and appearance

25. The area lies on the edge of the urban area where development becomes more sporadic to the west of the appeal site. Due to the elevated position of Springhill Lane, views of the open countryside behind dwellings on the north side of the street can be glimpsed. The buildings in the vicinity of the appeal site primarily comprise two storey dwellings set back from Springhill Lane within generous plots. There is no consistent building line to the nearby properties. Planting within front gardens and grass verges contributes to a green and verdant character to the area. To the rear of the appeal site there are several outbuildings and a large children's day nursery with a substantial car park, although due to the topography of the area, these sit at a lower ground level and are not clearly visible from Springhill Lane.
26. The Council's South Staffordshire Design Guide 2018 advises that new buildings should take opportunities to preserve and enhance existing rhythms in the street scene for example by incorporating subtle changes in height, size and form between buildings. There is a variety in building form and scale in the area.
27. In such a context, the proposed outbuilding in Appeal A, together with the setback behind the appeal dwelling and the distance from Springhill Lane, would not result in an overly incongruous form of development. Although the roof of the outbuilding would be visible, this is not to the extent, when combined with the relatively small footprint of the building and distance from the dwelling, that the site would appear unusually or unacceptably cramped, or that the building would dominate the area or be harmful to the streetscene.
28. In terms of Appeal B, the proposed fence would sit back a considerable distance from Springhill Lane, beyond the gated driveway to the appeal property. While it would extend a significant length rearward, the land descends away from the road. Thus, the fence would be less conspicuous when viewed from the street. I observed at my site visit that a small number of close boarded fences between properties and alongside pavements already exist in the area and a brick wall surrounds Springhill House immediately to the east.
29. Consequently, I conclude on this main issue that, in the context of the surrounding area, whilst the openness of the Green Belt would be harmed, neither Appeal A nor Appeal B would have an unacceptable effect on the character or appearance of the area. In reaching this conclusion, I am also mindful of paragraph 140 of the Framework which, although refers to changes made to a permitted scheme between permission and completion and I have

⁵ Goodman Logistics Developments (UK) Limited v SSCLG [2017] EWHC 947

not assessed the proposal on that basis, seeks to ensure that the quality of approved development is not materially diminished.

30. Both proposals would therefore accord with the design aims of Policies EQ4 and EQ11 of the CS which together seek, amongst other things, seek high-quality design that maintains or enhances local character and distinctiveness. The proposals would also comply with the design aims of paragraph 131 of the Framework.

Other considerations

31. Paragraph 153 of the Framework indicates that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
32. In terms of Appeal A, reference has been made by the appellant to the principle of a detached garage building having already been accepted by the Council by virtue of the 2018 permission. Whilst not explicitly set out as a fallback position, based on the information before me, there are some similarities in the design of the appeal proposal and this permission, namely in the palette of materials, similar position and width of the building, and thus these elements of the design have been previously accepted by the Council.
33. Nonetheless, the proposed outbuilding would be significantly higher than the approved garage and would as such, have a more harmful effect on the openness of the Green Belt. Thus, even if there was a reasonable prospect of this element of the 2018 permission being implemented were this appeal to be dismissed, which is unlikely given the appeal proposal has already been constructed on part of the footprint of the approved garage, it would be less harmful than the proposed scheme. Consequently, the existence of the 2018 permission as a fallback would not justify the harm arising from the proposed development in this case.
34. The appellant has put forward a fallback position in relation to Appeal B in the form of permitted development rights under Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
35. As in the case in Appeal A, for significant weight to be afforded to a fallback position, there needs not only to be a reasonable prospect of it being carried out, but it would also need to be more harmful than what would be allowed by the scheme for which permission is sought.
36. Whilst the Council dispute that a 2m fence could be erected in the location of the appeal proposal as it would conflict with the 2018 permission, the Council does not challenge the matter of permitted development rights. Irrespective of the 2018 permission, the appellant has confirmed that, should the appeal be dismissed, the fence would be reduced to 2m where necessary and I consider there would be a greater than theoretical possibility that this would occur. Accordingly, on the basis of the evidence presented, I find the fallback has significant weight as a material consideration in the determination of the appeal.
37. The additional height of the proposed fence towards the rear part of its length that would be over and above the fallback position would be limited. However,

notwithstanding that the proposal and fallback would be comparable in locational terms, due to the additional height, the proposal would be more harmful to the openness of the Green Belt compared to the fallback. I see no justifiable reasons to outweigh this harm and conclude that the fallback does not weigh in favour of allowing the appeal.

38. I note the appellant's offer to amend the colour of the proposed fence and that this could be controlled by condition should the appeal be otherwise acceptable. However, this would not overcome the harm that I have found in relation to the overall height of the fence.

Green Belt Balance

39. I have concluded that both proposals would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that both proposals would cause limited harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 153 of the Framework. The lack of harm to the character and appearance of the area in either appeal is a neutral factor.
40. The other considerations that have been put forward for each appeal do not clearly outweigh the substantial weight that I have given to the harm that would be caused to the Green Belt, by reason of inappropriateness and loss of openness that I have identified. Consequently, other considerations amounting to very special circumstances sufficient to outweigh the harm to the Green Belt do not exist.

