



31 March 2023

## PLANNING COMMITTEE - 19 APRIL 2023

A meeting of the Planning Committee will be held at 5.30pm on Wednesday 19 April 2023 in the Council Chamber at the Town Hall, Rugby.

*Members of the public may view the meeting via the livestream from the Council's website.*

Mannie Ketley  
Chief Executive

***Note: Members are reminded that, when declaring interests, they should declare the existence and nature of their interests at the commencement of the meeting (or as soon as the interest becomes apparent). If that interest is a pecuniary interest, the Member must withdraw from the room unless one of the exceptions applies.***

***Membership of Warwickshire County Council or any Parish Council is classed as a non-pecuniary interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.***

## A G E N D A

### PART 1 – PUBLIC BUSINESS

1. Minutes  
To confirm the minutes of the meeting held on 15 March 2023.
2. Apologies  
To receive apologies for absence from the meeting.
3. Declarations of Interest  
To receive declarations of –
  - (a) non-pecuniary interests as defined by the Council's Code of Conduct for Councillors;
  - (b) pecuniary interests as defined by the Council's Code of Conduct for Councillors; and
  - (c) notice under Section 106 Local Government Finance Act 1992 – non-payment of Community Charge or Council Tax.

4. Motion for consideration:  
  
“The resolution to grant planning permission in respect of planning application R22/0637 (Plot 19, Top Park, Top Road, Barnacle, Coventry CV7 9FS) is rescinded and the application is reconsidered by this meeting.”
5. Applications for Consideration.
6. Advance Notice of Site Visits for Planning Applications – no advance notice of site visits has been received.
7. Delegated Decisions – 23 February to 22 March 2023.

## **PART 2 – EXEMPT INFORMATION**

There is no business involving exempt information to be transacted.

### **Membership of the Committee:**

Councillors Gillias (Chairman), Mrs Brown, Daly, Eccleson, Mrs Hassell, Lawrence, Lewis, Mrs Maoudis, Sandison, Slinger, Srivastava and Willis

***If you have any general queries with regard to this agenda please contact Veronika Beckova, Democratic Services Officer (01788 533591 or e-mail [veronika.beckova@rugby.gov.uk](mailto:veronika.beckova@rugby.gov.uk)). Any specific queries concerning reports should be directed to the listed contact officer.***

*The Council operates a public speaking procedure at Planning Committee. Details of the procedure, including how to register to speak, can be found on the Council's website ([www.rugby.gov.uk/speakingatplanning](http://www.rugby.gov.uk/speakingatplanning)).*

**Planning Committee – 19 April 2023**

**Report of the Chief Officer for Growth and Investment**

**Applications for Consideration**

Planning applications for consideration by the Committee are set out as below.

**Recommendation**

The applications be considered and determined.

## APPLICATIONS FOR CONSIDERATION – INDEX

Item	Application Ref Number	Location site and description	Page number
	Application R22/0637 will only be considered by this meeting if the motion set out at Agenda Item 4 is passed.		
1	R22/0637	Plot 19, Top Park, Top Road, Barnacle, Coventry, CV7 9FS Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track and surfacing of the plot with gravel. Siting of 2no. touring caravans.	4
2	R22/0664	Plot 16, Top Park, Top Road, Barnacle, Coventry CV7 9FS Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan.	32
3	R22/0665	Plot 17, Top Park, Top Road, Barnacle, Coventry CV7 9FS Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. mobile home, dog kennels, 1no. shed, gravel hardstanding, a paved patio, 2no. amenity buildings, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. mobile homes and removal of 1no. existing shed.	60
4	R22/0666	Plot 18, Top Park, Top Road, Barnacle, Coventry CV7 9FS Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building.	88

5	R22/0772	Plot 14, Top Park, Top Road, Barnacle, Coventry CV7 9FS Retention of 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof.	114
6	R22/1055	Plot 15, Top Park, Top Road, Barnacle, Coventry CV7 9FS Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road.	140
7	R22/0828	Hillmorton Yard, The Locks, Rugby CV21 4PP Demolition of industrial unit (use class B2) and the erection of 2 pairs of semi-detached 3 bedroom dwellings (4 units).	167

**Reference: R22/0637**

**Site Address: Plot 19, Top Park, Top Road, Barnacle, Coventry, CV7 9FS**

**Description: Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and surfacing of the plot with gravel. Siting of 2no. touring caravans.**

**Recommendation**

Planning application R22/0637 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report. The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

**1.0 Introduction**

1.1 This application has been called to Committee by Councillor Maoudis on behalf of the Parish Council, who have asked her to do so for the following reasons :-

- Inappropriate development in the Green Belt and no very special circumstances,
- Unsustainable development (no public transport links or safe walking routes),
- Visual impact,
- Light pollution,
- Inadequate drainage leading to potential environmental and health hazards,
- Over-concentration of Gypsy and Traveller sites having disproportionate effect on the settled community,
- Misleading inaccuracies in the application,
- Existing injunction against such development without prior planning permission,
- No planning permission currently exists or has ever existed for development on this site, and
- Disregard for planning law, rules and regulations.

**2.0 Description of site**

2.1 This application relates to a single plot known as Plot 19, which is located on land adjacent to the main access road for a larger Gypsy and Traveller site near the village of Barnacle (Top Park). To the south and east of the plot lie similar Gypsy and Traveller plots, as well as aforementioned main access road serving Top Park. To the west of the plot is an unmade access track, beyond which is an open field that separates the site from development along Bulkington Road. Flanking the northern boundary of the site is a highway verge, beyond which is the adopted highway (Top Road). On the opposite side of Top Road is open pastureland bounded by low field hedges.

2.2 The plot is currently enclosed on the sides by timber fencing, with a gated vehicular access in the southern end of the western boundary. The fencing ranges in height between approximately 1.5 metres and approximately 2 metres high. Fencing has also been used within the plot itself to partition off areas for use as secure garden spaces to serve the two families who occupy the plot; the applicant and his wife occupy the plot along with their son, daughter-in-law and two grandchildren.

2.3 At present there are two static mobile homes sited on the plot, a smaller one adjacent to the northern boundary (occupied by the applicant and his wife) and a larger one adjacent

to the southern boundary (occupied by the applicant's son and his family). Two small sheds are located near to north-eastern corner of the site within/adjacent to an enclosed area that serves as the applicant's garden. A larger outbuilding is located within the enclosed garden area to the east of the larger mobile home used by the applicant's son and his family and is used as a sensory room for the applicant's grandson (who has special educational needs).

- 2.4 With the exception of the garden area used by the applicant's son and his family, the majority of the plot is surfaced with loose gravel, with the open areas of the plot being shared communally by both families and used as amenity space and as a parking and turning area.
- 2.5 Whilst access to most of the plots on Top Park is via an established and formalised access off Top Road, Plot 19 uses a separate vehicular access via an existing unmade access track located to the right of the main Top Park entrance and leading from Top Road towards land at the rear of the Top Park site. The occupants of the plot utilise a formal gated vehicular access in the south-western corner of the plot.

**3.0 Description of proposals**

- 3.1 The applicant and their family have occupied this plot since January 2021. They seek retrospective consent to formally change the use of the land to a Gypsy and Traveller pitch for 2no. families, and to retain existing associated outbuildings, fencing, gates and surfacing. In line with other plots on Top Park, the LPA has also taken into account the likely need for a tourer caravan for each family to be accommodated too, and this is reflected in the development description.
- 3.2 Not all of the works undertaken on site to date are covered by this application. A third mobile home that was stored on the site for a temporary period has already been removed, and the applicants do not intend to introduce any further mobile homes beyond the two they currently use as these already meet their needs.

**Planning History**

*Affecting Plots 14-19 collectively*

R20/0192	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0193	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0194	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22

**NB - These applications were all withdrawn and replaced with applications that more accurately reflected the development undertaken.**

*Affecting adjacent Plots 14-18 (inc)*

R22/0664	Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track, and	Application ongoing
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pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan.

**(Plot 16)**

R22/0665 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, dog kennels, 1no. shed, gravel hardstanding, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. static caravans, and removal of 1no. existing shed. Application ongoing

**(Plot 17)**

R22/0666 Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building. Application ongoing

**(Plot 18)**

R22/0772 Retention of 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof. Application ongoing

**(Plot 14)**

R22/1055 Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road. Application ongoing

**(Plot 15)**

Affecting the wider Top Park site

R15/2017 The retention of the use of land and ancillary operational development as a residential caravan site (renewal of planning permission (Appeal) reference APP/E3715/A/06/2030623 (R06/0743/PLN) dated 18 January 2008) including the erection of six temporary amenity blocks (resubmission of previously withdrawn application R10/0959 dated 26/11/2010). Variation of Condition 1 of R10/2298 refused on 6 April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27 August 2013 to provide a permanent permission onsite at Top Park, Top Road, Barnacle. Temporary approval (5 years) 15 March 2023

## **Relevant Enforcement History**

### *Affecting Plots 14-19 Top Park*

ENF/2020/0058 Temporary Stop Notice issued and served on 10 March 2020 for the undertaking of unauthorised works to apply a hard surface to the site and use of the land for the siting of static caravans/ mobile homes and/or as an unauthorised Gypsy and Traveller encampment in contravention of an injunction on the land dated 6 June 2008.

Enforcement Notices issued and served on 06 April 2020 for breach of planning controls through the material change of use of land, without planning permission, from a paddock to mixed use as a paddock and for the siting of a caravan/mobile home and portaloo and subsequently appealed. Appeal A (APP/E3715/C/20/325193, 3251934, 3251935, 3251936 and 3251937) was dismissed on 15 March 2022 and the Notices varied and upheld.

Enforcement Notices issued and served on 06 April 2020 for the erection, without planning permission, of fencing, gates and structures, and the removal of hedgerow to form an access and subsequently appealed. Appeal B (APP/E3715/C/20/3255440, 3255441, 3255442, 3255443 and 3255444) nullified the original Enforcement Notices and so no further action was required in relation to the appeal. As the Notices were nullified the LPA could take no further action to enforce them.

Neither appeal considered the planning merits of the development as this was not a ground of appeal that the applicants raised. The grounds that were raised were: a) the period for compliance was unreasonable, b) the Enforcement Notices weren't served correctly, c) the works had not occurred, and d) the steps taken to remedy the breach were excessive. As such, the Inspectors comments in the appeal decisions, whilst providing context for his decision, do not provide a view from the Inspector as to whether the development should be allowed or not.

Whilst the upheld Enforcement Notice carried a period of compliance ending no later than 31 October 2022, it was unreasonable for the Council to take further enforcement action until the live planning applications relating to these same plots of land had been determined.

When the Enforcement appeal site visit was conducted in 2022, it transpired that the works undertaken on site by that point no longer accurately reflected what was shown in the live planning applications submitted in 2020. The Council consulted with Counsel and, following Counsel's advice, advised the applicants that it would be pragmatic to withdraw the 2020 applications and submit fresh planning applications which accurately detailed the development that has occurred on site for which the applicant was seeking planning permission. This was without prejudice to any subsequent decisions that may be made by the Council., The resubmitted applications included this application for Plot 14 and until the application has been determined, it would not be expedient for the Council to pursue further action in relation to the upheld Enforcement Notice.

### *The wider Top Park site*

R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring the cessation of the use of the land for the siting of caravans for residential use, trailers and commercial vehicles; and removal of all static and touring caravans not associated with the agricultural use of the land, all trailers and commercial vehicles parked on the land, and all timber sheds not associated with the use of the land for agricultural purposes. Appeal A

(APP/E3715/C/11/2153638) allowed on 27 August 2013 resulting in the Enforcement Notice being corrected and quashed. Planning permission granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision.

- R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring removal of hardstandings, fencing not associated with the authorised use, and amenity buildings. Notice also required the restoration of the land to its former condition by seeding with grass in place of the hardstandings. Appeal B (APP/E3715/C/11/2154137) was allowed on 27 August 2013 and the Enforcement Notice was quashed. Planning permission was granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision or 6 months from the cessation of the use of the site as a residential caravan site, whichever was the sooner.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the change of use of land, without planning permission, from a paddock and the building of stables to a mixed use for the siting of residential caravans, trailers, and commercial storage, and the erection of a gymnasium and utility room. Appeal A (APP/E3715/C/03/1124483) was dismissed, and the Enforcement Notice varied and upheld on 20 February 2004.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the unauthorised formation of hardstanding, erection of fencing, and the erection of external lighting. Appeal B (APP/E3715/C/03/1124483) was dismissed and the Enforcement Notice varied, corrected and upheld on 20 February 2004.

### *The Injunction*

There is a historical injunction from 2008 covering the site, which amongst other things does not cause or permit any caravans or mobile homes to be stationed on the land. However, this does not prevent planning applications being submitted on the sites for the stationing of caravans or mobile homes and being subsequently determined by the Council. As such, whilst useful in explaining the context of this site, the existence of this historical injunction carries little to no weight in terms of determining this application.

### **Relevant Planning Policies**

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Local Plan 2011-2031. The relevant policies are outlined below.

Rugby Borough Local Plan 2011-2031, June 2019

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

DS2: Sites for Gypsy, Travellers and Travelling Showpeople

HS5: Traffic Generation and Air Quality, Noise and Vibration

NE1: Protecting Designated Biodiversity and Geodiversity Assets  
SDC1: Sustainable Design  
SDC4: Sustainable Buildings  
D2: Parking Facilities

National Planning Policy Framework, 2021 (NPPF)  
Section 2: Achieving sustainable development  
Section 5: Delivering a sufficient supply of homes  
Section 9: Promoting Sustainable Transport  
Section 11: Making Effective Use of Land  
Section 12: Achieving well-designed places  
Section 13: Protecting Green Belt land  
Section 15: Conserving and enhancing the natural environment

The Planning Policy for Traveller Sites 2015  
Policy B: Planning for traveller sites  
Policy C: Sites in rural areas and the countryside  
Policy E: Traveller sites in Green Belt  
Policy H: Determining planning applications for traveller sites

Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study (GTAA)  
September 2022

### **Technical consultation responses**

- WCC Highways - No objections subject to condition re vehicular access gates, and informative re surface water run-off onto adopted highways.
- WCC Ecology - No ecological concerns. No conditions or informative notes requested.
- WCC Fire and Rescue - No objections subject to following criteria being met (as required by Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service):
- A fire appliance to gain access to within 45 metres of all points within the footprint of each building or in accordance with table 15.1 of ADB, Volume 2.
  - A fire appliance to gain access to within 45 metres of all points inside each dwelling
  - Minimum width of the access road is 3.7 metres along the entire length
  - Minimum width of any gateways is 3.1 metres
  - Minimum height clearance is 3.7 metres
  - Minimum carrying capacity is 12.5 tonnes
  - Dead-end access routes longer than 20 metres require turning facilities
  - Turning circles should be a minimum of 16.8 metres between kerbs or 19.2 metres between walls.
  - Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.

Advisory note re need for development to comply with Approved Document B, Volume 1, Section B5 – Access and Facilities for the Fire Service.

Notes re The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, provision of sprinklers, and maintaining access for emergency vehicles.

RBC Environmental Health - No objections subject to condition re previously unidentified contamination and informatives re air quality, drainage, impacts from existing activities, private sector housing team comments, and waste collection. No concerns over implications from road noise and no need for noise assessments or full contaminated land condition.

### **Third party comments**

Parish Council - Objections relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Visual impact,
- Light pollution,
- Inadequate drainage,
- Cumulative impact of Gypsy and Traveller sites in the locality on the settled community,
- Misleading and inaccurate details in the documentation,
- Lack of current or historical planning permission for the site, and
- Lack of respect for planning laws and regulations.

Ward Councillor - Called for application to be considered by the Planning Committee on behalf of the Parish Council on the grounds of their objections (see above).

Neighbours - 11no. objections relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Lack of safe footpaths along Top Road and safety implications of this,
- Risks to health and safety,
- Impact on property values for settled residents,
- Detrimental impact on the Coventry Way walking route,
- Lack of explanation as to why the applicant's family needs to be located on this particular site rather than anywhere else,
- Incongruous development in type and scale,
- Insufficient local amenities to support existing demand,
- Visual impact and lack of screening,
- Overdevelopment of the site and exceeding density requirements,
- Light pollution,
- Existing Gypsy and Traveller sites should be used instead of expanding Top Park,
- Increased local flood risk,
- Site is isolated from other villages,
- Lack of supporting evidence of need or very special circumstances,
- Noise nuisance from traffic,

- Impact of traffic to and from the site on surrounding roads and congestion,
- Barnacle, Shilton and Bulkington are already accommodating considerable numbers of Travellers families which isn't fair,
- Misleading and inaccurate details in the documentation,
- Site unsuitable for habitation,
- Duration of unauthorised development on the wider Top Park site,
- Contempt for injunction and laws, and
- Anti-social and criminal behaviour.