Other Matters

41. Neighbouring residents have raised several concerns in relation to the appeals. However, given my conclusions on the main issues and that the appeals are dismissed, there is no need for me to address these in further detail.

Conclusions

42. For the above reasons and having regard to all other matters raised, both Appeal A and Appeal B would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan.
43. Therefore, I conclude that both Appeal A and Appeal B should be dismissed.

A Veivers

INSPECTOR



Appeal Decision

Site visit made on 8 April 2024

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

Appeal Ref: APP/TPO/C3430/9824

39 Copper Beech Drive, Wombourne, Staffordshire WV5 0LH

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order (TPO).
 - The appeal is made by Dipesh Patel against the decision of South Staffordshire Council.
 - The application Ref is 23/00623/TTREE.
 - The work proposed is crown reduction over garden of 5 Gittens Park by up to three metres.
 - The relevant TPO is South Staffordshire District Council Tree Preservation Order No. 23/18001/TPO, which was confirmed on 1 February 2024.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: the effect of the proposed works on the character and appearance of the area; and whether or not the reasons given provide sufficient justification for the works.

Reasons

3. The tree, a large mature specimen, is growing in the rear garden of 39 Copper Beech Drive. It makes up part of a prominent linear group comprised of specimens of similar species and maturity. Whilst the tree has developed a significant lean, it remains in apparent good health with a full and verdant crown and main structural elements that appear free from any obvious defects. Despite being of comparatively short height when compared to adjacent specimens, the appeal tree is visible from a variety of publicly accessible vantage points and makes a valuable contribution to the verdant landscape of the locality as part of an established group of mature trees.
4. The proposal is focussed upon an intended crown reduction of up to three metres to the tree's southeastern side where it overhangs the neighbouring private garden of 5 Gittens Park. Reduction works of the extent planned would noticeably reduce the size of the tree's crown and inevitably lead to significant pruning wounds. I acknowledge that publicly available views of the tree's overhanging elements are often restricted by the presence of intervening buildings. Even so, some glimpsed views, including from a short stretch of Peartree Drive, are available. In this context, the proposed works, which would result in a considerable loss of foliage, would give rise to material harm to the character and appearance of the area. Therefore, any reasons to justify the

works need to be clear and convincing. It is to those reasons, the second main issue, to which I now turn.

5. The proposal is principally motivated by a desire to eliminate the risk of large pieces of deadwood falling on to an area of private garden that is used by playing children. Indeed, instances of large and heavy chunks of deadwood being deposited and of deadwood falling in the presence of children have been reported. Nevertheless, upon inspection of overhanging parts of the tree, I was unable to identify any obvious irregularities or any disproportionate amalgamations of deadwood. Moreover, it has not been demonstrated that any threat posed by falling debris could not be appropriately mitigated through cyclical inspection and routine maintenance (to remove elements of deadwood) as an alternative to a significant crown reduction. Whilst there would inevitably be costs associated with undertaking maintenance, this does not offer robust justification for noticeably reducing a large and verdant crown that contributes positively to the visual amenity of the area.
6. It has been suggested that the tree's lean has increased in recent times and that this poses a risk to the appellant's home and family. Whilst I acknowledge the appellant's anxieties in this respect, any suggestion that the tree's lean is worsening over time has not been supported by precise technical evidence. Moreover, there is no clear reason to consider the tree to be structurally unsound nor that reasonable management measures have been neglected by the tree's owner(s). It is also relevant that clear separation presently exists between the tree's overhanging elements and neighbouring built form.
7. With any application for works to a protected tree, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant effect upon the character and appearance of the area. In this case, the proposed crown reduction would result in material harm to the character and appearance of the area and, in my judgement, insufficient justification has been demonstrated for the works.
8. Accordingly, for the reasons set out above and having considered all matters raised, I conclude that the appeal should be dismissed.

Andrew Smith

INSPECTOR



Appeal Decision

Hearing Held on 20 February 2024

Site visit made on 20 February 2024

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2024

Appeal Ref: APP/C3430/C/21/3283004

Land on east side of Teddesley Road, Penkridge, Stafford ST19 5RH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Ireland (senior) against an enforcement notice issued by South Staffordshire District Council.
- The enforcement notice was issued on 21 August 2021.
- The breach of planning control as alleged in the notice is:
 - (i) The unauthorised material change of use of the Land from agriculture to a residential caravan site.
 - (ii) The unauthorised siting of caravans and associated development on the Land.
 - (ii) Unauthorised operational development to create hardstanding.
- The requirements of the notice are:
 - (i) Cease the unauthorised residential use of the Land.
 - (ii) Remove from the Land all caravans, unauthorised buildings and structures.
 - (iii) Remove from the Land all vehicles associated with the unauthorised material change of use of the land.
 - (iv) Remove from the Land all unauthorised hard surfacing from the land outlined in blue on the attached plan including the imported hard core and associated materials.
 - (v) Remove from the Land the unauthorised concrete pad from the land coloured purple on the attached plan.
 - (vi) Reinstate the Land outlined in dark blue on the attached plan to agricultural land by re-seeding or re-turfing the Land with a mixture of wild-flower mix or a 60% to 40% mix of wild-flower and grass seed.
 - (vii) Remove from the Land all materials arising from compliance with (ii), (iii), (iv) and (v) above.
- The periods for compliance with the requirements are:
 - Steps (i), (ii) and (iii): one month.
 - Steps (iv) and (v): two months.
 - Steps (vi): six months.
- The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- This decision supersedes that issued on 9 May 2023. That decision on the appeal was quashed by consent order of the High Court.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. The original appeal decision was challenged under s288 and s289 of the Town and Country Planning Act 1990 (the Act). The consent Order of the High Court confirmed that the previous decision letter contained an error of law in that it failed to take into account the harm that had been found to heritage assets when considering the overall planning balance. The Court ordered that the decision be quashed in accordance with these findings.
2. At the Hearing the main parties confirmed that they agreed with the corrections made to the notice by the Inspector who dealt with the original appeal decision (the previous Inspector). In summary these involved omitting unnecessary duplication in relation to the alleged breach of planning control; omitting reference to buildings and structures, and differences in colour shading on the plan, in relation to the requirements and extending the compliance periods to six months in relation to requirement steps (i) – (iii) and eight months for the remaining requirement steps. I have no reason to take a contrary view and will likewise correct the notice.
3. There was also no dispute between the parties regarding the approach taken by the previous Inspector to the hidden ground (b) appeal, namely that the alleged concrete pad exists, such that the appeal on that ground must fail. I have no reason to take a contrary view. There is also no dispute that the appellant and his family have Gypsy and Traveller status.
4. At present there is a single static caravan and touring caravan present on the site, along with associated vehicles, which are occupied by the appellant and his immediate family. However, for the avoidance of doubt I have also considered the proposal in the context of the maximum level of development conceived by the previous Inspector, which having regard to the planning conditions imposed, was five caravans including two static units.
5. The Council confirmed at the Hearing that concern with regard to sustainable travel was not a reason for the development being refused. Policy EV11 of the South Staffordshire Core Strategy 2012 (CS) was not therefore relevant to the Council's reasons for serving the Notice.

Main Issues

6. The ground (a) appeal is that planning permission should be granted. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the development on the openness of the Green Belt and the purposes of including land within the Green Belt;
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on heritage assets;
 - The effect of the development on the Special Area of Conservation;
 - The need for Gypsy and Traveller sites;

- The personal circumstances of the appellant;
- The question of intentional unauthorised development;
- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

7. Paragraph 142 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 notes that the Green Belt has five purposes which include safeguarding the countryside from encroachment; checking the unrestricted sprawl of large built-up areas and preventing neighbouring towns from merging into one another. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. There is no dispute between the parties that the residential use proposed and the construction of related hardstanding would amount to inappropriate development. Indeed, with regard to the use, the Government's Planning Policy for Traveller Sites 2015 (PPTS) expressly states that such sites in the Green Belt are inappropriate development.

Openness and Green Belt Purposes

9. The assessment of impact on openness is about considering the presence of the development in the context of national policy which seeks to keep Green Belt land permanently open, thus avoiding urban sprawl. This specific assessment is not about the quality of the development, including the suitability of materials used, in itself, or its effect on the character and appearance of the area.
10. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect¹. The various caravans, vehicles and the hardstanding targeted by the notice, would take up space which was previously free from development.
11. The rectangular site, surfaced with hardstanding, is situated between Teddesley Road (from where vehicular access is taken) and the Staffordshire and Worcestershire Canal. The site is in a countryside location, characterised by agricultural fields with mature boundary hedges. Small sporadic developments are, however, dotted about in the wider vicinity, such that this is not an isolated location.
12. Aside from taking up space, the parties agreed the key visual receptors for the development were from Teddesley Road, in the vicinity of the site entrance, from the adjacent canal towpath and from the nearby so-called 'Fancy bridge' which crosses the canal a short distance to the south of the site. I observed the site from these areas during my visit. It was apparent that views of the

¹ *Turner v SSCLG & East Dorset Council* [2016].

site are for the most part screened or filtered by dense boundary planting, which is likely to become more effective as the seasons and foliage develop. Whilst views of the site are possible via gaps in boundary planting, the perception of development would tend to be reduced to fleeting glimpses for passing motorists, although would be a little more apparent to walkers along the adjacent towpath. There is very limited visibility of the site interior from the aforementioned bridge. I also viewed the site from the adjacent property, Parkgate Lodge, from where the site's boundary fence and the tops of structures and vehicles within the site would be visible.

13. Notwithstanding the above, it seemed to me that the sense of impact on the openness of the Green Belt and encroachment into the countryside, regardless of whether the development remains at its present level or increases to the level envisaged by the previous Inspector, would be limited. My assessment is unaltered by the operation of external lighting on the site, which could be controlled by a planning condition.
14. Policy H6 of the CS seeks to ensure that Gypsy and Traveller sites in the Green Belt do not have a "demonstrably harmful" impact on openness. I concur with the findings of an Inspector in an appeal case elsewhere in the District that this term is not defined but intended to convey a significant loss of openness². This contrasts with the more limited loss that would result in the present case. Accordingly, I do not find conflict with Policy H6 in this regard.