Comments also received relating to:-

- Need to consider all current Top Park applications collectively and not in isolation,
- Lack of Council provision of alternative sites to prevent this type of unauthorised development,
- Rights of Council Tax payers, and
- Warwickshire Structure Plan asserting that developments in rural areas should have the expressed support of the local community.

#### **4.0 Implications of the recent planning appeal dismissal for Land at Fosse Corner Gypsy and Traveller site (Appeal reference APP/E3715/W/21/3278838)**

4.1 Following refusal of a retrospective temporary (two year) planning application for the retention of 2no. Gypsy and Traveller pitches on land adjacent to the Fosse Way/Millers Lane junction near Monks Kirby (which also went before the Planning Committee), the LPA were involved in an appeal against that decision. The outcome of this appeal was recently confirmed, and the appeal was dismissed. For context, the appeal site was also located in open countryside and Green Belt, and Members' reasons for refusing the original planning application related to a) inappropriate development in the Green Belt with insufficient very special circumstances to outweigh the presumption against such development, b) unsustainability, and c) insufficient drainage and flooding risk. Due to insufficient supporting evidence to substantiate Members' third reason for refusal, the LPA were advised by Counsel not to defend it for the purposes of the appeal and so pursued their case on the basis of inappropriate development in the Green Belt and unsustainability (reasons 1 and 2 of the original planning refusal).

4.2 In summing up her findings as part of the appeal decision, the Inspector set out her balanced consideration of the pro's and con's of the case. The Inspector found that there was significant harm to the openness of the Green Belt, and that the weight to be applied to this this harm was not diminished by the temporary nature of the development. However, the Inspector did attach significant weight to a) the need for gypsy and traveller sites in the borough, b) the lack of supply of sites within the borough and the lack of an adopted Development Plan Document for such provision, c) the lack of alternative accommodation for the appellants and their families, and d) the personal circumstances of the appellants and their families. She also noted that, whilst not a determinative factor, the best interests of the children directly affected by the development were a primary consideration and no other consideration could be deemed to be more important. The Inspector therefore determined that the best interests of the children residing on the appeal site weighed heavily in favour of the development.

4.3 The Inspector also found that the location of the site was suitable for a Gypsy and Traveller site given the proximity to services and facilities (factors that related to the LPA's unsustainability refusal reason), and ultimately based her decision to dismiss the appeal

on the fact that the considerations in favour of the development as outlined above were not sufficient to outweigh the inappropriateness of the development in the Green Belt in light of the impact on openness and the visual impact of the development.

- 4.4 The location of this application site is also in both the Green Belt and open countryside. However, the plot itself is also located within a parcel of land immediately adjacent to a site that has been used for Gypsy and Traveller accommodation for almost 20 years (Top Park) and which is also subject to consideration by Members at the March 2023 Planning Committee under planning application reference R15/2017. This is a key difference to the Fosse Way site, as it means that the site is neither isolated nor incongruous with its immediate surroundings and benefits from this established context of similar adjacent development. Given the fact that the Inspector directly linked the additional visual harm to the weight she applied to the inappropriateness of the development at Fosse Way, it would therefore be reasonable to argue by extension that the *absence* of this additional visual harm should carry less weight in favour of a refusal on Green Belt grounds.

## **5.0 Assessment of proposals**

5.1 The key issues to assess in the determination of this application are:

- Principle of development (including Green Belt considerations)
- Visual impact
- Residential amenity
- Highways and parking
- Sustainability and environmental impact
- Biodiversity

6.0 Principle of development (including Green Belt considerations)

6.1 Policy GP1 of the Local Plan states that when considering development proposals, a positive approach will be taken on development that reflects the presumption in favour of sustainable development and to secure development that improves the economic, social and environmental conditions in the area. This is reflected in Section 2 of the NPPF, where Paragraph 8 sets out the same key objectives. Paragraph 11 of the NPPF states that where there is an up to date development plan applications should be determined in line with that development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted”*.

6.2 Policy GP2 sets out the development hierarchy for the borough and states that in Green Belt locations, such as this, development will only be permitted if allowed by national policy. This is supported by Section 13 of the NPPF. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF states that LPA’s should ensure that sufficient weight is given to any harm to the Green Belt. It also states that 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.

- 6.3 Policy DS2 of the Local Plan specifically focuses on the provision and enabling of sufficient sites for use by the Gypsy and Traveller and Travelling Showpeople communities. At the time of its adoption, the Local Plan projected that there would be a need for an additional 61no. new Gypsy and Traveller pitches in the borough over the period from 2017-2032. This policy identifies key criteria for consideration when assessing Gypsy and Traveller site applications:-
- Does the site afford good access to local services such as schools and health facilities?
  - Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?
  - Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?
  - Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?
  - Does the development have appropriate vehicular access?
  - Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?
  - Is the development well laid out to provide adequate space and privacy for residents?
  - Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?
  - Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?
- 6.4 According to the published Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study September 2022 (GTAA), which is available on the Council's website, there is a projected need for the provision of 79no. permanent pitches by 2037 for Gypsies and Travellers. To meet this need, the GTAA recommends that 48no. such pitches should be found in the borough by 2027. Paragraph 6.5 of the GTAA recognises that smaller sites are preferred by the Gypsy and Traveller community, and Paragraph 6.6 recognises that some families in the Gypsy and Traveller community are also interested in increasing provision on existing sites. The GTAA report recognises the potential value of developing land that is either already owned by applicants or land that they intend to purchase in potentially meeting some of this identified demand.
- 6.5 Section 11 of the NPPF focuses on the effective use of land, Paragraph 119 stating that *"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses"* and Paragraph 124 directing that consideration needs to be made in planning policies and decisions for *"the identified need for different types of housing and other forms of development"*. This is not limited to the use of previously developed land, although such sites are often considered for this purpose. The need for homes includes the need to provide accommodation for the Gypsy and Traveller community as well as providing for the settled community.
- 6.6 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well over the lifetime of the development.
- 6.7 On 15 March 2023, the Planning Committee considered an application to grant permanent planning permission for the retention and continuation of operation of the older established

part of Top Park (under planning reference number R15/2017). The Committee granted temporary permission for the site for a period of 5 years. The effect of this has been to confirm that the main part of Top Park can continue to operate until March 2028, but the site has not been granted permanent permission and as such cannot contribute towards the Council's identified provision requirements for permanent Gypsy and Traveller pitch provision in the borough. The development of that site pre-dates the 2015 Ministerial Statement on intentional unauthorised development, so could not be used as a material planning consideration to be weighed against such development.

- 6.8 Prior to Plot 19 being created the land formed part of a small paddock that was privately owned by a person or persons with direct links to the established part of Top Park. It was laid to grass and used informally as a pony paddock by those occupying Top Park. Plot 19 itself was first occupied by the applicant and his family in January 2021 and the family collectively purchased the land they now occupy from the previous owner. They have always accessed their plot via the existing access track to the right of the site, rather than via the established Top Park access road to the left of their plot. Whilst they have gradually developed their plot over time, they have now completed all the works they wanted to do and are not proposing any additional development as part of this application.
- 6.9 As noted in Section 4 of this report, the plot is in both Green Belt and open countryside. There is a general presumption against inappropriate development of such land unless the development meets identified criteria set out in Paragraph 6.2 of this report *or unless very special circumstances exist that sufficiently outweigh the presumption against inappropriate development*. As Gypsy and Traveller site provision is not one of the existing exceptions to the presumption, favourable consideration of the principle of development in Green Belt terms would be reliant on the applicant establishing a case of very special circumstances.
- 6.10 Evidence of the personal circumstances of the applicants has been received and considered by the LPA. This evidence identified three key factors for consideration :-
- The presence on site of several individuals with complex medical needs that require regular medical intervention and ongoing support, including two elderly persons with limited mobility,
  - The presence of children of school age who are in full time education and receive additional support due to having special educational needs,
  - The presence on site of a baby under 1 year old and a mother recovering from childbirth, and
  - Familial and cultural links to other occupiers of Top Park and relatives living in close proximity to the site.
- 6.11 In support of the first two factors, the LPA have been provided with letters from medical specialists, care providers, and the educational establishments attended by the children. This evidence is deemed sufficient to support the applicant's assertions that there are several individuals living on their plot who need to remain in the locality in order to ensure consistent treatment and support for their various needs. The LPA has also been advised of the recent birth of the applicant's youngest grandchild, who resides on the site with the applicant's son and his family.
- 6.12 In terms of familial and cultural links to the site and immediate locality, the family have relatives who live on the Top Park site and were already living there prior to the applicant and his family moving onto the site. The applicant and his family identify as Romany

Gypsies and were all raised in the practices of Romany culture. Due to infirmity and the educational needs of the children they are not able to continue a transient lifestyle. They therefore wish to reside on the site to enable them to remain within their community and continue to practice as many of their cultural behaviours as their present circumstances allow.

- 6.13 Recently the matter of determining a lawful definition of Gypsy and Traveller status was considered in the Court of Appeal (*Smith v Secretary of State for Levelling Up, Housing & Communities & Anor [2022] EWCA Civ 1391*). The Court found that the Planning Policy for Traveller Sites 2015 definition of Gypsies and Travellers is unlawfully discriminatory in relation to aged and disabled Gypsies and Travellers who have permanently ceased to travel (who would for that reason not meet the PPTS 2015 definition of a Gypsy and Traveller). The effect of the court's decision isn't to quash PPTS, but it identified that that it was *"difficult to see how the PPTS 2015 definition can be safely applied in other cases where elderly and disabled Gypsies and Travellers seek planning permission for a caravan site on which to live in accordance with their traditional way of life"*. The effect of this case has been the recognition that it may not always be possible for members of the Gypsy and Traveller community to continue to travel for life, and that there is likely to come a time when members of the community find they need to settle in a set location as opposed to remaining transitory. This is therefore a material consideration when looking at cases such as the one subject of this application.
- 6.14 Focussing now on the key tests set out in Policy DS2 of the Local Plan, the development will now be assessed against each of these in turn:-
- 6.15 *Does the site afford good access to local services such as schools and health facilities?*  
The site is located near to, but not within, a number of villages and suburbs that collectively have a range of local facilities including a primary school (Wolvey Church of England Primary in Wolvey and St James' Church of England Academy in Bulkington); pubs (in Shilton, Ansty, Wolvey, and the suburbs of Wood End, Neal's Green and Exhall in Coventry); places of worship (Shilton Baptist Church in Shilton; St James' Church of England Church in Ansty; Our Lady of the Sacred Heart Roman Catholic Church, St James's Church of England Church and Ryton Methodist Church in Bulkington); a dental practice (in Bulkington); medical practices (in Barnacle, Bulkington, Wolvey and the suburbs of Henley Green and Weston Lawns in Coventry); grocery stores (in Shilton, Bulkington and Wolvey), and supermarkets (in the Walsgrave suburb of Coventry). The area is also covered by emergency and hospital care via St Cross Hospital in Rugby, The George Eliot Hospital in Nuneaton, and University Hospitals Coventry and Warwickshire's site in Coventry.
- 6.16 *Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?*  
The site is not within an identified flood risk zone and is not adjacent to any known hazardous land uses that could be likely to endanger the health of the occupants of the site.
- 6.17 *Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?*  
This site is very small, being one of a total of 19 plots currently comprising the wider Top Park site. The recent temporary planning permission granted for the established part of

Top Park (see Paragraph 6.7 of this report) means that this will continue to be a key development feature within the locality until March 2028. There are also several other Gypsy and Traveller sites close by on Bulkington Road and Mile Tree Lane. Considering the scale and size of this plot compared to the scale and size of Top Park as a whole, it is not considered that the site is excessive or inappropriate from this perspective.

6.18 *Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?*

At present, the solid timber boundary fencing that encloses the site is sufficient to maintain the level of privacy the site occupants prefer, as they like to be on visual contact with the neighbouring plots but also have private garden spaces for each family (the applicant and his wife, and the applicant's son and his family) when not using the communal areas within the plot, and the neighbouring plots prefer a similar degree of privacy so are also content with the arrangement. Due to the relationship between the plots within Top Park, if Members were minded to approve this application conditions have been recommended for inclusion that would tie the use of the plot solely to Gypsy and Traveller accommodation, preventing commercial activities, and preventing vehicles over 3.5 tonnes being brought onto site (to prevent conflicting uses that could detrimentally impact on neighbouring plots). These would be **Conditions 3 to 5** (inclusive). A further condition would also be included making the permission personal to the applicant and his family (**Condition 6**).

6.19 In terms of implications for those living outside the Top Park site, there are no neighbouring residences in close enough proximity to experience a direct material impact on privacy from the Top Park site due to their distances from the site (excluding Top Park the closest Gypsy and Traveller sites to Plot 19 are over 200 metres away, and the nearest settled dwellings in the villages of Bulkington, Barnacle, and Shilton are 250 metres, 580 metres, and 620 metres away respectively). It is not therefore considered reasonable or justifiable to place restrictive conditions relating to privacy or acoustic protection for these residents due to their significant distance from Top Park and from Plot 19 in particular.

6.20 *Does the development have appropriate vehicular access?*

The applicants use an existing secondary access to the Top Park site that specifically serves only four of the Top Park plots and land to the rear of Top Park. Although originally just a field track, the access has been surfaced with gravel and widened to accommodate the size and type of vehicles serving the plots, including allowing for the manoeuvring of caravans. WCC Highways were specifically consulted on this application and have raised no objections to the continued use of this access as a primary means of direct vehicular and pedestrian access to Plot 19. However, this is subject to the inclusion of a specifically worded condition regarding reconfiguration of the main access gates so that they only open into the plot as opposed to outwards over the access road in order to ensure that they do not compromise access for other users and to protect the public highway. This would be **Condition 7** in the event that Members were minded to approve the application.

6.21 *Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?*

Prior to occupation of the land on which Plot 19 is located, there was a limited degree of partial screening by virtue of a pre-existing mixed species hedge along the back of the highway verge and the presence of some semi-mature trees within it. However, it was still possible to view the land from the highway due to the existing side access road and the fact that both the hedge and the trees were deciduous. Soon after moving onto the site,

a section of the hedge was cut back and lowered to better facilitate the use of the access road, leaving more of the frontage of Plot 19 exposed. This undoubtedly affected the visual characteristics of the site, as did the fencing that the applicant erected and the presence of the structures and mobile homes that now occupy the site. However, the development that has been undertaken on and around Plot 19 is consistent with the more established development on Top Park, so whilst it may be the case that the level and type of development has had a visual impact it has not been one that is so at odds with the pattern and form of development in this part of Top Road as to justify refusal of this application on that basis.

- 6.22 Should Members be minded to approve the application, it is considered reasonable to tightly control the potential for further development of the plot to prevent the intensification of its visual impact. Therefore, in the event of an approval, it is considered reasonable to apply restrictive conditions that would prevent the further intensification or material alteration of the development of the plot (beyond the changes proposed) that could harm the appearance of the locality and detrimentally affect the character and openness of the Green Belt. To that end, it is recommended that in the event of an approval conditions are included that require the prior written permission of the LPA for any additional structures, fences, gates, outbuildings or additional mobile homes and tourers above or beyond those subject of this application, and for the installation of additional external lighting. These would be **Conditions 8 to 10** (inclusive).
- 6.23 It is recognised that replacing mobile homes and tourers, whilst perhaps necessary over time, can also materially affect the overall visual impact of a site especially if they are larger or markedly different in terms of design than those they are replacing. At present the applicant does not intend to change the two mobile homes currently on the site, and their details and specifications form part of the proposed plans, but it is recognised that there are currently two children living on the site and as they grow up and their needs change the family may find that meeting their needs requires changes to their set up on the plot. Therefore, it is also considered reasonable in the event of an approval to have a mechanism to control future changes arising from the replacement of any existing mobile homes or tourers to ensure that replacements do not cumulatively result in intensification and overdevelopment of the plot by degrees. This would be **Condition 11** in the event that Members are minded to approve this development.
- 6.24 *Is the development well laid out to provide adequate space and privacy for residents?*  
Please see Paragraph 6.18. The applicants are content with their existing arrangements with regards to privacy, and so no further screening is proposed for this purpose within the site. The existing provision is adequate to enable both families to maintain the degree of privacy that they prefer.
- 6.25 *Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?*  
At the moment there is no soft landscaping within the plot aside from the enclosed garden area associated with the mobile home used by the applicant's son and his family. There is little space to accommodate a significant degree of additional planting but again this is commonly the case for plots on Top Park and it is considered unreasonable to require the applicant to undertake this unless the expectation is to be applied to all plots within Top Park (should they be approved). There is however some limited open communal space

within the plot that could be utilised as a container garden, and the applicants could also explore options for utilising suspended planters along the fence line adjacent to this area if they wished. Were Members minded to approve this application, an informative note could be included guiding the applicants on ways in which they could incorporate a limited degree of additional biodiversity provision within the site through strategic planters and similar provision.