Character and Appearance

15. As set out above the appeal site is part of an essentially rural agricultural landscape. This, however, is not a remote location, given the presence of nearby buildings and other man-made features, including the route of the M6 motorway, a relatively short distance to the west, and the aforementioned canal to the east.
16. From the public domain, visibility of the site essentially consists of fleeting glimpses of caravans, or associated parked vehicles, from Teddesley Road or from the adjacent canal towpath. The presence of partially obscured features associated with the use of the land is also apparent from the adjacent residential property, Parkgate Lodge.
17. Nevertheless, I concur with the previous Inspector that although the development has urbanised the appearance of the land, its visual impact is very limited beyond the immediate boundaries of the site; also that planning conditions could be used to require additional landscaping features and the control of external lighting there. This applies whether the development remains at its present level or increases to the level envisaged by the previous Inspector.
18. Furthermore, in my judgment, although the use of vertical timber board fencing results in a relatively tall and solid boundary structure around the site perimeter, it is not so visually strident or unusual that it appears as an alien feature in the landscape. Whilst I recognise that the boundary fencing has not been specifically targeted by the notice, I am not persuaded that the appearance of the fencing needs to be further controlled, for this reason, by condition.

² Appeal Ref: APP/C3430/A/13/2205793

19. I find that the urbanising effect of the development has resulted in a degree of harm. Accordingly there is conflict with Policies EQ4 and EQ11 of the CS insofar as they seek to protect the intrinsic rural landscape character and local distinctiveness. However, for the above reasons, I find the extent of this impact to be very limited.

Heritage Assets

20. The site lies immediately adjacent to the Staffordshire and Worcestershire Canal Conservation Area (CA). The CA comprises the canal and its towpath. Though not within the CA, the site forms part of its setting and I need to have regard to the effect of development on the setting of the CA in terms of the significance of the heritage asset.
21. I agree with the assessment made by the previous Inspector that the significance of the CA is derived from its industrial archaeology and civil engineering importance, with the canal crossed by two bridges in the vicinity of the appeal site. The canal and towpath provide a valuable leisure route for walkers and boat users, with adjacent woodland, hedgerows and other greenery allowing for a more peaceful and tranquil immediate setting, that helps to offset awareness of traffic noise from the nearby M6 motorway.
22. From the towpath, immediately adjacent, the interior of the appeal site is well screened by the intervening stables and boundary vegetation. Visibility is similarly restricted from the listed bridge further to the south, with filtered views limited to part of the boundary fencing and the upper parts of certain structures.
23. From the towpath, further to the north of the site however, there are intermittent gaps in the hedge that, albeit fleetingly, allow for clearer views of the appeal site above boundary fencing. As set out above I do not find the fencing itself incongruous. However, the presence of vehicles and structures have an urbanising effect which is at odds with the rural characteristics of the canal's immediate setting. There would be a degree of visual incongruity irrespective the number of caravans and vehicles present on the site, which results in harm.
24. I have considered the appellant's representations at the site visit regarding his development in the context of the sporadic presence of various old and deteriorating buildings at different locations along the course of the towpath. The presence of these structures does not however neutralise the harm caused by the development.
25. Electricity continues to be provided to the site by two portable generators. From my observations during the site visit, the larger of the two generators was clearly audible from the towpath outside the site, despite background noise from motorway traffic. Whilst this noise would be experienced only relatively briefly by passers-by it would nevertheless constitute a harmful impact. However, the appellant confirmed at the Hearing that he would be willing to adopt mains electricity supply in order to eliminate the need for on-site generators. This would satisfactorily mitigate the noise impact, and could be achieved through the imposition of a planning condition.
26. I have a further duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the proposal on the

setting of New Bridge (better known as 'Fancy Bridge') which is a Grade II listed building. The bridge, which provides access to the Teddesley Estate, and over which passes a public right of way, crosses the canal a short distance to the south of the appeal site. It seems to me that the special interest of this structure derives from its age, form and ornate appearance. The elements of setting that contribute to its significance include its relationship with the canal and towpath and adjacent greenery.

27. Inter-visibility exists between the two sites, although from the bridge the interior of the appeal site is substantially screened by the perimeter fencing and dense vegetation along its southern boundary. In that context, I consider that the appeal site contributes little, if anything, to the significance of the bridge or its setting and there would be no harm in this regard. The aforementioned generator would potentially be audible from the bridge, however for the reasons set out above, this impact could be mitigated through a planning condition.
28. I consider that it would be possible to control the use of external lighting on the site, such that this in itself would not be detrimental to the significance of either of the heritage assets in question.
29. Irrespective of the amount of development on the site, I nevertheless conclude that for the above reasons visual harm is caused to the significance of the CA, resulting from development within its setting. The degree of harm, whether development is at its present level or as envisaged by the previous Inspector, would be less than substantial. However in terms of the guidance in the Framework, and having regard to case law³, there would still be real harm which is a consideration of considerable weight.
30. In such circumstances, where harm is identified to the significance of a designated heritage asset, in this case the CA, the Framework requires that this harm is weighed against the public benefits of the proposal. I therefore consider this matter further within the planning balance section of the decision.

Cannock Chase Special Area of Conservation (SAC)

31. The previous Inspector set out that the SAC comprises the largest area of heathland habitat surviving in the English Midlands. The SAC is important for the quality of its habitat and the species that depend on it. The Inspector concluded that it could not be ruled out that the development alone or in combination with other plans and projects, would result in a likely significant effect on the SAC due to recreation and visitor pressures. I have no reason to take a contrary view.
32. Therefore as the competent authority, I have a duty to undertake an appropriate assessment to consider whether it would be possible to secure satisfactory mitigation measures. I have had regard to Footprint Ecology's Report⁴, the 'Guidance to Mitigate the Impact of New Residential Development' (March 2022) (GMINRD), and the Cannock Chase Special Area of Conservation Partnership's 'Memorandum of Understanding'. Natural England, as the

³ *Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137*

⁴ Footprint Ecology's Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies.

statutory nature conservation body, supports the use of the GMINRD as supplementary planning guidance. The GMINRD promotes a regime of financial contributions towards strategic on-site mitigation within the SAC, including habitat management, access management and visitor infrastructure. I consider the provision of an appropriate financial contribution towards strategic mitigation measures, would enable it to be ascertained that the proposal would not adversely affect the integrity of the SAC protected under the Habitat Regulations.

33. In accordance with the GMINRD, the appellant has submitted a planning obligation, in the form of a unilateral undertaking ('UU'). This UU secures the aforementioned financial contribution, which now equates to £344.01 per traveller pitch. The provisions of the UU are necessary to make the development acceptable in planning terms; they are directly related to the development and are fairly and reasonably related in scale and kind to the development. The UU meets the relevant tests, and the planning obligation is a material consideration which satisfactorily mitigates harm in this case.
34. For these reasons, the proposal accords with Policy EQ2 of the CS, which seeks to protect and enhance the Cannock Chase Special Area of Conservation. The development also complies with the Regulations.

Need for Gypsy and Traveller sites

35. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced in August 2021. This identified a requirement over the period 2021-38 for those households that meet the definition of Gypsies and Travellers in Annex 1 of the PPTS⁵, of some 121 pitches. This figure includes 72 pitches in the initial 5 years 2021-25.
36. The recent change to the definition, cited above, followed in the wake of a Court of Appeal judgment⁶. The thrust of this judgment is that the previous PPTS definition was unlawfully discriminatory against Gypsies and Travellers who have ceased to travel permanently on grounds of age or disability. It indicated that such persons should be included in any assessment of need for site provision, thus potentially increasing the overall level of need.
37. The GTAA identifies a need of some 24 pitches for those Gypsies and Travellers not meeting the previous PPTS definition (17 of which are within years 2021 – 2025). Therefore the effect of including, in the assessment of need for sites in the District, Gypsies and Travellers known not to fall within the previous PPTS definition and who thus might previously have been excluded from consideration in the context of PPTS policies, is to significantly increase the requirement for sites.
38. The PPTS states that local planning authorities should identify, and update annually, a 5-year supply of specific deliverable sites against their locally set targets. The Council said at the Hearing that it does not anticipate adopting its emerging Local Plan before the winter of 2025 / 26. It confirmed that a total of 37 pitches had so far been allocated in its emerging allocation document. I

⁵ From 19 December 2023 the definition has reverted to that adopted in the 2012 version of the document.

⁶ *Lisa Smith v SSLUHC & Ors* [2022] EWCA Civ 1391.

have no reason to believe, from the evidence before me, that there has been any significant grant of planning permissions for Gypsy and Traveller sites since publication of the most recent GTAA. It is thus clear that at present the potential supply of sites falls significantly short of the level of need identified, and it is uncertain whether the identified level of need will be met at all. When asked at the Hearing, the Council confirmed that it did not dispute the finding of the previous Inspector that the most recent Site Allocation Document 2018 allocated significantly fewer sites than were needed over the five-year period 2016 – 2021.

39. The Council does not dispute that it is unable to demonstrate a five-year supply of deliverable sites. Furthermore, a suitable and available alternative site for the family currently occupying the appeal site cannot be identified by the Council at this time. In this context, the present evidence is indicative of an ongoing failure to meet national policy requirements for the delivery of sites against targets.
40. In addition it is undisputed that a large proportion of land in the District, some 80 per cent, lies within the Green Belt. It therefore seems to me likely that there will need to be reliance to a degree on the Green Belt in any event for the provision of pitches going forward.
41. I accept that the level of harm may vary between different Green Belt sites and acknowledge the Council, through Policy H6, refers to selecting sites where such harm would be less. However, I have found in this case the degree of visual impact on the openness of the Green Belt to be limited⁷. In this context it is significant that there is no evidence to persuade me that Green Belt harm arising from the appeal site would be greater than from any other site that may be allocated. All of these factors weigh positively in favour of the development.