- 6.26 *Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?*

The application is for residential purposes only and does not include any non-residential uses that could cause these issues. Such non-residential uses would be conditioned against through the aforementioned **Conditions 3 to 5** (inclusive) in the event that Members approve this application, which would limit the development to the purposes set out in the development description. The aforementioned **Condition 6**, which would make the planning permission personal to the applicants, would also help to prevent conflicting operations that could be detrimental to the residential use of the plot.

- 6.27 *Is there adequate provision for on-site services for water supply, power, drainage, sewage and waste disposal facilities?*

The applicant has access to power and water already set up within the site, and they have registered for RBC domestic general waste and recycling collections services (evidenced by the presence and frequent emptying of RBC registered wheelie bins on the site). Each plot on Top Park benefits from its own septic tank to manage sewage and grey water disposal, including Plot 19.

- 6.28 Moving on from Policy DS2 of the Local Plan, Section 5 of the NPPF looks at the provision of homes including those in rural locations. As Gypsy and Traveller accommodation is also considered to come under the umbrella of rural housing provision, this section is relevant to this development. Paragraph 80 of Section 5 of the NPPF sets out criteria for consideration when assessing provision of homes in isolated locations. This application does not meet any of these tests specifically, which is one of the reasons why the LPA must decide whether or not the development amounts to very special circumstances based on the case put forward by the applicants as required by Paragraphs 149 and 150 of Section 13 of the NPPF.

- 6.29 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.10 to 6.13 (inclusive) of this report. In the considered opinion of the LPA, the applicants have provided sufficient evidence to establish that they would qualify as having Gypsy and Traveller status for the purposes of assessing planning applications, and that their requirements meet the criteria to be considered as a very special circumstance to allow development that would otherwise be deemed to be inappropriate in the Green Belt. With the use of suitably worded conditions, it is possible to meet all the requirements of Policies SDC1 and DS2 of the Local Plan that have not already been met by the existing and proposed on-site provision, as well as the various requirements set out in Sections 2, 5 and 13 of the NPPF. The principle of this development is therefore considered to be acceptable in Planning terms from this perspective.

- 6.30 Looking now at the Planning Policy for Traveller Sites (PPTS) 2015, as the LPA does not currently have sufficient allocated sites to meet the requirements for Gypsy and Traveller

provision within the Borough some of the requirements of Policy B of the PPTS 2015 cannot currently be met. However, this application has been assessed following the principles set out in Paragraphs 10 and 13 of this document, which direct LPA's on the key criteria to be used for assessing the suitability of sites for designation for formal Gypsy and Traveller provision. The lack of sufficient provision for Gypsy and Traveller sites is a key consideration in favour of this development and carries significant weight in planning terms as a material factor for very special circumstances. Were the application to be refused and the applicant evicted, three generations of this family would be left with very few options available to them. Given the lack of formal provision in the Borough, it is likely that they would have to resort to an unauthorised encampment elsewhere in the Borough, which would then face the same considerations as this one has. As well as being far from ideal in terms of planning, this would also effectively result in two children and two elderly and infirm persons being made homeless. As well as potentially having serious repercussions for the health and wellbeing of these individuals (and those who care for them), it could also jeopardise the children's access to ongoing primary education provision and the family's access to necessary ongoing medical treatments and support services. These are factors that weigh strongly in favour of this development on the grounds of very special circumstances.

- 6.31 Policies C and E of the PPTS 2015 cover sites in rural countryside locations and those in the Green Belt. Policy E in particular makes it clear that even Gypsy and Traveller provision in the Green Belt is considered unacceptable *unless very special circumstances exist that would outweigh the harm*. As set out in this report, the LPA consider that this application *does* warrant consideration as a very special circumstance, and as such the requirements of Policies C and E are also met.
- 6.32 Levels of existing provision (and the lack thereof) are also a key consideration within Policy H of the PPTS 2015, being identified as a specific consideration in Paragraph 24 alongside the availability or lack of alternative sites and the personal circumstances of the applicants. Policy H also encourages the use of planning conditions as a means of overcoming concerns and objections regarding such developments, which the LPA confirm would be their intention through identification of recommended conditions throughout this report.
- 6.33 For the reasons set out above, the principle of this development is also considered to be acceptable in terms of compliance with the Planning Policy for Traveller Sites 2015.
- 6.34 A Written Ministerial Statement published on 31 August 2015 made intentional unauthorised development a material consideration when determining planning applications and appeals from that date onwards. By the time the applicant and his family moved onto their plot, it was deemed to be unauthorised development. Their decision to continue to develop and occupy their plot therefore indicates intentional unauthorised development, and this carries material weight which must be considered as part of the determination of these applications. However, as set out above within Section 6 of this report, there are key factors that weigh in favour of this development being deemed to be acceptable. On balance, in this case the LPA considers that the considerations in favour of permitting this development outweigh the harm that has been caused through intentional unauthorised development.
- 7.0 Visual impact
- 7.1 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well and add to the

overall quality of the area over the lifetime of the development, are visually attractive, and are sympathetic to the local character and history.

- 7.2 Policy SDC1 of the Local Plan states that developments will only be supported where they are of a scale, density and design that responds to the character of the areas in which they are located. It also highlights key considerations for determination of such applications, including massing, landscape, layout and materials.
- 7.3 In objections received from local residents and the Parish Council, the visual impact of the Top Park site has been highlighted as a key concern. Objections share common themes relating to the contrast between the Top Park site and the rural landscape and the effect of external lighting increasing the impact.
- 7.4 In addition to considering the impact of the development on the character and appearance of the Green Belt (see above), a key factor of any development is the impact it has on the visual character of an area. In this case, we have a site located in an area away from the nearest villages of Shilton, Barnacle and Bulkington. There are however several Gypsy and Traveller sites in the locality, and as stated in Paragraph 6.7 of this report the older part of Top Park now benefits from a 5 year temporary planning permission so will continue to be a feature of the area until 2028. The surrounding undeveloped areas are farmland, with boundaries generally marked with field hedges. The general aesthetic of the area is therefore mixed natural landscape and Gypsy and Traveller development.
- 7.5 When approaching the site from the adjacent highway (Top Road), one of the first things to notice are the two entrances now serving Top Park (the established original one and the one the applicant uses to access their own plot) and the front perimeter fencing with the mobile homes lying beyond it. What is also evident is that the plot is surrounded by other Top Road plots that have been developed in a very similar way. Paragraphs 6.21 to 6.22 (inclusive) of this report set out the visual implications on the development, and also the fact that the surrounding development gives this plot context and prevents isolation. They also identify how further intensification would be controlled through a condition preventing the introduction of any more structures or vehicles than are presently on the plot (**Condition 8**) and requirement clauses in **Conditions 9, 10 and 11** relating to the replacement of structures to ensure that existing features that are to be replaced are removed prior to their replacements being brought onto site (so as to prevent cluttering and temporary overdevelopment arising from having a new feature on the plot at the same time as the one it is supposed to be replacing).
- 7.6 The LPA recognises local residents' concerns about the effect that external lighting can have on making the site more prominent in hours of darkness when there are no adjacent light sources (such as streetlights). There are many plots on the wider Top Park site that have some form of external lighting, and undoubtedly this does increase the prominence of the site in visual terms. Some external lighting is required for safety and security purposes given the lack of surrounding light sources in the public domain, so a degree of lighting is considered reasonable. The applicant has advised that the mobile homes already on the site come pre-fitted with low level illumination from inbuilt lights near the doors, and the LPA consider that this safety feature would fall within the reasonable requirements category. However, to prevent the installation of excessive or inappropriate additional external light sources in the future it is considered reasonable to restrict such installation through the aforementioned **Condition 11** (see Paragraph 6.23 of this report).

- 7.7 Another common concern raised in objections received by the LPA has been the fear of further development in the event that the Top Park site is approved, in particular the replacement of existing mobile homes with larger ones. The LPA recognise this as a very valid concern, and as set out in Paragraph 6.26 of this report would recommend that in the event of Members approving this application a condition be applied preventing this eventuality by requiring the applicant to seek prior written approval before replacing the mobile homes (**Condition 12**).
- 7.8 Within the plot itself, there is currently a predominance of gravel with the garden areas hidden behind fences. Whilst more green relief within the plot would help to break up the monotony of the gravel, the functional requirements of the open communal gravel area means that options for introducing landscaping are very limited. As noted in Paragraph 6.26 of this report, given the limited landscaping provision on other plots within Top Park, it would be unreasonable to apply a requirement for landscaping on this plot, but in the event that Members approve this application an informative note would be applied to give guidance on possible options for increasing biodiversity within the site where possible.
- 7.9 For the reasons set out above, and with the abovementioned conditions applied, the scheme complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to character and appearance. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 8.0 Residential Amenity
- 8.1 Several objectors have raised concerns over the cumulative impact of the level of Gypsy and Traveller accommodation in the locality on their access to services and facilities, but none seem to have raised particular concerns that directly relate to a material impact on their individual residential amenity as a result of the occupation of Plot 19.
- 8.2 Paragraphs 6.18 and 6.19 of this report set out the LPA's assessment of amenities for both those living on Plot 19 and those living either around them on Top Park or in neighbouring settlements. In summary, the applicant has sufficient privacy and space to meet their needs without compromising the amenities of those living on adjacent plots on Top Park, and the nearest settled residents are a sufficient distance away from the site so as not to be materially impacted upon in terms of loss of amenity.
- 8.3 Some objectors have raised concerns over disruption arising from noise nuisance, but again the nearest settled residential properties are a long way away from the site (between 250 metres away and 620 metres away). Whilst some noise may be arising from the site, the LPA considers that it would be unlikely to be to such an extent as to warrant supporting a refusal on amenity grounds given the significant distance between the settles community and Top Park. It would be difficult to discern noise coming purely from Top Park and Plot 19 in particular from adjacent development. Environmental Health have advised that it would not be necessary to require the undertaking of a full noise assessment. This was particularly considered in relation to adjacent plots on Top Road, and if the noise levels for those plots have not been deemed to be of concern then the same must be true for those settled residents living much further away too.
- 8.4 In the event of an approval, the aforementioned **Conditions 3, 4, 5, 8, 9, 10, 11 and 12** will help to protect those living on adjacent plots within Top Park from a loss of amenity arising from further built development, replaced structures or inappropriate non-residential activities within Plot 16. **Condition 11** will help to ensure that external lighting was

controlled, and as such should help to protect against light nuisance to neighbouring residents.

8.5 For the reasons set out above, and with the identified conditions applied, this development complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to residential amenity. It also accords with guidance set out in Section 2 of the NPPF 2021.

9.0 Highway Safety

9.1 Several concerns have been raised by Parish Council, Borough Councillors and local residents regarding the implications of increasing Gypsy and Traveller development in the area on the intensity of the use of surrounding roads, particular those leading through Barnacle. WCC Highways were consulted on the application and raised no concerns or objections in terms of impact on the road network. They did however request that a condition be applied in the event of an approval regarding works to the access gates (**Condition 7**) and recommended informative notes re surface water run-off to prevent excessive water running onto Top Road.

9.2 As regards the parking and manoeuvring of vehicles within the site, whilst Appendix 5 of the Local Plan doesn't set a specific recommended level for parking provision for Gypsy and Traveller sites, for dwellings of a comparable size it is recommended to provide a total of 3no. parking spaces to cover both dwellings collectively.

9.3 The communal area has been deliberately left free of structures to allow for adequate vehicle turning space and the parking of vehicles. The applicant and his son each have a personal vehicle, but as no other vehicles require parking accommodation the space provided within is considered to be sufficient to meet both the parking need of the site and enable turning within the plot even when one of the vehicles is already parked. In any event, as the plot is shared by members of the same family, they can easily manage each other's needs and ensure the parking and turning of vehicles works sufficiently well at all times. As they tend to park immediately adjacent to their respective mobile homes, it is also feasible for visitors to also park within the site or adjacent to the recessed access gates without affecting the functionality of the adjacent access track or impacting on Top Road. There is also sufficient space to accommodate a third vehicle on a regular basis to meet the recommended level of provision in Appendix 5.

9.4 With the highway condition applied and the site layout protected through **Condition 2**, this scheme would comply with Policy D2 and Appendix 5 of the Rugby Borough Council Local Plan 2011-2031.

10.0 Sustainability and environmental impact

10.1 The environmental implications of development must be carefully considered, particularly as the Rugby Borough Council Local Plan 2011-2031 has reinforced the need to consider offsetting the impact of development through its policies GP1, HS5, SDC4 and SDC7. These in turn reinforce the wider importance and focus raised on these issues within Sections 2 and 12 of the NPPF 2021.

10.2 The environmental considerations (such as the implications of being in an Air Quality Management Area, and the need for water and energy efficiency) cross over into the requirements that will be placed on the developer through the need to comply with

Building Regulation requirements but can also require control at the planning stage through the application of specifically worded conditions and supportive text.

- 10.3 The Local Plan defines Air Quality Neutral as *“emissions from the development proposal being no worse, if not better, than those associated with the previous use.”*
- 10.4 This site does not lie within the Air Quality Management Area, and the type of development applied for does not meet the triggers for requiring conditioned mitigation under Policy HS5. An informative would be applied in the event of an approval to guide the applicant on ways they can reduce their environmental impact. There are also options available to occupiers of the site to adopt water efficiency practices, such as limiting water waste and making more efficient use of the water supply that is consumed.
- 10.5 The Environmental Protection team were specifically consulted on this application and have recommended the application of a condition relating to previously contamination which would be applied as **Condition 13** in the event of an approval. The condition sets out a phased approach to be undertaken in the event that previously unidentified contamination is found within the site. Given the fact that no further development is proposed on Plot 19 however, whilst this condition would be applied it would not require any response from the applicant at this stage. However, it should be noted that the LPA are not currently aware of any contamination issues in this area, and this condition is intended as a safeguarding measure rather than confirmation that there is already a contamination issue.
- 10.6 In terms of air quality mitigation, Environmental Health have raised no significant concerns and did not identify the need for any controls or conditions with regards to this. They have however recommended inclusion of an informative note in the event of an approval to guide the applicant on possible options to reduce their impact on air quality through mitigation and/or aiming to achieve air quality neutrality.
- 10.7 Environmental Health have also recommended environmental based informatives regarding drainage and implications of adjacent activities.
- 10.8 For the reasons set out above, the development complies with the environmental directions of policies GP1, HS5, SDC1 and SDC4 of the Rugby Borough Council Local Plan 2011-2031 with regards to air quality and some aspects of environmental impact. In so doing, it would also meet the standards and guidance set out in Sections 2, 11 and 12 of the NPPF 2021 for those same criteria.
- 11.0 Biodiversity
- 11.1 Policy NE1 of the Local Plan focusses on protection of designated biodiversity and geodiversity assets, supporting the aims and objectives of Section 15 of the NPPF. As part of this, both local and national planning policy details the need to consider biodiversity as part of the planning process, with the aim to seek opportunities to protect and enhance biodiversity and protected specials through all types of development whenever possible.

- 11.2 No particular biodiversity related objections were received from residents or the Parish Council, and biodiversity wasn't one of the reasons given in the Ward Councillor's request to take the case before the Planning Committee for consideration.
- 11.3 WCC Ecology were consulted on this application and have confirmed that they have no ecological concerns about the development. They have not requested any conditions or informatives be included in the event of an approval, but as stated in Paragraph 6.25 of this report an informative note would be applied in the event that Members are minded to approve this application to advise the applicant of options they may be able to explore to increase biodiversity opportunities and provisions within their plot.
- 11.4 The scheme is considered to comply with Policy NE1 of the Rugby Borough Council Local Plan 2011-2031, and to accord with Section 15 of the NPPF 2021.

## **12.0 Planning balance and conclusions**

- 12.1 This scheme represents an inappropriate development in the Green Belt, and as such is not acceptable unless there are very special circumstances that sufficiently outweigh the harm that inappropriate development can otherwise cause. In this particular case there are four key factors that collectively represent reasonable grounds for this application to be considered as an exception to the usual presumption against development in the Green Belt :-
- The LPA currently has a shortfall in Gypsy and Traveller site provision within the borough, and there are no more appropriate locations within the borough that the applicant and their family could lawfully move to. This carries significant weight in favour of the application.
  - Refusing this application could result in the education of two children of primary school age being put at risk, both of whom also have special educational needs necessitating specialist provision, as well as the health and wellbeing of both children and vulnerable adults all of whom regularly access services and facilities within the locality to meet their needs to enable them to continue to live independently.
  - The applicant and their families identify as Romany Gypsies and wish to follow the cultural traditions of their heritage by raising their children on a site where those traditions can be practiced as part of the cultural community with which they identify.
  - The applicant has direct familial links to other families residing on the Top Park site and his grandchildren have been raised there from a young age. He and his wife are dependent on his son's family to assist them with daily living, and they share supervisory responsibilities for the grandchildren when they are not at school.
- 12.2 The very special circumstances outlined above clearly outweigh the harm to the Green Belt that has been caused by the inappropriate nature of the development. The development is therefore considered to be acceptable on the grounds of the very special circumstances associated with the application.
- 12.3 The 2015 Ministerial Statement means that this is deemed to be intentional unauthorised development which carries a considerable amount of weight against the development.

However, on balance, the harm arising from this does not outweigh the very special circumstances in favour of approving the application as detailed above.

- 12.4 The principle of development is deemed to be acceptable, and the development meets all the key tests set out in Policy DS2 of the Local Plan.
- 12.5 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.6 The scheme is acceptable in terms of scale, character and appearance.
- 12.7 There are no highway safety concerns.
- 12.8 There are no environmental concerns.
- 12.9 There are no biodiversity concerns or necessary provision or protection measures.
- 12.10 The development does not detrimentally impact on the residential amenity of residents living outside Top Park, and the relationship and level of residential amenity for both the applicant and those living on adjacent plots on Top Park is acceptable to all parties affected.
- 12.11 **Condition 3** will tie the use of Plot 19 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.12 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.13 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.14 **Condition 6** will make the permission personal to the applicant and his successors in title.
- 12.15 **Condition 7** will require the reconfiguration of the access gates to the access road such that they open into the site rather than out over the adopted highway (Top Road), and that the access gates for Plot 16 itself open into the plot as opposed to out over the access road.
- 12.16 **Condition 8** will prevent the erection of any additional structures (including fencing, gates or other means of enclosure) and the installing of any additional mobile homes without the prior written agreement of the LPA.
- 12.17 **Condition 9** will prevent the bringing onto site of any additional tourer caravans without the prior written agreement of the LPA. It will include a requirement for any tourer being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.18 **Condition 10** will require the tourer caravans identified for removal as part of this application to be removed from site PRIOR to replacement tourers or mobile homes

already identified in this application being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.

- 12.19 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.20 **Condition 12** will protect against the replacement of the proposed mobile homes with larger models without the prior written agreement of the LPA. It will include a requirement for any mobile home being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple additional mobile homes being on site at the same time until the older one is removed.
- 12.21 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.22 Informative notes will be included in the event of an approval to guide the applicant on matters relating to:-
- Surface water run-off onto the highway (Top Road),
  - Biodiversity enhancement options,
  - Requirements for compliance with Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service,
  - Requirements of The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, (provision of sprinklers, and maintaining access for emergency vehicles),
  - Air quality mitigation and neutrality,
  - Drainage,
  - Impacts from existing adjacent activities,
  - Private sector housing team comments, and
  - Domestic waste collection.
- 12.23 The development complies with all relevant local and national planning policies.

### **13.0 Recommendation**

- 13.1 Planning application R22/0637 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report.
- 13.2 The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **DRAFT DECISION**

**REFERENCE NO:**

R22/0637

**DATE APPLICATION VALID:**

30-Sep-2022

**APPLICANT:**

John Lee, Plot 19, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

**ADDRESS OF DEVELOPMENT:**

Plot 19, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

**APPLICATION DESCRIPTION:**

Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and surfacing of the plot with gravel. Siting of 2no. touring caravans.

**CONDITIONS, REASONS AND INFORMATIVES:**

**CONDITION 1:**

This permission shall be deemed to have taken effect on 16 March 2023.

**REASON:**

To comply with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

**CONDITION 2:**

The development shall be carried out in accordance with the plans and documents detailed below:

Application form (received by the Local Planning Authority on 26 June 2022)

Drawing number 178-01 Revision B (received by the Local Planning Authority on 30 January 2023) WITH THE EXCEPTION OF REFERENCE TO SHED 1

Drawing number 178-09 (received by the Local Planning Authority on 30 January 2023)

Drawing number 178-33 (received by the Local Planning Authority on 30 January 2023)

**REASON:**

For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority.

**CONDITION 3:**

The development hereby permitted shall only be occupied and used for the purposes of being a Gypsy and Traveller site and for no other purpose.

**REASON:**

As the development is only acceptable due to the applicant's circumstances, and to ensure the proper operational use of the site.

**CONDITION 4:**

No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer or burning of materials.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 5:**

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

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 6:**

The development hereby permitted shall be personal to Mr John Lee, and the site shall only be used by Mr Lee and his spouse, Mr Levi Lee and his spouse, and Mr Levi Lee's children.

**REASON:**

As the development is only acceptable due to the applicant's personal circumstances.

**CONDITION 7:**

Within three months of the date of this planning permission, both the main gates adjacent to Top Road and the vehicular access gates to the site shall be reconfigured so as to open inwards only. Any further gates installed at the vehicular access shall thereafter open inwards only and shall at no time open outwards toward the public highway.

**REASON:**

In the interests of public and highway safety and the amenity of other users of the access road.

**CONDITION 8:**

Other than those hereby approved, no additional structures or enclosures shall be erected within or around the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. This includes (but is not limited to) both temporary and permanent structures, fencing, gates, and outbuildings, as well as any additional mobile homes.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 9:**

Other than those hereby approved, no additional tourer caravans shall be brought onto the site without the prior written approval of the Local Planning Authority. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 10:**

Any tourer identified for removal as part of this development shall be removed prior to the mobile home replacing it being brought onto site. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 11:**

No additional external lighting shall be erected unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. Any lighting shall only be erected in accordance with the approved details.

**REASON:**

To ensure a satisfactory external appearance and in the interests of the visual amenities of the locality and the amenities of neighbouring residents.

**CONDITION 12:**

Other than those hereby approved, no replacement mobile homes shall be brought onto the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. No replacement mobile homes shall be brought onto site unless and until the mobile home being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 13:**

When carry out work as part of this development hereby permitted, in the event that contamination is found it shall be reported in writing immediately to the Local Planning Authority. Each of the following subsections a) to c) shall then be subject to approval in writing by the Local Planning Authority.

a) An investigation and risk assessment shall be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

b) Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared.

c) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared.

**REASON:**

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property, and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, and other off-site receptors.

**INFORMATIVE 1:**

The applicant/developer is advised that the development will need to comply with Approved Document B, Volume 2, Section B5 - Access and Facilities for the Fire Service. Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc regarding this can be found at: [www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning](http://www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning) Where compliance cannot be met, the applicant/developer will need to provide details of alternative measures intended to be put in place. Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18, Access for Emergency Vehicles. In addition, Warwickshire Fire and Rescue Authority fully endorse and support the fitting of sprinkler installations, in accordance with the relevant clauses of BS EN 12845 : 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

**INFORMATIVE 2:**

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

**INFORMATIVE 3:**

The applicant is encouraged to incorporate measures to assist in reducing their impact upon the Air Quality Management Area as part of this development. Initiatives could include the installation of an ultra-low emission boiler (<40mg/kWh), increased tree planting/landscaping, solar thermal panels, and the incorporation of electric vehicle charging points on any car parking. More information on plants that can be incorporated into landscaping for green walls and roofs can be found here:

[https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed\\_1.pdf](https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed_1.pdf) Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email [ept@rugby.gov.uk](mailto:ept@rugby.gov.uk)

**INFORMATIVE 4:**

The drainage and waste disposal system will need to comply with the Building Regulations 2010 Approved Document H (2015 Edition) – Drainage and Waste Disposal.

**INFORMATIVE 5:**

Where possible enhancements should be incorporated into the development to improve the habitats and opportunities for the local wildlife and increase biodiversity. Enhancements could include bat and bird boxes which may be used by a variety of species, native species planting and enhancement of existing hedges and wild flower planting, habitat piles of rubble, logs and earth which can be used by reptiles, amphibians and invertebrates are also welcomed. Warwickshire County Council Ecological Services (tel: 01926 418060) would be pleased to advise further if required.

**INFORMATIVE 6:**

The development is within farmland and will be subject to reasonable disturbance from noise, dust, odour, vibration and light associated with farming practices. These practices may at times extend into the night or early hours, such as harvest. Noise may also be audible from nearby road and rail traffic.

**INFORMATIVE 7:**

This development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations, the Council's Standards of Amenity, Caravan Sites and Control of Development Act 1960 and Mobile Homes Act 1983 (and subsequent Acts) as these may be applicable in terms of layout, spacing and fire precautions. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

**INFORMATIVE 8:**

The applicant/occupiers should consult with RBC Waste Services Team regarding waste collection proposals for the proposed development.

**Reference: R22/0664**

**Site Address: Plot 16, Top Park, Top Road, Barnacle, Coventry, CV7 9FS**

**Description: Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track, and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan.**

### **Recommendation**

Planning application R22/0664 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report. The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **1.0 Introduction**

1.1 This application has been called to Committee by Councillor Maoudis on behalf of the Parish Council, who have asked her to do so for the following reasons :-

- Inappropriate development in the Green Belt and no very special circumstances,
- Unsustainable development (no public transport links or safe walking routes),
- Visual impact,
- Light pollution,
- Inadequate drainage leading to potential environmental and health hazards,
- Over-concentration of Gypsy and Traveller sites having disproportionate effect on the settled community,
- Misleading inaccuracies in the application,
- Existing injunction against such development without prior planning permission,
- No planning permission currently exists or has ever existed for development on this site, and
- Disregard for planning law, rules and regulations.

1.2 This case was previously included on the agenda for the Planning Committee meeting on 15 March 2023. Members voted to defer the case to a future meeting due to the Planning Committee being unable to reach a decision following a lengthy meeting and the late time of day.

## **2.0 Description of site**

2.1 This application relates to a single plot known as Plot 16, which is located on land adjacent to the main access road for a larger Gypsy and Traveller site near the village of Barnacle (Top Park). To the north, south and east of the plot lie similar Gypsy and Traveller plots, as well as aforementioned main access road serving Top Park. To the west of the plot is an unmade access track, beyond which is an open field that separates the site from development along Bulkington Road. Further to the north, Top Park is flanked a highway verge, beyond which is the adopted highway (Top Road). On the opposite side of Top Road is open pastureland bounded by low field hedges.

- 2.2 The plot is currently enclosed on the sides by timber fencing that averages approximately 1.5 metres in height. There is no internal subdivision of the plot. At present there are two tourer caravans on the site that function in a similar manner to static mobile homes at the present time. One is used by the applicant to house himself and his sons, whilst his wife occupies the other tourer the applicant's daughters and sister-in-law. There is also a timber amenity building located adjacent to the main plot entrance (which the applicant and his family use as a kitchen/diner/lounge and utility building) at a timber gazebo (located adjacent to the amenity building). A small shed and a trampoline lie to the rear of the amenity building in a gap between the rear elevation of the amenity building and the western boundary fence. There are no other structures presently on site.
- 2.3 The majority of the plot is surfaced with loose stone chippings, with a small strip of grass along the eastern boundary and artificial grass matting adjacent to one of the existing tourers. A small patio to the front of the amenity building also wraps around to form the base for the gazebo.
- 2.4 Whilst access to most of the plots on Top Park is via an established and formalised access off Top Road, Plot 16 uses a separate vehicular access via an existing unmade access track located to the right of the main Top Park entrance and leading from Top Road towards land at the rear of the Top Park site. The occupants of the plot utilise a formal gated vehicular access directly off this access track, with double timber five bar gates across the vehicular entrance in the north-western corner of the plot.

### 3.0 Description of proposals

- 3.1 The applicant and their family have occupied this plot since March 2020. They seek retrospective consent to formally change the use of the land to a Gypsy and Traveller pitch for their extended family (the applicant and his spouse, his children and his sister-in-law), and to retain one of the existing tourers, the existing outbuildings, fencing, and surfacing. They also seek further planning permission to replace the second tourer with a static mobile home as well as add an additional mobile home.

#### Planning History

Affecting Plots 14-19 collectively

R20/0192	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0193	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0194	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22

**NB - These applications were all withdrawn and replaced with applications that more accurately reflected the development undertaken.**

*Affecting adjacent Plots 14-15 and 17-19 (inc)*

R22/0637	Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and	Application ongoing
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- surfacing of the plot with gravel. Siting of 2no. touring caravans.  
**(Plot 19)**
- R22/0665 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, dog kennels, 1no. shed, gravel hardstanding, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. static caravans, and removal of 1no. existing shed. Application ongoing
- (Plot 17)**
- R22/0666 Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building. Application ongoing
- (Plot 18)**
- R22/0772 Retention of 1no. Gypsy and Traveller pitch use comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof. Application ongoing
- (Plot 14)**
- R22/1055 Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road. Application ongoing
- (Plot 15)**

*Affecting the wider Top Park site*

- R15/2017 The retention of the use of land and ancillary operational development as a residential caravan site (renewal of planning permission (Appeal) reference APP/E3715/A/06/2030623 (R06/0743/PLN) dated 18 January 2008) including the erection of six temporary amenity blocks (resubmission of previously withdrawn application R10/0959 dated 26/11/2010). Variation of Condition 1 of R10/2298 refused on 6 April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27 August 2013 to provide a permanent permission onsite at Top Park, Top Road, Barnacle. Temporary approval (5 years) 15 March 2023

**Relevant Enforcement History**

*Affecting Plots 14-19 Top Park*

- ENF/2020/0058 Temporary Stop Notice issued and served on 10 March 2020 for the undertaking of unauthorised works to apply a hard surface to the site and use of the land for the siting of static caravans/ mobile homes and/or as an unauthorised Gypsy and

Traveller encampment in contravention of an injunction on the land dated 6 June 2008.

Enforcement Notices issued and served on 06 April 2020 for breach of planning controls through the material change of use of land, without planning permission, from a paddock to mixed use as a paddock and for the siting of a caravan/mobile home and portaloo and subsequently appealed. Appeal A (APP/E3715/C/20/325193, 3251934, 3251935, 3251936 and 3251937) was dismissed on 15 March 2022 and the Notices varied and upheld.

Enforcement Notices issued and served on 06 April 2020 for the erection, without planning permission, of fencing, gates and structures, and the removal of hedgerow to form an access and subsequently appealed. Appeal B (APP/E3715/C/20/3255440, 3255441, 3255442, 3255443 and 3255444) nullified the original Enforcement Notices and so no further action was required in relation to the appeal. As the Notices were nullified the LPA could take no further action to enforce them.

Neither appeal considered the planning merits of the development as this was not a ground of appeal that the applicants raised. The grounds that were raised were: a) the period for compliance was unreasonable, b) the Enforcement Notices weren't served correctly, c) the works had not occurred, and d) the steps taken to remedy the breach were excessive. As such, the Inspectors comments in the appeal decisions, whilst providing context for his decision, do not provide a view from the Inspector as to whether the development should be allowed or not.

Whilst the upheld Enforcement Notice carried a period of compliance ending no later than 31 October 2022, it was unreasonable for the Council to take further enforcement action until the live planning applications relating to these same plots of land had been determined.

When the Enforcement appeal site visit was conducted in 2022, it transpired that the works undertaken on site by that point no longer accurately reflected what was shown in the live planning applications submitted in 2020. The Council consulted with Counsel and, following Counsel's advice, advised the applicants that it would be pragmatic to withdraw the 2020 applications and submit fresh planning applications which accurately detailed the development that has occurred on site for which the applicant was seeking planning permission. This was without prejudice to any subsequent decisions that may be made by the Council. The resubmitted applications included this application for Plot 16 and until the application has been determined, it would not be expedient for the Council to pursue further action in relation to the upheld Enforcement Notice.

#### *The wider Top Park site*

R10/2298

Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring the cessation of the use of the land for the siting of caravans for residential use, trailers and commercial vehicles; and removal of all static and touring caravans not associated with the agricultural use of the land, all trailers and commercial vehicles parked on the land, and all timber sheds not associated with the use of the land for agricultural purposes. Appeal A (APP/E3715/C/11/2153638) allowed on 27 August 2013 resulting in the Enforcement Notice being corrected and quashed. Planning permission granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision.

- R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring removal of hardstandings, fencing not associated with the authorised use, and amenity buildings. Notice also required the restoration of the land to its former condition by seeding with grass in place of the hardstandings. Appeal B (APP/E3715/C/11/2154137) was allowed on 27 August 2013 and the Enforcement Notice was quashed. Planning permission was granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision or 6 months from the cessation of the use of the site as a residential caravan site, whichever was the sooner.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the change of use of land, without planning permission, from a paddock and the building of stables to a mixed use for the siting of residential caravans, trailers, and commercial storage, and the erection of a gymnasium and utility room. Appeal A (APP/E3715/C/03/1124483) was dismissed, and the Enforcement Notice varied and upheld on 20 February 2004.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the unauthorised formation of hardstanding, erection of fencing, and the erection of external lighting. Appeal B (APP/E3715/C/03/1124483) was dismissed and the Enforcement Notice varied, corrected and upheld on 20 February 2004.