Personal Circumstances

42. The appellant confirmed at the Hearing that he lives on the site, in one of the caravans (static), with his wife and youngest daughter. His eldest daughter lives in the second (touring) caravan. There is no dispute that the youngest daughter has severe disabilities which result in complex health care and educational requirements.
43. If the appeal is not successful, in the absence of an alternative site, the family are at risk of being made homeless. It would remove a settled base that would potentially mean having to resort to living on the roadside. This in turn would very likely mean disruption to the youngest child's educational provision and health care as a result. I am mindful that access to vital medical related treatment and appointments, which the family appear to be highly dependent on, may be jeopardised if they have no fixed address.
44. The appellant's personal circumstances therefore weigh in favour of the development.
45. The appellant explained at the Hearing that the appeal site was used intermittently by other family relatives, all of whom have children, for residential purposes. In this regard reference was made to four families. However, there is very limited evidence of their current personal circumstances, including travel patterns and degree to which they would be

⁷ In contrast, for example, to the Squirrels Rest case – Appeal ref APP/C3430/W/21/3282975.

dependent on the site. The personal residential needs of these families, in themselves, do not therefore attract weight in favour of the appeal. Notwithstanding this, I do accept there would be justification for an additional caravan (that is to say a third caravan) being present on the site to accommodate a family member(s) to help assist with the care needs of the appellant's youngest daughter.

Intentional Unauthorised Development

46. I have had regard to the considerations of the previous Inspector. I concur with the view expressed that given the context of the significant and immediate need for sites within the District, and that the family were facing a roadside existence, the unauthorised development of the appeal site was an inevitable outcome.
47. A ground (a) appeal was made and the Act makes provision for a grant of retrospective planning permission, including the imposition of planning conditions, and planning enforcement that is remedial rather than punitive. I therefore attach only very limited weight to the intentional unauthorised nature of the development.

Other Matters

Highway Safety

48. There have been a number of concerns raised by third parties. These include highway safety on the grounds that several accidents have occurred in the vicinity of the site in the past. I concur with the previous Inspector that whilst the speed limit on the road, as it passes the site, is unrestricted, the curved alignment and limited width of the carriageway militates against traffic passing the site at high speeds. The set back of the entrance gates would ensure that a vehicle waiting to enter the site, when the gates are closed, would not encroach on the highway, such that the site can be safely accessed by vehicles towing caravans. I am satisfied that there would be sufficient space in the site for vehicles to turn, such that they could enter and leave in forward gear.
49. It was apparent from my visit that visibility to the left, for drivers of vehicles leaving the site is restricted to a degree by boundary vegetation. However it seems to me that edging forward slowly would compensate for this restriction.
50. I am mindful that the County Council as Highway Authority has raised no objection to the development; also that I have not been presented with any evidence of personal injury accidents attributable to the operation of this junction. Drawing the above considerations together I am not persuaded that the development would result in harm to highway safety and thus there would not be conflict in this regard with Policy H6 of the CS, or with the Framework.

Living Conditions

51. Objections are received from the occupiers of Parkgate Lodge, the property situated immediately south of the appeal site, with regard to impact on living conditions. During my visit I was able to go on to this property, which included going into upper floor rooms, and thus appreciate the intervisibility between the two sites. Whilst each site is visible from the other, the Parkgate Lodge dwelling itself is some distance away from the site boundary. When taking into account intervening boundary fencing and vegetation I do not consider that the

development has resulted in any mutual loss of privacy, including to the external amenity space. Although concerns have been raised about the presence of CCTV cameras on the appeal site, this is not an uncommon security feature in the modern residential environment, and I am not persuaded that it results in harm to privacy.

52. I acknowledge that vehicles and structures present on the site can be seen from Parkgate Lodge, above the boundary fencing; also that residents there are likely to be aware of external lighting when in operation. Notwithstanding, I am satisfied that boundary screening and intervening distances are such that the development and perimeter treatment do not result in harm to outlook or any oppressive sense of enclosure; also that external lighting may be controlled through a planning condition to overcome any undue disturbance.
53. As set out above, concerns raised about noise from generators can be addressed by the imposition of a planning condition requiring connection to mains electricity. Disturbance arising from dogs barking, whilst this could potentially constitute a statutory nuisance that may need to be investigated by the Council, would nevertheless not amount to a reason to refuse planning permission.
54. Concerns have been raised by objectors regarding the impact of the development on the settled community. I concur with the previous Inspector that the scale of development in this case does not dominate the nearest settled community, nor would it result in undue pressure on local infrastructure. There is no evidence before me to suggest that the development would be at odds with policies which seek to design out crime. I do not therefore find conflict with Policy EQ9 of the CS insofar as it seeks to protect residential amenity; with Policy H6 in terms of protecting local infrastructure or with Policy CS1 which seeks to design out crime.

Site Infrastructure

55. Concerns were raised in correspondence and at the Hearing by a local resident regarding the legality of connections being made between the site and the local water supply. If indeed such connections have been made unlawfully this would be a private matter between the parties and is outside my remit in this case.
56. For the purposes of Policy H6 I need to be satisfied that essential services such as power, water sewerage, drainage and waste disposal are either available or can be provided to service the site. The appellant stated at the Hearing that he proposes to establish a mains electricity supply and a metered water connection. A condition can be imposed to secure these elements. There is no evidence before me to suggest that this will not be achieved. I am also satisfied that the site occupier utilises a commercial waste collection and makes use of chemical toilets.
57. I am therefore satisfied that there would be no conflict with Policy H6 in this regard. Furthermore I am not persuaded that there would be conflict with Policy EQ8 of the CS, which seeks to secure waste minimisation and recycling.