### *The Injunction*

There is a historical injunction from 2008 covering the site, which amongst other things does not cause or permit any caravans or mobile homes to be stationed on the land. However, this does not prevent planning applications being submitted on the sites for the stationing of caravans or mobile homes and being subsequently determined by the Council. As such, whilst useful in explaining the context of this site, the existence of this historical injunction carries little to no weight in terms of determining this application.

### **Relevant Planning Policies**

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Local Plan 2011-2031. The relevant policies are outlined below.

Rugby Borough Local Plan 2011-2031, June 2019

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

DS2: Sites for Gypsy, Travellers and Travelling Showpeople

HS5: Traffic Generation and Air Quality, Noise and Vibration

NE1: Protecting Designated Biodiversity and Geodiversity Assets

SDC1: Sustainable Design

SDC4: Sustainable Buildings

D2: Parking Facilities

National Planning Policy Framework, 2021 (NPPF)  
Section 2: Achieving sustainable development  
Section 5: Delivering a sufficient supply of homes  
Section 9: Promoting Sustainable Transport  
Section 11: Making Effective Use of Land  
Section 12: Achieving well-designed places  
Section 13: Protecting Green Belt land  
Section 15: Conserving and enhancing the natural environment

The Planning Policy for Traveller Sites 2015  
Policy B: Planning for traveller sites  
Policy C: Sites in rural areas and the countryside  
Policy E: Traveller sites in Green Belt  
Policy H: Determining planning applications for traveller sites

Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study  
(GTAA) September 2022

### **Technical consultation responses**

- WCC Highways - No objections subject to condition re vehicular access gates, and informative re surface water run-off onto adopted highways.
- WCC Ecology - No ecological concerns. No conditions or informative notes requested.
- WCC Fire and Rescue - No objections subject to following criteria being met (as required by Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service):
- A fire appliance to gain access to within 45 metres of all points within the footprint of each building or in accordance with table 15.1 of ADB, Volume 2.
  - A fire appliance to gain access to within 45 metres of all points inside each dwelling
  - Minimum width of the access road is 3.7 metres along the entire length
  - Minimum width of any gateways is 3.1 metres
  - Minimum height clearance is 3.7 metres
  - Minimum carrying capacity is 12.5 tonnes
  - Dead-end access routes longer than 20 metres require turning facilities
  - Turning circles should be a minimum of 16.8 metres between kerbs or 19.2 metres between walls.
  - Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.
- Advisory note re need for development to comply with Approved Document B, Volume 1, Section B5 – Access and Facilities for the Fire Service.
- Notes re The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency

Vehicles, provision of sprinklers, and maintaining access for emergency vehicles.

RBC Environmental Health - No objections subject to condition re previously unidentified contamination and informatives re air quality, drainage, impacts from existing activities, private sector housing team comments, and waste collection. No concerns over implications from road noise and no need for noise assessments or full contaminated land condition.

### **Third party comments**

Parish Council - Objections relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Visual impact,
- Light pollution,
- Inadequate drainage,
- Cumulative impact of Gypsy and Traveller sites in the locality on the settled community,
- Misleading and inaccurate details in the documentation,
- Lack of current or historical planning permission for the site, and
- Lack of respect for planning laws and regulations.

Ward Councillor - Called for application to be considered by the Planning Committee on behalf of the Parish Council on the grounds of their objections (see above).

Neighbours -

11no. objections relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Lack of safe footpaths along Top Road and safety implications of this,
- Risks to health and safety,
- Impact on property values for settled residents,
- Detrimental impact on the Coventry Way walking route,
- Lack of explanation as to why the applicant's family needs to be located on this particular site rather than anywhere else,
- Incongruous development in type and scale,
- Insufficient local amenities to support existing demand,
- Visual impact and lack of screening,
- Overdevelopment of the site and exceeding density requirements,
- Light pollution,
- Existing Gypsy and Traveller sites should be used instead of expanding Top Park,
- Increased local flood risk,
- Site is isolated from other villages,
- Lack of supporting evidence of need or very special circumstances,
- Noise nuisance from traffic,
- Impact of traffic to and from the site on surrounding roads and congestion,
- Barnacle, Shilton and Bulkington are already accommodating considerable numbers of Travellers families which isn't fair,
- Misleading and inaccurate details in the documentation,
- Site unsuitable for habitation,

- Duration of unauthorised development on the wider Top Park site,
- Contempt for injunction and laws, and
- Anti-social and criminal behaviour.

Comments also received relating to:-

- Need to consider all current Top Park applications collectively and not in isolation,
- Lack of Council provision of alternative sites to prevent this type of unauthorised development,
- Rights of Council Tax payers, and
- Warwickshire Structure Plan asserting that developments in rural areas should have the expressed support of the local community.

#### **4.0 Implications of the recent planning appeal dismissal for Land at Fosse Corner Gypsy and Traveller site (Appeal reference APP/E3715/W/21/3278838)**

- 4.1 Following refusal of a retrospective temporary (two year) planning application for the retention of 2no. Gypsy and Traveller pitches on land adjacent to the Fosse Way/Millers Lane junction near Monks Kirby (which also went before the Planning Committee), the LPA were involved in an appeal against that decision. The outcome of this appeal was recently confirmed, and the appeal was dismissed. For context, the appeal site was also located in open countryside and Green Belt, and Members' reasons for refusing the original planning application related to a) inappropriate development in the Green Belt with insufficient very special circumstances to outweigh the presumption against such development, b) unsustainability, and c) insufficient drainage and flooding risk. Due to insufficient supporting evidence to substantiate Members' third reason for refusal, the LPA were advised by Counsel not to defend it for the purposes of the appeal and so pursued their case on the basis of inappropriate development in the Green Belt and unsustainability (reasons 1 and 2 of the original planning refusal).
- 4.2 In summing up her findings as part of the appeal decision, the Inspector set out her balanced consideration of the pro's and con's of the case. The Inspector found that there was significant harm to the openness of the Green Belt, and that the weight to be applied to this harm was not diminished by the temporary nature of the development. However, the Inspector *did* attach significant weight to a) the need for gypsy and traveller sites in the borough, b) the lack of supply of sites within the borough and the lack of an adopted Development Plan Document for such provision, c) the lack of alternative accommodation for the appellants and their families, and d) the personal circumstances of the appellants and their families. She also noted that, whilst not a determinative factor, the best interests of the children directly affected by the development were a primary consideration and no other consideration could be deemed to be more important. The Inspector therefore determined that the best interests of the children residing on the appeal site weighed heavily in favour of the development.
- 4.3 The Inspector also found that the location of the site was suitable for a Gypsy and Traveller site given the proximity to services and facilities (factors that related to the LPA's unsustainability refusal reason), and ultimately based her decision to dismiss the appeal on the fact that the considerations in favour of the development as outlined above were not sufficient to outweigh the inappropriateness of the development in the Green Belt in light of the impact on openness and the visual impact of the development.

4.4 The location of this application site is also in both the Green Belt and open countryside. However, the plot itself is also located within a parcel of land immediately adjacent to a site that has been used for Gypsy and Traveller accommodation for almost 20 years (Top Park) and which is also subject to consideration by Members at the March 2023 Planning Committee under planning application reference R15/2017. This is a key difference to the Fosse Way site, as it means that the site is neither isolated nor incongruous with its immediate surroundings and benefits from this established context of similar adjacent development. Given the fact that the Inspector directly linked the additional visual harm to the weight she applied to the inappropriateness of the development at Fosse Way, it would therefore be reasonable to argue by extension that the *absence* of this additional visual harm should carry less weight in favour of a refusal on Green Belt grounds.

## **5.0 Assessment of proposals**

5.1 The key issues to assess in the determination of this application are:

- Principle of development (including Green Belt considerations)
- Visual impact
- Residential amenity
- Highways and parking
- Sustainability and environmental impact
- Biodiversity

6.0 Principle of development

6.1 Policy GP1 of the Local Plan states that when considering development proposals, a positive approach will be taken on development that reflects the presumption in favour of sustainable development and to secure development that improves the economic, social and environmental conditions in the area. This is reflected in Section 2 of the NPPF, where Paragraph 8 sets out the same key objectives. Paragraph 11 of the NPPF states that where there is an up to date development plan applications should be determined in line with that development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted”*.

6.2 Policy GP2 sets out the development hierarchy for the borough and states that in Green Belt locations, such as this, development will only be permitted if allowed by national policy. This is supported by Section 13 of the NPPF. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF states that LPA’s should ensure that sufficient weight is given to any harm to the Green Belt. It also states that 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.

6.3 Policy DS2 of the Local Plan specifically focuses on the provision and enabling of sufficient sites for use by the Gypsy and Traveller and Travelling Showpeople communities. At the time of its adoption, the Local Plan projected that there would be a need for an additional 61no. new Gypsy and Traveller pitches in the borough over the period from 2017-2032. This policy identifies key criteria for consideration when assessing Gypsy and Traveller site applications:-

- Does the site afford good access to local services such as schools and health facilities?
  - Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?
  - Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?
  - Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?
  - Does the development have appropriate vehicular access?
  - Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?
  - Is the development well laid out to provide adequate space and privacy for residents?
  - Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?
  - Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?
- 6.4 According to the published Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study September 2022 (GTAA), which is available on the Council's website, there is a projected need for the provision of 79no. permanent pitches by 2037 for Gypsies and Travellers. To meet this need, the GTAA recommends that 48no. such pitches should be found in the borough by 2027. Paragraph 6.5 of the GTAA recognises that smaller sites are preferred by the Gypsy and Traveller community, and Paragraph 6.6 recognises that some families in the Gypsy and Traveller community are also interested in increasing provision on existing sites. The GTAA report recognises the potential value of developing land that is either already owned by applicants or land that they intend to purchase in potentially meeting some of this identified demand.
- 6.5 Section 11 of the NPPF focuses on the effective use of land, Paragraph 119 stating that *"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses"* and Paragraph 124 directing that consideration needs to be made in planning policies and decisions for *"the identified need for different types of housing and other forms of development"*. This is not limited to the use of previously developed land, although such sites are often considered for this purpose. The need for homes includes the need to provide accommodation for the Gypsy and Traveller community as well as providing for the settled community.
- 6.6 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well over the lifetime of the development.
- 6.7 On 15 March 2023, the Planning Committee considered an application to grant permanent planning permission for the retention and continuation of operation of the older established part of Top Park (under planning reference number R15/2017). The Committee granted temporary permission for the site for a period of 5 years. The effect of this has been to confirm that the main part of Top Park can continue to operate until March 2028, but the site has not been granted permanent permission and as such

cannot contribute towards the Council's identified provision requirements for permanent Gypsy and Traveller pitch provision in the borough. The development of that site pre-dates the 2015 Ministerial Statement on intentional unauthorised development, so could not be used as a material planning consideration to be weighed against such development.

- 6.8 Prior to Plot 16 being created, the land formed part of a small paddock that was privately owned by a person or persons with direct links to the established part of Top Park. It was laid to grass and used informally as a pony paddock by those occupying Top Park. Plot 16 itself was first occupied by the applicant and his family in March 2020 and the applicant purchased the land they and their family now occupy from the previous owner. They have always accessed their plot via the existing access track to the right of the site, rather than via the established Top Park access road to the left of their plot. Whilst they have gradually developed their plot over time, they have now completed the majority of the works they wanted to do and are not proposing any additional development as part of this application aside from the aforementioned replacement of an existing tourer caravan with a static mobile home and the addition of an extra static mobile home.
- 6.9 As noted in Section 4 of this report, the plot is in both Green Belt and open countryside. There is a general presumption against inappropriate development of such land unless the development meets identified criteria set out in Paragraph 6.2 of this report or unless very special circumstances exist that sufficiently outweigh the presumption against inappropriate development. As Gypsy and Traveller site provision is not one of the existing exceptions to the presumption, favourable consideration of the principle of development in Green Belt terms would be reliant on the applicant establishing a case of very special circumstances.
- 6.10 Evidence of the personal circumstances of the applicants has been received and considered by the LPA. This evidence identified three key factors for consideration:-
- There are three children residing on the site who are already in full time education and attending primary school locally.
  - The applicant is the primary carer for his mother, who currently resides on Plot 1 Top Park and is in declining health due to chronic health conditions. The applicant and his wife also care for his sister-in-law, who already shares Plot 16 with them and is also suffering from chronic health conditions that require daily care.
  - In addition to the above, the applicant has other familial and cultural links to other occupiers of Top Park and relatives living in close proximity to the site. He was raised on Top Park by his mother and aunt, who both still live on Top Park.
- 6.11 In support of the first factor, the LPA have been provided with letters from the primary school attended by the three children confirming their enrolment and attendance. This evidence is deemed sufficient to support the applicant's assertions that there are several children living on their plot who need to remain in the locality in order to ensure consistent access to primary education.
- 6.12 In support of the second factor, the applicant has submitted letters from medical professionals outlining the health conditions and care needs of the two individuals as well as expectations of their future care needs and declining health.

- 6.13 In terms of familial and cultural links to the site and immediate locality, the family have relatives who live on the Top Park site and were already living there prior to the applicant and his family moving onto the site. The applicant and his family identify as Romany Gypsies and were all raised in the practices of Romany culture. Due to the educational needs of the children, and the applicant's responsibilities towards caring for his mother and sister-in-law, the family are not able to continue a transient lifestyle as that would affect their ability to maintain the children's regular attendance at school and meet the daily needs of their relatives. They therefore wish to reside on the site to enable them to remain within their family and community and continue to practice as many of their cultural behaviours as their present circumstances allow.
- 6.14 Recently the matter of determining a lawful definition of Gypsy and Traveller status was considered in the Court of Appeal (*Smith v Secretary of State for Levelling Up, Housing & Communities & Anor [2022] EWCA Civ 1391*). The Court found that the Planning Policy for Traveller Sites 2015 definition of Gypsies and Travellers is unlawfully discriminatory in relation to aged and disabled Gypsies and Travellers who have permanently ceased to travel (who would for that reason not meet the PPTS 2015 definition of a Gypsy and Traveller). The effect of the court's decision isn't to quash PPTS, but it identified that it was "*difficult to see how the PPTS 2015 definition can be safely applied in other cases where elderly and disabled Gypsies and Travellers seek planning permission for a caravan site on which to live in accordance with their traditional way of life*". The effect of this case has been the recognition that it may not always be possible for members of the Gypsy and Traveller community to continue to travel for life, and that there is likely to come a time when members of the community find they need to settle in a set location as opposed to remaining transitory. This is therefore a material consideration when looking at cases such as the one subject of this application.
- 6.15 Focussing now on the key tests set out in Policy DS2 of the Local Plan, the development will now be assessed against each of these in turn:-
- 6.16 *Does the site afford good access to local services such as schools and health facilities?*  
The site is located near to, but not within, a number of villages and suburbs that collectively have a range of local facilities including a primary school (Wolvey Church of England Primary in Wolvey where the school aged children are enrolled, and St James' Church of England Academy in Bulkington); pubs (in Shilton, Ansty, Wolvey, and the suburbs of Wood End, Neal's Green and Exhall in Coventry); places of worship (Shilton Baptist Church in Shilton; St James' Church of England Church in Ansty; Our Lady of the Sacred Heart Roman Catholic Church, St James's Church of England Church and Ryton Methodist Church in Bulkington); a dental practice (in Bulkington); medical practices (in Barnacle, Bulkington, Wolvey and the suburbs of Henley Green and Weston Lawns in Coventry); grocery stores (in Shilton, Bulkington and Wolvey), and supermarkets (in the Walsgrave suburb of Coventry). The area is also covered by emergency and hospital care via St Cross Hospital in Rugby, The George Eliot Hospital in Nuneaton, and University Hospitals Coventry and Warwickshire's site in Coventry.
- 6.17 *Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?*

The site is not within an identified flood risk zone and is not adjacent to any known hazardous land uses that could be likely to endanger the health of the occupants of the site.

6.18 *Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?*

This site is very small, being one of a total of 19 plots currently comprising the wider Top Park site. The recent temporary planning permission granted for the established part of Top Park (see Paragraph 6.7 of this report) means that this will continue to be a key development feature within the locality until March 2028. There are also several other Gypsy and Traveller sites close by on Bulkington Road and Mile Tree Lane. Considering the scale and size of this plot compared to the scale and size of Top Park as a whole, it is not considered that the site is excessive or inappropriate from this perspective.

6.19 *Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?*

At present, the solid timber boundary fencing that encloses the site is sufficient to maintain the level of privacy the site occupants prefer, as they like to be in visual contact with the neighbouring plots and share their open space communally between themselves on Plot 16. The neighbouring plots prefer a similar degree of privacy so are also content with the arrangement. Due to the relationship between the plots within Top Park, if Members were minded to approve this application conditions have been recommended for inclusion that would tie the use of the plot solely to Gypsy and Traveller accommodation, preventing commercial activities, and preventing vehicles over 3.5 tonnes being brought onto site (to prevent conflicting uses that could detrimentally impact on neighbouring plots). These would be **Conditions 3 to 5** (inclusive). A further condition would also be included making the permission personal to the applicant and his family (**Condition 6**).

6.20 *In terms of implications for those living outside the Top Park site, there are no neighbouring residences in close enough proximity to experience a direct material impact on privacy from the Top Park site due to their distances from the site (excluding Top Park the closest Gypsy and Traveller sites to Plot 16 are over 200 metres away, and the nearest settled dwellings in the villages of Bulkington, Barnacle, and Shilton are 250 metres, 580 metres, and 620 metres away respectively). It is not therefore considered reasonable or justifiable to place restrictive conditions relating to privacy or acoustic protection for these residents due to their significant distance from Top Park and from Plot 16 in particular.*

6.21 *Does the development have appropriate vehicular access?*

The applicant uses an existing secondary access to the Top Park site that specifically serves only four of the Top Park plots and land to the rear of Top Park. Although originally just a field track, the access has been surfaced with gravel and widened to accommodate the size and type of vehicles serving the plots, including allowing for the manoeuvring of caravans. WCC Highways were specifically consulted on this application and have raised no objections to the continued use of this access as a primary means of direct vehicular and pedestrian access to Plot 16. However, this is subject to the inclusion of a specifically worded condition regarding reconfiguration of the main access gates so that they only open into the plot as opposed to outwards over the access road in order to ensure that they do not compromise access for other users and

to protect the public highway. This would be **Condition 7** in the event that Members were minded to approve the application.

6.22 *Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?*

Prior to occupation of the land on which Plot 16 is located, there was a limited degree of partial screening by virtue of a pre-existing mixed species hedge along the back of the highway verge and the presence of some semi-mature trees within it. However, it was still possible to view the land from the highway due to the existing side access road and the fact that both the hedge and the trees were deciduous. Soon after the occupants of nearby Plot 19 moving onto their own site, a section of the hedge was cut back and lowered to better facilitate the use of the access road, leaving more of the frontage of Plot 19 exposed. This undoubtedly affected the visual characteristics of the wider site, although it had only a limited impact on Plot 16 specifically, as has the presence of the structures and tourers that currently occupy the site. However, the development that has been undertaken on and around Plot 16 is consistent with the more established development on Top Park, so whilst it may be the case that the level and type of development has had a visual impact it has not been one that is so at odds with the pattern and form of development in this part of Top Road as to justify refusal of this application on that basis.

6.23 Should Members be minded to approve the application, it is considered reasonable to tightly control the potential for further development of the plot to prevent the intensification of its visual impact. Therefore, in the event of an approval, it is considered reasonable to apply restrictive conditions that would prevent the further intensification or material alteration of the development of the plot (beyond the changes proposed) that could harm the appearance of the locality and detrimentally affect the character and openness of the Green Belt. To that end, it is recommended that in the event of an approval conditions are included that require the prior written permission of the LPA for any additional structures, fences, gates, outbuildings or additional mobile homes and tourers above or beyond those subject of this application, and for the installation of additional external lighting. These would **be Conditions 8 to 10** (inclusive).

6.24 It is recognised that replacing mobile homes and tourers, whilst perhaps necessary over time, can also materially affect the overall visual impact of a site especially if they are larger or markedly different in terms of design than those they are replacing. There are currently five children living on the site and as they grow up and their needs change the family may find that meeting their needs requires further changes to their set up on the plot. Therefore, it is also considered reasonable in the event of an approval to have a mechanism to control future changes arising from the replacement of any existing mobile homes or tourers to ensure that replacements do not cumulatively result in intensification and overdevelopment of the plot by degrees. This would be **Condition 11** in the event that Members are minded to approve this development.

6.25 *Is the development well laid out to provide adequate space and privacy for residents?*  
Please see Paragraph 6.19. The applicants are content with their existing arrangements with regards to privacy, and so no further screening is proposed for this purpose within the site. The existing provision is adequate to enable all three families to maintain the degree of privacy that they prefer. They are content to share the site equally and all benefit from the various structures and open spaces within the plot.

- 6.26 *Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?*

At the moment there is very little soft landscaping within the plot. There is little space to accommodate a significant degree of additional planting but again this is commonly the case for plots on Top Park and it is considered unreasonable to require the applicant to undertake this unless the expectation is to be applied to all plots within Top Park (should they be approved). There is however open communal space within the plot that could be utilised as a container garden, and the applicants could also explore options for utilising suspended planters along the fence line enclosing the site if they wished. Were Members minded to approve this application, an informative note would be included guiding the applicants on ways in which they could incorporate a limited degree of additional biodiversity provision within the site through strategic planters and similar provision.

- 6.27 *Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?*

The application is for residential purposes only and does not include any non-residential uses that could cause these issues. Such non-residential uses would be conditioned against through the aforementioned **Conditions 3 to 5** (inclusive) in the event that Members approve this application, which would limit the development to the purposes set out in the development description. The aforementioned **Condition 6**, which would make the planning permission personal to the applicants, would also help to prevent conflicting operations that could be detrimental to the residential use of the plot.

- 6.28 *Is there adequate provision for on-site services for water supply, power, drainage, sewage and waste disposal facilities?*

The applicant has access to power and water already set up within the site, and they have registered for RBC domestic general waste and recycling collections services (evidenced by the presence and frequent emptying of RBC registered wheelie bins on the site). Each plot on Top Park benefits from its own septic tank to manage sewage and grey water disposal, including Plot 16.

- 6.29 Moving on from Policy DS2 of the Local Plan, Section 5 of the NPPF looks at the provision of homes including those in rural locations. As Gypsy and Traveller accommodation is also considered to come under the umbrella of rural housing provision, this section is relevant to this development. Paragraph 80 of Section 5 sets out criteria for consideration when provision of homes would be in isolated locations. This application does not meet any of these tests specifically, which is one of the reasons why the LPA must decide whether or not the development amounts to very special circumstances based on the case put forward by the applicants as required by Paragraphs 149 and 150 of Section 13 of the NPPF.

- 6.30 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.10 to 6.13 (inclusive) of this report. In the considered opinion of the LPA, the applicant has provided sufficient evidence to establish that they would qualify as having Gypsy and Traveller status for the purposes of assessing planning applications, and that their requirements meet the criteria to be considered as a special exceptional circumstance to allow development that would otherwise be deemed

to be inappropriate in the Green Belt. With the use of suitably worded conditions, it is possible to meet all the requirements of Policies SDC1 and DS2 of the Local Plan that have not already been met by the existing and proposed on-site provision, as well as the various requirements set out in Sections 2, 5 and 13 of the NPPF. The principle of this development is therefore considered to be acceptable in Planning terms from this perspective.

- 6.31 Looking now at the Planning Policy for Traveller Sites (PPTS) 2015, as the LPA does not currently have sufficient allocated sites to meet the requirements for Gypsy and Traveller provision within the Borough some of the requirements of Policy B of the PPTS 2015 cannot currently be met. However, this application has been assessed following the principles set out in Paragraphs 10 and 13 of this document, which direct LPA's on the key criteria to be used for assessing the suitability of sites for designation for formal Gypsy and Traveller provision. The lack of sufficient provision for Gypsy and Traveller sites is a key consideration in favour of this development and carries significant weight in planning terms as a material factor for very special circumstances. Were the application to be refused and the applicants evicted, three generations of this family would be left with very few options available to them. Given the lack of formal provision in the Borough, it is likely that they would have to resort to an unauthorised encampment elsewhere in the Borough, which would then face the same considerations as this one has. As well as being far from ideal in terms of planning, this would also effectively result in three children and one vulnerable adult being made homeless. It would also mean that the applicant's mother lost all her support and care from him as her primary carer. As well as potentially having serious repercussions for the health and wellbeing of these individuals (and those who care for them), it could also jeopardise the children's access to ongoing primary education provision and the family's access to necessary ongoing medical and support services. These are factors that weigh strongly in favour of this development on the grounds of very special circumstances.
- 6.32 Policies C and E of the PPTS 2015 cover sites in rural countryside locations and those in the Green Belt. Policy E in particular makes it clear that even Gypsy and Traveller provision in the Green Belt is considered unacceptable unless very special circumstances exist that would outweigh the harm. As set out in this report, the LPA consider that this application does warrant consideration as a special exceptional circumstance, and as such the requirements of Policies C and E are also met.
- 6.33 Levels of existing provision (and the lack thereof) are also a key consideration within Policy H of the PPTS 2015, being identified as a specific consideration in Paragraph 24 alongside the availability or lack of alternative sites and the personal circumstances of the applicants. Policy H also encourages the use of planning conditions as a means of overcoming concerns and objections regarding such developments, which the LPA confirm would be their intention through identification of recommended conditions throughout this report.
- 6.34 For the reasons set out above, the principle of this development is also considered to be acceptable in terms of compliance with the Planning Policy for Traveller Sites 2015.
- 6.35 A Written Ministerial Statement published on 31 August 2015 made intentional unauthorised development a material consideration when determining planning applications and appeals from that date onwards. By the time the applicant and his family moved onto their plot, it was deemed to be unauthorised development. Their

decision to continue to develop and occupy their plot therefore indicates intentional unauthorised development, and this carries material weight which must be considered as part of the determination of these applications. However, as set out above within Section 6 of this report, there are key factors that weigh in favour of this development being deemed to be acceptable. On balance, in this case the LPA considers that the considerations in favour of permitting this development outweigh the harm that has been caused through intentional unauthorised development.

7.0 Visual impact

- 7.1 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well and add to the overall quality of the area over the lifetime of the development, are visually attractive, and are sympathetic to the local character and history.
- 7.2 Policy SDC1 of the Local Plan states that developments will only be supported where they are of a scale, density and design that responds to the character of the areas in which they are located. It also highlights key considerations for determination of such applications, including massing, landscape, layout and materials.
- 7.3 In objections received from local residents and the Parish Council, the visual impact of the Top Park site has been highlighted as a key concern. Objections share common themes relating to the contrast between the Top Park site and the rural landscape and the effect of external lighting increasing the impact.
- 7.4 In addition to considering the impact of the development on the character and appearance of the Green Belt (see above), a key factor of any development is the impact it has on the visual character of an area. In this case, we have a site located in an area away from the nearest villages of Shilton, Barnacle and Bulkington. There are however several Gypsy and Traveller sites in the locality, and as stated in Paragraph 6.7 of this report the older part of Top Park now benefits from a 5 year temporary planning permission so will continue to be a feature of the area until 2028. The surrounding undeveloped areas are farmland, with boundaries generally marked with field hedges. The general aesthetic of the area is therefore mixed natural landscape and Gypsy and Traveller development.
- 7.5 When approaching the site from the adjacent highway (Top Road), one of the first things to notice are the two entrances now serving Top Park (the established original one and the one the applicant uses to access their own plot) and the front perimeter fencing with the mobile homes lying beyond it. What is also evident is that the plot is surrounded by other Top Road plots that have been developed in a very similar way. Paragraphs 6.22 to 6.24 (inclusive) of this report set out the visual implications of the development, and also the fact that the surrounding development gives this plot context and prevents isolation. They also identify how further intensification would be controlled through a condition preventing the introduction of any more structures or vehicles than are presently on the plot (**Condition 8**) and requirement clauses in **Conditions 9, 10 and 11** relating to the replacement of structures to ensure that existing features that are to be replaced are removed prior to their replacements being brought onto site (so as to prevent cluttering and temporary overdevelopment arising from having a new feature on the plot at the same time as the one it is supposed to be replacing).

- 7.6 The LPA recognises local residents' concerns about the effect that external lighting can have on making the site more prominent in hours of darkness when there are no adjacent light sources (such as streetlights). There are many plots on the wider Top Park site that have some form of external lighting, and undoubtedly this does increase the prominence of the site in visual terms. Some external lighting is required for safety and security purposes given the lack of surrounding light sources in the public domain, so a degree of lighting is considered reasonable. Some mobile homes already come pre-fitted with low level illumination from inbuilt lights near the doors, and the LPA consider that this safety feature would fall within the reasonable requirements category. However, to prevent the installation of excessive or inappropriate additional external light sources in the future it is considered reasonable to restrict such installation through the aforementioned **Condition 11** (see Paragraph 6.24 of this report).
- 7.7 Another common concern raised in objections received by the LPA has been the fear of further development in the event that the Top Park site is approved, in particular the replacement of existing mobile homes with larger ones. The LPA recognise this as a very valid concern, and as set out in Paragraph 6.25 of this report would recommend that in the event of Members approving this application a condition be applied preventing this eventuality by requiring the applicant to seek prior written approval before replacing the mobile homes (**Condition 12**).
- 7.8 Within the plot itself, there is currently a predominance of gravel with the garden areas hidden behind fences. Whilst more green relief within the plot would help to break up the monotony of the gravel, the functional requirements of the open communal gravel area means that options for introducing landscaping are very limited. As noted in Paragraph 6.26 of this report, given the limited landscaping provision on other plots within Top Park, it would be unreasonable to apply a requirement for landscaping on this plot, but in the event that Members approve this application an informative note would be applied to give guidance on possible options for increasing biodiversity within the site where possible.
- 7.9 For the reasons set out above, and with the abovementioned conditions applied, the scheme complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to character and appearance. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 8.0 Residential Amenity
- 8.1 Several objectors have raised concerns over the cumulative impact of the level of Gypsy and Traveller accommodation in the locality on their access to services and facilities, but none seem to have raised particular concerns that directly relate to a material impact on their individual residential amenity as a result of the occupation of Plot 16.
- 8.2 Paragraphs 6.19 and 6.20 of this report set out the LPA's assessment of amenities for both those living on Plot 16 and those living either around them on Top Park or in neighbouring settlements. In summary, the applicant has sufficient privacy and space to meet their needs without compromising the amenities of those living on adjacent plots on Top Park, and the nearest settled residents are a sufficient distance away from the site so as not to be materially impacted upon in terms of loss of amenity.
- 8.3 Some objectors have raised concerns over disruption arising from noise nuisance, but again the nearest settled residential properties are a long way away from the site (between

250 metres away and 620 metres away). Whilst some noise may be arising from the site, the LPA considers that it would be unlikely to be to such an extent as to warrant supporting a refusal on amenity grounds given the significant distance between the settled community and Top Park. It would be difficult to discern noise coming purely from Top Park and Plot 16 in particular from adjacent development. Environmental Health have advised that it would not be necessary to require the undertaking of a full noise assessment. This was particularly considered in relation to adjacent plots on Top Road, and if the noise levels for those plots have not been deemed to be of concern, then the same must be true for those settled residents living much further away too.

- 8.4 In the event of an approval, the aforementioned **Conditions 3, 4, 5, 8, 9, 10, 11 and 12** will help to protect those living on adjacent plots within Top Park from a loss of amenity arising from further built development, replaced structures or inappropriate non-residential activities within Plot 16. **Condition 11** will help to ensure that external lighting was controlled, and as such should help to protect against light nuisance to neighbouring residents.
- 8.5 For the reasons set out above, and with the identified conditions applied, this development complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to residential amenity. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 9.0 Highway Safety
- 9.1 Several concerns have been raised by Parish Council, Borough Councillors and local residents regarding the implications of increasing Gypsy and Traveller development in the area on the intensity of the use of surrounding roads, particular those leading through Barnacle. WCC Highways were consulted on the application and raised no concerns or objections in terms of impact on the road network. They did however request that a condition be applied in the event of an approval regarding works to the access gates (**Condition 7**) and recommended informative notes re surface water run-off to prevent excessive water running onto Top Road.
- 9.2 As regards the parking and manoeuvring of vehicles within the site, whilst Appendix 5 of the Local Plan doesn't set a specific recommended level for parking provision for Gypsy and Traveller sites, for dwellings of a comparable size it is recommended to provide a total of 9no. parking spaces to cover the three dwellings collectively.
- 9.3 The communal area has been deliberately left free of structures to allow for adequate vehicle turning space and the parking of vehicles. They can park all their own vehicles within the site, and the area is large enough to be considered to be sufficient to meet both the parking need of the site and enable turning within the plot even when vehicles are already parked. This was witnessed in practice during the PLA site visit in February 2023. In any event, as the plot is shared by members of the same family, they can easily manage each other's needs and ensure the parking and turning of vehicles works sufficiently well at all times. As they tend to park immediately adjacent to the fences when at home, it is feasible for visitors to also park within the site or adjacent to the recessed access gates without affecting the functionality of the adjacent access track or impacting on Top Road. There is also sufficient space to accommodate additional vehicles to maintain the recommended level of provision in Appendix 5.