Precedent

58. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However each application and

appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.

Biodiversity interests

59. Whilst concerns have been raised regarding impact of the development on various protected species in the immediate vicinity, I have not been provided with evidence to substantiate these concerns.

The Green Belt Balance

60. National planning policy attaches great importance to Green Belts. Therefore, when considering any planning application substantial weight should be given to any harm to the Green Belt. The appeal proposal is inappropriate development in the Green Belt. In addition, the residential use and associated paraphernalia, and alleged operational development cause a loss of openness and harm to one of the purposes of including land in the Green Belt, namely to assist in safeguarding the countryside from encroachment, albeit I consider harm to openness to be limited in visual terms. For the above reasons I attach very limited weight to character and appearance harm.

61. I have found that the development results in less than substantial harm to the significance of the CA. It is therefore necessary to weigh this against any public benefits of the proposal. I consider that the positive contribution to addressing the unmet need for sites, albeit relatively small if the development is restricted to a single pitch, in the context of uncertainty as to whether and when that need might be addressed, and the lack of 5 year land supply of deliverable sites does outweigh the aforementioned harm.

62. The harm to the CA nevertheless remains a factor which, having regard to guidance in the Framework, to Policy EQ3 of the CS requiring that development proposals should be consistent with the Framework, and to case law attracts considerable adverse weight, in its own right, in the overall planning balance. For the reasons set out above the intentional unauthorised nature of the development attracts only very limited weight in this case.

63. I have found that the development would not result in harm to the environmental sensitivity of Cannock Chase; to highway safety or to the living conditions of nearby residents. This 'absence of harm' is neutral in the planning balance and does not weigh in favour of the appeal.

64. There are other considerations which support the appeal. I have had regard to advice in the PPTS when considering sites in Green Belt locations. This indicates that in such locations the absence of an up to date 5-year supply of deliverable sites should not amount to the significant material consideration it may otherwise do in a less strictly controlled area, when considering applications for the grant of temporary planning permission. It also states that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

65. However, an unlikely scenario is distinguishable from one that may never occur. Indeed, it seems to me that the Council's undisputed significant and immediate unmet need for pitches (without taking into account need that is

likely to exist over a broader geographical area), as manifested in the lack of available alternative sites and the lack of five-year land supply should be a matter that collectively attracts substantial weight. This remains the case even if the development is restricted to a single pitch.

66. In addition I give moderate weight to the likelihood that when Gypsy and Traveller sites are allocated, a significant proportion of pitches will be located within the Green Belt in any event. I also attach significant weight to the site occupiers' personal circumstances, when considering, in particular, the benefits of a settled base for the appellant's youngest daughter. All of this leads me to conclude that such an exception to the probable position, as set out in the PPTS, would be justified in this case.
67. I have balanced the harm to the Green Belt and any other harm, against the other considerations referred to above. Having regard to the PPTS, I find that they clearly outweigh the harm identified. However, I only find this to be the case when taking into consideration the weight that I have afforded the site occupiers' personal circumstances. It therefore seems to me that a personal planning permission would be most appropriate in this case, but I discount that this should only be for a temporary period, given my doubt as to when the level of need for sites will be satisfied.
68. For the avoidance of doubt the Council's apparent policy failure to address the need for sites over many years, including a lack of assurance as to when the position might be addressed, also weighs in favour of the development but does not alter the conclusions already made above, in the overall balance.
69. The very special circumstances necessary to justify the development have therefore been demonstrated. Consequently, the proposal accords with the strategy for the protection of Green Belt land, as set out in the Framework. In this context I do not find conflict with Policy GB1 of the CS which seeks to protect the Green Belt in accordance with national policy. Policy GB1 refers to changes of use of land normally being permitted where there would be no material effect on the openness of the Green Belt, or fulfilment of its purposes. Whilst I did find a material effect on openness and encroachment in this case, albeit limited, the policy does not specifically resist development in such circumstances, whilst also deferring to national planning policy. I do not therefore find Policy GB1 to be inconsistent with national policy in this regard.
70. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
71. Given the circumstances overall I find that granting personal planning permission would be proportionate and necessary. Since I have decided to allow the appeal and grant full planning permission for the proposed

development there will be no interference with the appellant's rights to a private and family life and home.

72. Furthermore in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.
73. The grant of personal planning permission would go some way towards advancing equality of opportunity by providing much needed gypsy and traveller accommodation and by recognising the personal circumstances of the appellant's family.

Conditions

74. The permission is personal and accordingly a condition restricting occupation to the appellant, his wife and resident dependants is necessary. However I also propose to include within this restriction other family members involved in the care of resident dependants. A condition requiring the restoration of the site, when occupation ceases, is required in the interests of helping to safeguard the Green Belt, the character and appearance of the area and the significance of the CA.
75. A condition limiting the number of pitches and caravans stationed is needed in recognition that the permission is personal, and in order to protect the character and appearance of the area. Conditions preventing commercial activity on the site and restricting the number of commercial vehicles are required in the interests of helping to safeguard the character and appearance of the area and the living conditions of residents.
76. A condition confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation) concerning the site layout⁸, internal boundary treatments, external lighting arrangements, foul and surface water drainage arrangements⁹, water and electricity supply arrangements and hard and soft landscaping works¹⁰, including their maintenance, is required in order to help safeguard the character and appearance of the area, the significance of heritage assets, and the living conditions of the site occupiers and nearby residents.
77. The form of this condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of

⁸ Having regard to Policy EV12 of the CS concerning parking provision.