- 9.4 With the highway condition applied and the site layout protected through **Condition 2**, this scheme would comply with Policy D2 and Appendix 5 of the Rugby Borough Council Local Plan 2011-2031.
- 10.0 Sustainability and environmental impact
- 10.1 The environmental implications of development must be carefully considered, particularly as the Rugby Borough Council Local Plan 2011-2031 has reinforced the need to consider offsetting the impact of development through its policies GP1, HS5, SDC4 and SDC7. These in turn reinforce the wider importance and focus raised on these issues within Sections 2 and 12 of the NPPF 2021.
- 10.2 The environmental considerations (such as the implications of being in an Air Quality Management Area, and the need for water and energy efficiency) cross over into the requirements that will be placed on the developer through the need to comply with Building Regulation requirements but can also require control at the planning stage through the application of specifically worded conditions and supportive text.
- 10.3 The Local Plan defines Air Quality Neutral as “emissions from the development proposal being no worse, if not better, than those associated with the previous use.”
- 10.4 This site does not lie within the Air Quality Management Area, and the type of development applied for does not meet the triggers for requiring conditioned mitigation under Policy HS5. An informative would be applied in the event of an approval to guide the applicant on ways they can reduce their environmental impact. There are also options available to occupiers of the site to adopt water efficiency practices, such as limiting water waste and making more efficient use of the water supply that is consumed.
- 10.5 The Environmental Protection team were specifically consulted on this application and have recommended the application of a condition relating to previously contamination which would be applied as **Condition 13** in the event of an approval. The condition sets out a phased approach to be undertaken in the event that previously unidentified contamination is found within the site. Given the fact that no further development is proposed on Plot 16 that would disturb the ground or sub layers however, whilst this condition would be applied it would not require any response from the applicant at this stage. It should be noted that the LPA are not currently aware of any contamination issues in this area, and this condition is intended as a safeguarding measure rather than confirmation that there is already a contamination issue.
- 10.6 In terms of air quality mitigation, Environmental Health have raised no significant concerns and did not identify the need for any controls or conditions with regards to this. They have however recommended inclusion of an informative note in the event of an approval to guide the applicant on possible options to reduce their impact on air quality through mitigation and/or aiming to achieve air quality neutrality.
- 10.7 Environmental Health have also recommended environmental based informatives regarding drainage and implications of adjacent activities.
- 10.8 For the reasons set out above, the development complies with the environmental directions of policies GP1, HS5, SDC1 and SDC4 of the Rugby Borough Council Local Plan 2011-2031 with regards to air quality and some aspects of environmental impact. In

so doing, it would also meet the standards and guidance set out in Sections 2, 11 and 12 of the NPPF 2021 for those same criteria.

#### 11.0 Biodiversity

- 11.1 Policy NE1 of the Local Plan focusses on protection of designated biodiversity and geodiversity assets, supporting the aims and objectives of Section 15 of the NPPF. As part of this, both local and national planning policy details the need to consider biodiversity as part of the planning process, with the aim to seek opportunities to protect and enhance biodiversity and protected specials through all types of development whenever possible.
- 11.2 No particular biodiversity related objections were received from residents or the Parish Council, and biodiversity wasn't one of the reasons given in the Ward Councillor's request to take the case before the Planning Committee for consideration.
- 11.3 WCC Ecology were consulted on this application and have confirmed that they have no ecological concerns about the development. They have not requested any conditions or informatives be included in the event of an approval, but as stated in Paragraph 6.26 of this report an informative note would be applied in the event that Members are minded to approve this application to advise the applicant of options they may be able to explore to increase biodiversity opportunities and provisions within their plot
- 11.4 The scheme is considered to comply with Policy NE1 of the Rugby Borough Council Local Plan 2011-2031, and to accord with Section 15 of the NPPF 2021.

#### 12.0 Planning balance and conclusions

- 12.1 This scheme represents an inappropriate development in the Green Belt, and as such is not acceptable unless there are very special circumstances that sufficiently outweigh the harm that inappropriate development can otherwise cause. In this particular case there are four key factors that collectively represent reasonable grounds for this application to be considered as an exception to the usual presumption against development in the Green Belt:-
- The LPA currently has a shortfall in Gypsy and Traveller site provision within the borough, and there are no more appropriate locations within the borough that the applicant and their family could lawfully move to. This carries significant weight in favour of the application.
  - Refusing this application could result in the education of three children of primary school age being put at risk, as well as the health and wellbeing of three children and two vulnerable adults all of whom require regular access to services and facilities within the locality to meet their education and medical needs.
  - The applicant and their family identify as Romany Gypsies and wish to follow the cultural traditions of their heritage by raising children on a site where those traditions can be practiced as part of the cultural community with which they identify.
  - The applicant has direct familial links to other families residing on the Top Park site and was raised there from a young age. Both his mother and sister-in-law are reliant on both the applicant and their spouse to assist them with meeting daily needs, and the

applicant shares supervisory responsibilities for the children when they are not at school.

- 12.2 The very special circumstances outlined above clearly outweigh the harm to the Green Belt that has been caused by the inappropriate nature of the development. The development is therefore considered to be acceptable on the grounds of the very special circumstances associated with the application.
- 12.3 The 2015 Ministerial Statement means that this is deemed to be intentional unauthorised development which carries a considerable amount of weight against the development. However, on balance, the harm arising from this does not outweigh the very special circumstances in favour of approving the application as detailed above.
- 12.4 The principle of development is deemed to be acceptable, and the development meets all the key tests set out in Policy DS2 of the Local Plan.
- 12.5 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.6 The scheme is acceptable in terms of scale, character and appearance.
- 12.7 There are no highway safety concerns.
- 12.8 There are no environmental concerns.
- 12.9 There are no biodiversity concerns or necessary provision or protection measures.
- 12.10 The development does not detrimentally impact on the residential amenity of residents living outside Top Park, and the relationship and level of residential amenity for both the applicant and those living on adjacent plots on Top Park is acceptable to all parties affected.
- 12.11 **Condition 3** will tie the use of Plot 16 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.12 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.13 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.14 **Condition 6** will make the permission personal to the applicant, his spouse, his children, his mother and his sister-in-law.
- 12.15 **Condition 7** will require the reconfiguration of the access gates to the access road such that they open into the site rather than out over the adopted highway (Top Road), and that the access gates for Plot 16 itself open into the plot as opposed to out over the access road.

- 12.16 **Condition 8** will prevent the erection of any additional structures (including fencing, gates or other means of enclosure) and the installing of any additional mobile homes without the prior written agreement of the LPA.
- 12.17 **Condition 9** will prevent the bringing onto site of any additional tourer caravans without the prior written agreement of the LPA. It will include a requirement for any tourer being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.18 **Condition 10** will require the tourer caravans identified for removal as part of this application to be removed from site PRIOR to replacement tourers or mobile homes already identified in this application being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.19 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.20 **Condition 12** will protect against the replacement of the proposed mobile homes with larger models without the prior written agreement of the LPA. It will include a requirement for any mobile home being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple additional mobile homes being on site at the same time until the older one is removed.
- 12.21 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.22 Informative notes will be included in the event of an approval to guide the applicant on matters relating to:-
- Surface water run-off onto the highway (Top Road),
  - Biodiversity enhancement options,
  - Requirements for compliance with Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service,
  - Requirements of The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, (provision of sprinklers, and maintaining access for emergency vehicles),
  - Air quality mitigation and neutrality,
  - Drainage,
  - Impacts from existing adjacent activities,
  - Private sector housing team comments, and
  - Domestic waste collection.
- 12.23 The development complies with all relevant local and national planning policies.

### **13.0 Recommendation**

- 13.1 Planning application R22/0664 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report.
- 13.2 The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## DRAFT DECISION

**REFERENCE NO:**  
R22/0664

**DATE APPLICATION VALID:**  
30-Sep-2022

**APPLICANT:**

Mr Charles Calladine Plot 15, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

**ADDRESS OF DEVELOPMENT:**

Plot 16, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

**APPLICATION DESCRIPTION:**

Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track, and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan.

**CONDITIONS, REASONS AND INFORMATIVES:**

**CONDITION 1:**

This permission shall be deemed to have taken effect on 16 March 2023.

**REASON:**

To comply with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

**CONDITION 2:**

The development shall be carried out in accordance with the plans and documents detailed below:

Application form (received by the Local Planning Authority on 26 June 2022)

Drawing number 178-01 Revision B (received by the Local Planning Authority on 03 November 2022)

Drawing number 178-03 (received by the Local Planning Authority on 30 January 2023)

Drawing number 178-30 (received by the Local Planning Authority on 30 January 2023)

**REASON:**

For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority.

**CONDITION 3:**

The development hereby permitted shall only be occupied and used for the purposes of being a Gypsy and Traveller site and for no other purpose.

**REASON:**

As the development is only acceptable due to the applicant's circumstances, and to ensure the proper operational use of the site.

**CONDITION 4:**

No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer or burning of materials.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 5:**

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

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 6:**

The development hereby permitted shall be personal to Mr Charles Calladine, and the site shall only be used by Mr Calladine, his spouse, his children, his mother and his sister-in-law.

**REASON:**

As the development is only acceptable due to the applicant's personal circumstances.

**CONDITION 7:**

Within three months of the date of this planning permission, both the main gates adjacent to Top Road and the vehicular access gates to the site shall be reconfigured so as to open inwards only. Any further gates installed at the vehicular access shall thereafter open inwards only and shall at no time open outwards toward the public highway.

**REASON:**

In the interests of public and highway safety and the amenity of other users of the access road.

**CONDITION 8:**

Other than those hereby approved, no additional structures or enclosures shall be erected within or around the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. This includes (but is not limited to) both temporary and permanent structures, fencing, gates, and outbuildings, as well as any additional mobile homes.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 9:**

Other than those hereby approved, no additional tourer caravans shall be brought onto the site without the prior written approval of the Local Planning Authority. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 10:**

The tourer identified for removal as part of this development shall be removed prior to the mobile home replacing it being brought onto site. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 11:**

No additional external lighting shall be erected unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. Any lighting shall only be erected in accordance with the approved details.

**REASON:**

To ensure a satisfactory external appearance and in the interests of the visual amenities of the locality and the amenities of neighbouring residents.

**CONDITION 12:**

Other than those hereby approved, no replacement mobile homes shall be brought onto the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. No replacement mobile homes shall be brought onto site unless and until the mobile home being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 13:**

When carry out work as part of this development herby permitted, in the event that contamination is found it shall be reported in writing immediatly to the Local Planning Authority. Each of the following subsections a) to c) shall then be subject to approval in writing by the Local Planning Authority.

a) An investigation and risk assessment shall be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

b) Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared.

c) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared.

**REASON:**

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property, and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, and other off-site receptors.

#### INFORMATIVE 1:

The applicant/developer is advised that the development will need to comply with Approved Document B, Volume 2, Section B5 - Access and Facilities for the Fire Service. Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc regarding this can be found at: [www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning](http://www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning) Where compliance cannot be met, the applicant/developer will need to provide details of alternative measures intended to be put in place. Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18, Access for Emergency Vehicles. In addition, Warwickshire Fire and Rescue Authority fully endorse and support the fitting of sprinkler installations, in accordance with the relevant clauses of BS EN 12845 : 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

#### INFORMATIVE 2:

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

#### INFORMATIVE 3:

The applicant is encouraged to incorporate measures to assist in reducing their impact upon the Air Quality Management Area as part of this development. Initiatives could include the installation of an ultra-low emission boiler (<40mg/kWh), increased tree planting/landscaping, solar thermal panels, and the incorporation of electric vehicle charging points on any car parking. More information on plants that can be incorporated into landscaping for green walls and roofs can be found here:

[https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed\\_1.pdf](https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed_1.pdf) Such measures contribute towards improving air quality.

Further information can be obtained from Environmental Health on 01788 533857 or email [ept@rugby.gov.uk](mailto:ept@rugby.gov.uk)

#### INFORMATIVE 4:

The drainage and waste disposal system will need to comply with the Building Regulations 2010 Approved Document H (2015 Edition) – Drainage and Waste Disposal.

#### INFORMATIVE 5:

Where possible enhancements should be incorporated into the development to improve the habitats and opportunities for the local wildlife and increase biodiversity. Enhancements could include bat and bird boxes which may be used by a variety of species, native species planting and enhancement of existing of hedges and wild flower planting, habitat piles of rubble, logs and earth which can be used by reptiles, amphibians and invertebrates are also welcomed.

Warwickshire County Council Ecological Services (tel: 01926 418060) would be pleased to advise further if required.

#### INFORMATIVE 6:

The development is within farmland and will be subject to reasonable disturbance from noise, dust, odour, vibration and light associated with farming practices. These practices may at times extend into the night or early hours, such as harvest. Noise may also be audible from nearby road and rail traffic.

**INFORMATIVE 7:**

This development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations, the Council's Standards of Amenity, Caravan Sites and Control of Development Act 1960 and Mobile Homes Act 1983 (and subsequent Acts) as these may be applicable in terms of layout, spacing and fire precautions. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

**INFORMATIVE 8:**

The applicant/occupiers should consult with RBC Waste Services Team regarding waste collection proposals for the proposed development.

**Reference: R22/0665**

**Site Address: Plot 17, Top Park, Top Road, Barnacle, Coventry, CV7 9FS**

**Description: Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. mobile home, dog kennels, 1no. shed, gravel hardstanding, a paved patio, 2no. amenity buildings, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. mobile homes, and removal of 1no. existing shed.**

**Recommendation**

Planning application R22/0665 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report. The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

**1.0 Introduction**

- 1.1 This application has been called to Committee by Councillor Maoudis on behalf of the Parish Council, who have asked her to do so for the following reasons :-
- Inappropriate development in the Green Belt and no very special circumstances,
  - Unsustainable development (no public transport links or safe walking routes),
  - Visual impact,
  - Light pollution,
  - Inadequate drainage leading to potential environmental and health hazards,
  - Over-concentration of Gypsy and Traveller sites having disproportionate effect on the settled community,
  - Misleading inaccuracies in the application,
  - Existing injunction against such development without prior planning permission,
  - No planning permission currently exists or has ever existed for development on this site, and
  - Disregard for planning law, rules and regulations.

**2.0 Description of site**

- 2.1 This application relates to a single plot known as Plot 17, which is located on land adjacent to the main access road for a larger Gypsy and Traveller site near the village of Barnacle (Top Park). To the north, south and east of the plot lie similar Gypsy and Traveller plots, as well as aforementioned main access road serving Top Park. To the west of the plot is an unmade access track, beyond which is an open field that separates the site from development along Bulkington Road. Further to the north, Top Park is flanked a highway verge, beyond which is the adopted highway (Top Road). On the opposite side of Top Road is open pastureland bounded by low field hedges.
- 2.2 The plot is currently enclosed on the sides by timber fencing that averages approximately 1.5 metres in height. There is no internal subdivision of the plot.
- 2.3 At present there are a single static mobile home already on the site as well as two tourer caravans, the latter of which function in a similar manner to static mobile homes at the present time. The static mobile home is occupied by one of the applicant's children and their partner, and they couple are also expecting a baby later this year. It has replaced an

existing tourer caravan that was on site at the time the application was submitted. One of the remaining tourers is currently occupied by another of the applicant's children with their spouse and three of the applicant's grandchildren, with a fourth grandchild due later this year. The remaining tourer is occupied by the applicant and his spouse.

- 2.4 There are two matching single storey amenity buildings erected adjacent to the eastern boundary of the plot, either side of a pedestrian gate, which serve as kitchens and bathrooms that are shared by all occupants of the plot. These amenity buildings also include small cleaning stores that are used by the occupants of the plot to maintain both the amenity buildings and the caravans. In addition to these, in the north-western corner of the plot there is a small timber playhouse (referred to by the family as "The Dolls House") and a single storey utility building used for laundry purposes etc. by all occupants of the plot.
- 2.5 The majority of the plot is surfaced with loose stone, although artificial grass matting has been laid over areas adjacent to the amenity buildings to create stable and safe areas for the children to play. Whilst the existing site plans submitted indicate an area of block paving to the front of the existing mobile home, it was noted on an LPA site visit in February that this has already been removed. The area immediately to the front and side of the existing mobile home has been paved with slate slabs to create a small patio area. Both the removal of the block paving and the laying of the patio accord with the details submitted on the proposed site layout plan.
- 2.6 Whilst access to most of the plots on Top Park is via an established and formalised access off Top Road, Plot 17 uses a separate vehicular access via an existing unmade access track located to the right of the main Top Park entrance and leading from Top Road towards land at the rear of the Top Park site. The occupants of the plot utilise a formal gated vehicular access located in the north-western corner of the plot.