⁹ Having regard to Policy EQ7 of the CS concerning water quality.

¹⁰ Having regard to Policy EQ12 of the CS concerning the landscaping of new development.

State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion

78. Therefore, despite the proposal conflicting with the development plan, material considerations indicate that a decision should be taken otherwise than in accordance with the plan. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use and development described in the corrected notice, subject to conditions. The enforcement notice will be quashed.
79. The Council has referred to appeal decisions in relation to sites elsewhere in South Staffordshire¹¹. However, I have only limited information in relation to those cases, and in any event the decisions pre-date the most recent GTAA and therefore assessment of need for sites, and also the aforementioned Court of Appeal judgment (*Lisa Smith*). In respect of a more recent unsuccessful appeal, the Inspector in that case attached greater adverse weight to Green Belt harm than I have found necessary in this case, as well as considerable weight to landscape harm¹².
80. I have also had regard to the other appeal decisions referred to me, relating to sites elsewhere in the District, where Inspectors found that Human Rights issues did not outweigh harm to the Green Belt and other harm¹³. However the circumstances of those cases were different to that which is before me.
81. The outcome of these appeals do not therefore indicate that I should not grant planning permission. Nor am I persuaded that the circumstances and reasoning in *Sykes*¹⁴ should lead me to a different conclusion than the one I have drawn in this case, with each case needing to be considered on its individual merits.

Formal Decision

82. It is directed that the enforcement notice is corrected by:

In section **(3), THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**, the deletion of the words "ii) The unauthorised siting of caravans and associated development on the Land."; and

In section **(5), WHAT YOU ARE REQUIRED TO DO**, in part (ii) the deletion of the words ", unauthorised buildings and structures." and, in part (vi) the deletion of the word "dark"; and

Under the **Time for Compliance** section, for steps (i), (ii) and (iii) delete the words "one month" and substitute the words "six months" instead; delete all the words "Steps (iv) and (v): two months..." "Steps (vi): six months..." and substitute the words "Steps (iv), (v), (vi) and (vii): eight months" instead.

83. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the

¹¹ Appeal refs APP/C3430/A/13/2210160 & APP/C3430/W/18/3201530.

¹² Appeal ref APP/C3430/C/21/3274332 and others.

¹³ Appeal refs APP/C3430/C/22/3303085 & APP/C3430/W/21/3282975

¹⁴ *Sykes v SSHCLG & Runnymede BC* [2020] EWHC 112 (Admin).

development already carried out, namely the material change of use of the land from agriculture to a residential caravan site and operational development to create hardstanding at land on the east side of Teddesley Road, Penkridge, Stafford as shown on the plan attached to the notice, and subject to the conditions set out in the attached Schedule of Conditions.

R Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants:

John Ireland (senior) and his wife.
Relatives of John Ireland (senior) engaged in the care of his resident dependants.
- 2) When the land ceases to be occupied by those named in condition 1 above, the use hereby permitted shall cease and all caravans, structures, vehicles, materials and equipment brought on to the land and the operational development comprising the hardstanding shall be removed and the land shall be restored to its condition before the development took place.
- 3) There shall be no more than **one** pitch on the site. On the pitch hereby approved no more than **three** caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than **one** shall be a static caravan), shall be stationed at any time.
- 4) No more than one commercial vehicle shall be kept on the site for use by the occupiers of the caravans hereby permitted and this vehicle shall not exceed 3.5 tonnes in weight.
- 5) No commercial activities shall take place on the land, including the external storage of materials.
- 6) The residential use hereby permitted shall cease and all caravans, structures, vehicles, equipment and materials brought onto the land for the purposes of such use shall be removed, and the land restored to its condition before the development took place within **30 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within **3 months** of the date of this decision a scheme with details for:
 - (a) the internal layout of the site including the extent of the residential pitch, the location of the caravans, vehicle parking and hardstandings;
 - (b) all internal boundary treatments and means of enclosure;
 - (c) the means of foul and surface water drainage of the site;
 - (d) the arrangements for the supply of water and electricity to the site (to avoid the need for on-site generators);
 - (e) proposed and existing external lighting on the boundary of and within the site;
 - (f) hard and soft landscaping and screen planting including details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years;(hereafter referred to as the 'site development scheme') shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.
 - ii) If within **6 months** of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision

within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Andrew Harris	Planning Consultant
John Ireland (senior)	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Paul Turner	Planning Consultant
Catherine Gutteridge	Enforcement Team Manager
Edward Higgins	Senior Conservation Officer

INTERESTED PERSONS:

Manjit Saund	Local resident
James Head	Local resident

Document submitted at the Hearing:

1. Letter from Mr. James Head