**3.0 Description of proposals**

- 3.1 The applicant and their family have occupied this plot since early 2020. They seek retrospective consent to formally change the use of the land to a Gypsy and Traveller pitch for three generations of the same family (the applicant, his children, and their families), and to retain the existing mobile home, associated outbuildings, fencing and surfacing. They also seek further planning permission to replace the 2no. existing tourer caravans with static mobile homes of a similar size and scale to one already on the plot.
- 3.2 As identified in Paragraphs 2.3 and 2.5 of this report, some of the works included on the proposed layout plan have already been undertaken. The development description has therefore been amended to reflect the current on-site arrangements and the works still to be undertaken.

**Planning History**

*Affecting Plots 14-19 collectively*

R20/0192	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0193	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0194	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no.	Withdrawn 05/10/22

mobile home.  
 R20/0195 Change of Use of paddock land to allow the siting of 1no. mobile home. Withdrawn 05/10/22

**NB - These applications were all withdrawn and replaced with applications that more accurately reflected the development undertaken.**

*Affecting adjacent Plots 14-16 and 18-19 (inc)*

R22/0637 Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and surfacing of the plot with gravel. Siting of 2no. touring caravans.  
**(Plot 19)**

R22/0664 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, Small grass area, vehicular access off access track, and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan.  
**(Plot 16)**

R22/0666 Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building.  
**(Plot 18)**

R22/0772 Retention of 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof.  
**(Plot 14)**

R22/1055 Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road.  
**(Plot 15)**

*Affecting the wider Top Park site*

R15/2017 The retention of the use of land and ancillary operational development as a residential caravan site (renewal of planning permission (Appeal) reference APP/E3715/A/06/2030623 (R06/0743/PLN) dated 18 January 2008) including the erection of six temporary amenity blocks (resubmission of previously withdrawn  
 Temporary approval (5 years)  
 15 March 2023

application R10/0959 dated 26/11/2010). Variation of Condition 1 of R10/2298 refused on 6 April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27 August 2013 to provide a permanent permission onsite at Top Park, Top Road, Barnacle.

### **Relevant Enforcement History**

#### *Affecting Plots 14-19 Top Park*

ENF/2020/0058 Temporary Stop Notice issued and served on 10 March 2020 for the undertaking of unauthorised works to apply a hard surface to the site and use of the land for the siting of static caravans/ mobile homes and/or as an unauthorised Gypsy and Traveller encampment in contravention of an injunction on the land dated 6 June 2008.

Enforcement Notices issued and served on 06 April 2020 for breach of planning controls through the material change of use of land, without planning permission, from a paddock to mixed use as a paddock and for the siting of a caravan/mobile home and portaloo and subsequently appealed. Appeal A (APP/E3715/C/20/325193, 3251934, 3251935, 3251936 and 3251937) was dismissed on 15 March 2022 and the Notices varied and upheld.

Enforcement Notices issued and served on 06 April 2020 for the erection, without planning permission, of fencing, gates and structures, and the removal of hedgerow to form an access and subsequently appealed. Appeal B (APP/E3715/C/20/3255440, 3255441, 3255442, 3255443 and 3255444) nullified the original Enforcement Notices and so no further action was required in relation to the appeal. As the Notices were nullified the LPA could take no further action to enforce them.

Neither appeal considered the planning merits of the development as this was not a ground of appeal that the applicants raised. The grounds that were raised were: a) the period for compliance was unreasonable, b) the Enforcement Notices weren't served correctly, c) the works had not occurred, and d) the steps taken to remedy the breach were excessive. As such, the Inspectors comments in the appeal decisions, whilst providing context for his decision, do not provide a view from the Inspector as to whether the development should be allowed or not.

Whilst the upheld Enforcement Notice carried a period of compliance ending no later than 31 October 2022, it was unreasonable for the Council to take further enforcement action until the live planning applications relating to these same plots of land had been determined.

When the Enforcement appeal site visit was conducted in 2022, it transpired that the works undertaken on site by that point no longer accurately reflected what was shown in the live planning applications submitted in 2020. The Council consulted with Counsel and, following Counsel's advice, advised the applicants that it would be pragmatic to withdraw the 2020 applications and submit fresh planning applications which accurately detailed the development that has occurred on site for which the applicant was seeking planning permission. This was without prejudice to any subsequent decisions that may be made by the Council., The resubmitted applications included this application for Plot 14 and until the application has been determined, it would not be expedient for the Council to pursue further action in relation to the upheld Enforcement Notice.

### *The wider Top Park site*

- R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring the cessation of the use of the land for the siting of caravans for residential use, trailers and commercial vehicles; and removal of all static and touring caravans not associated with the agricultural use of the land, all trailers and commercial vehicles parked on the land, and all timber sheds not associated with the use of the land for agricultural purposes. Appeal A (APP/E3715/C/11/2153638) allowed on 27 August 2013 resulting in the Enforcement Notice being corrected and quashed. Planning permission granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision.
- R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring removal of hardstandings, fencing not associated with the authorised use, and amenity buildings. Notice also required the restoration of the land to its former condition by seeding with grass in place of the hardstandings. Appeal B (APP/E3715/C/11/2154137) was allowed on 27 August 2013 and the Enforcement Notice was quashed. Planning permission was granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision or 6 months from the cessation of the use of the site as a residential caravan site, whichever was the sooner.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the change of use of land, without planning permission, from a paddock and the building of stables to a mixed use for the siting of residential caravans, trailers, and commercial storage, and the erection of a gymnasium and utility room. Appeal A (APP/E3715/C/03/1124483) was dismissed, and the Enforcement Notice varied and upheld on 20 February 2004.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the unauthorised formation of hardstanding, erection of fencing, and the erection of external lighting. Appeal B (APP/E3715/C/03/1124483) was dismissed and the Enforcement Notice varied, corrected and upheld on 20 February 2004.

### *The Injunction*

There is a historical injunction from 2008 covering the site, which amongst other things does not cause or permit any caravans or mobile homes to be stationed on the land. However, this does not prevent planning applications being submitted on the sites for the stationing of caravans or mobile homes and being subsequently determined by the Council. As such, whilst useful in explaining the context of this site, the existence of this historical injunction carries little to no weight in terms of determining this application.

### **Relevant Planning Policies**

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Local Plan 2011-2031. The relevant policies are outlined below.

Rugby Borough Local Plan 2011-2031, June 2019

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

DS2: Sites for Gypsy, Travellers and Travelling Showpeople

HS5: Traffic Generation and Air Quality, Noise and Vibration

NE1: Protecting Designated Biodiversity and Geodiversity Assets

SDC1: Sustainable Design

SDC4: Sustainable Buildings

D2: Parking Facilities

National Planning Policy Framework, 2021 (NPPF)

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 9: Promoting Sustainable Transport

Section 11: Making Effective Use of Land

Section 12: Achieving well-designed places

Section 13: Protecting Green Belt land

Section 15: Conserving and enhancing the natural environment

The Planning Policy for Traveller Sites 2015

Policy B: Planning for traveller sites

Policy C: Sites in rural areas and the countryside

Policy E: Traveller sites in Green Belt

Policy H: Determining planning applications for traveller sites

Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study  
(GTAA) September 2022

### **Technical consultation responses**

WCC Highways - No objections subject to condition re vehicular access gates, and informative re surface water run-off onto adopted highways.

WCC Ecology - No ecological concerns. No conditions or informative notes requested.

WCC Fire and Rescue - No objections subject to following criteria being met (as required by Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service):

- A fire appliance to gain access to within 45 metres of all points within the footprint of each building or in accordance with table 15.1 of ADB, Volume 2.
- A fire appliance to gain access to within 45 metres of all points inside each dwelling
- Minimum width of the access road is 3.7 metres along the entire length
- Minimum width of any gateways is 3.1 metres
- Minimum height clearance is 3.7 metres
- Minimum carrying capacity is 12.5 tonnes

- Dead-end access routes longer than 20 metres require turning facilities
- Turning circles should be a minimum of 16.8 metres between kerbs or 19.2 metres between walls.
- Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.

Advisory note re need for development to comply with Approved Document B, Volume 1, Section B5 – Access and Facilities for the Fire Service.

Notes re The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, provision of sprinklers, and maintaining access for emergency vehicles.

RBC Environmental Health - No objections subject to condition re previously unidentified contamination and informatives re air quality, drainage, impacts from existing activities, private sector housing team comments, and waste collection. No concerns over implications from road noise and no need for noise assessments or full contaminated land condition.

### **Third party comments**

Parish Council - Objections relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Visual impact,
- Light pollution,
- Inadequate drainage,
- Cumulative impact of Gypsy and Traveller sites in the locality on the settled community,
- Misleading and inaccurate details in the documentation,
- Lack of current or historical planning permission for the site, and
- Lack of respect for planning laws and regulations.

Ward Councillor - Called for application to be considered by the Planning Committee on behalf of the Parish Council on the grounds of their objections (see above).

Neighbours - Objections received from 13 households relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Lack of safe footpaths along Top Road and safety implications of this,
- Risks to health and safety,
- Impact on property values for settled residents,
- Detrimental impact on the Coventry Way walking route,
- Lack of explanation as to why the applicant's family needs to be located on this particular site rather than anywhere else,
- Incongruous development in type and scale,
- Insufficient local amenities to support existing demand,
- Visual impact and lack of screening,

- Overdevelopment of the site and exceeding density requirements,
- Light pollution,
- Existing Gypsy and Traveller sites should be used instead of expanding Top Park,
- Increased local flood risk,
- Site is isolated from other villages,
- Lack of supporting evidence of need or very special circumstances,
- Noise nuisance from traffic,
- Impact of traffic to and from the site on surrounding roads and congestion,
- Barnacle, Shilton and Bulkington are already accommodating considerable numbers of Travellers families which isn't fair,
- Misleading and inaccurate details in the documentation,
- Site unsuitable for habitation,
- Duration of unauthorised development on the wider Top Park site,
- Contempt for injunction and laws, and
- Anti-social and criminal behaviour

Comments also received relating to:-

- Need to consider all current Top Park applications collectively and not in isolation,
- Lack of Council provision of alternative sites to prevent this type of unauthorised development,
- Rights of Council Tax payers, and
- Warwickshire Structure Plan asserting that developments in rural areas should have the expressed support of the local community.

#### **4.0 Implications of the recent planning appeal dismissal for Land at Fosse Corner Gypsy and Traveller site (Appeal reference APP/E3715/W/21/3278838)**

4.1 Following refusal of a retrospective temporary (two year) planning application for the retention of 2no. Gypsy and Traveller pitches on land adjacent to the Fosse Way/Millers Lane junction near Monks Kirby (which also went before the Planning Committee), the LPA were involved in an appeal against that decision. The outcome of this appeal was recently confirmed, and the appeal was dismissed. For context, the appeal site was also located in open countryside and Green Belt, and Members' reasons for refusing the original planning application related to a) inappropriate development in the Green Belt with insufficient very special circumstances to outweigh the presumption against such development, b) unsustainability, and c) insufficient drainage and flooding risk. Due to insufficient supporting evidence to substantiate Members' third reason for refusal, the LPA were advised by Counsel not to defend it for the purposes of the appeal and so pursued their case on the basis of inappropriate development in the Green Belt and unsustainability (reasons 1 and 2 of the original planning refusal).

4.2 In summing up her findings as part of the appeal decision, the Inspector set out her balanced consideration of the pro's and con's of the case. The Inspector found that there was significant harm to the openness of the Green Belt, and that the weight to be applied to this this harm was not diminished by the temporary nature of the development. However, the Inspector did attach significant weight to a) the need for gypsy and traveller sites in the borough, b) the lack of supply of sites within the borough and the lack of an adopted Development Plan Document for such provision, c) the lack of alternative accommodation for the appellants and their families, and d) the personal circumstances of the appellants and their families. She also noted that, whilst not a determinative factor,

the best interests of the children directly affected by the development were a primary consideration and no other consideration could be deemed to be more important. The Inspector therefore determined that the best interests of the children residing on the appeal site weighed heavily in favour of the development.

- 4.3 The Inspector also found that the location of the site was suitable for a Gypsy and Traveller site given the proximity to services and facilities (factors that related to the LPA's unsustainability refusal reason), and ultimately based her decision to dismiss the appeal on the fact that the considerations in favour of the development as outlined above were not sufficient to outweigh the inappropriateness of the development in the Green Belt in light of the impact on openness and the visual impact of the development.
- 4.4 The location of this application site is also in both the Green Belt and open countryside. However, the plot itself is also located within a parcel of land immediately adjacent to a site that has been used for Gypsy and Traveller accommodation for almost 20 years (Top Park) and which is also subject to consideration by Members at the March 2023 Planning Committee under planning application reference R15/2017. This is a key difference to the Fosse Way site, as it means that the site is neither isolated nor incongruous with its immediate surroundings and benefits from this established context of similar adjacent development. Given the fact that the Inspector directly linked the additional visual harm to the weight she applied to the inappropriateness of the development at Fosse Way, it would therefore be reasonable to argue by extension that the *absence* of this additional visual harm should carry less weight in favour of a refusal on Green Belt grounds.

## **5.0 Assessment of proposals**

5.1 The key issues to assess in the determination of this application are:

- Principle of development (including Green Belt considerations)
- Visual impact
- Residential amenity
- Highways and parking
- Sustainability and environmental impact
- Biodiversity

6.0 Principle of development

6.1 Policy GP1 of the Local Plan states that when considering development proposals, a positive approach will be taken on development that reflects the presumption in favour of sustainable development and to secure development that improves the economic, social and environmental conditions in the area. This is reflected in Section 2 of the NPPF, where Paragraph 8 sets out the same key objectives. Paragraph 11 of the NPPF states that where there is an up to date development plan applications should be determined in line with that development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted"*.

6.2 Policy GP2 sets out the development hierarchy for the borough and states that in Green Belt locations, such as this, development will only be permitted if allowed by national policy. This is supported by Section 13 of the NPPF. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not

be approved except in very special circumstances. Paragraph 148 of the NPPF states that LPA's should ensure that sufficient weight is given to any harm to the Green Belt. It also states that 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.

6.3 Policy DS2 of the Local Plan specifically focuses on the provision and enabling of sufficient sites for use by the Gypsy and Traveller and Travelling Showpeople communities. At the time of its adoption, the Local Plan projected that there would be a need for an additional 61no. new Gypsy and Traveller pitches in the borough over the period from 2017-2032. This policy identifies key criteria for consideration when assessing Gypsy and Traveller site applications:-

- Does the site afford good access to local services such as schools and health facilities?
- Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?
- Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?
- Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?
- Does the development have appropriate vehicular access?
- Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?
- Is the development well laid out to provide adequate space and privacy for residents?
- Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?
- Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?

6.4 According to the published Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study September 2022 (GTAA), which is available on the Council's website, there is a projected need for the provision of 79no. permanent pitches by 2037 for Gypsies and Travellers. To meet this need, the GTAA recommends that 48no. such pitches should be found in the borough by 2027. Paragraph 6.5 of the GTAA recognises that smaller sites are preferred by the Gypsy and Traveller community, and Paragraph 6.6 recognises that some families in the Gypsy and Traveller community are also interested in increasing provision on existing sites. The GTAA report recognises the potential value of developing land that is either already owned by applicants or land that they intend to purchase in potentially meeting some of this identified demand.

6.5 Section 11 of the NPPF focuses on the effective use of land, Paragraph 119 stating that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses" and Paragraph 124 directing that consideration needs to be made in planning policies and decisions for "*the identified need for different types of housing and other forms of development*". This is not limited to the use of previously developed land, although such sites are often considered for this purpose. The need for homes includes the need to provide accommodation for the Gypsy and Traveller community as well as providing for the settled community.

- 6.6 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well over the lifetime of the development.
- 6.7 On 15 March 2023, the Planning Committee considered an application to grant permanent planning permission for the retention and continuation of operation of the older established part of Top Park (under planning reference number R15/2017). The Committee granted temporary permission for the site for a period of 5 years. The effect of this has been to confirm that the main part of Top Park can continue to operate until March 2028, but the site has not been granted permanent permission and as such cannot contribute towards the Council's identified provision requirements for permanent Gypsy and Traveller pitch provision in the borough. The development of that site pre-dates the 2015 Ministerial Statement on intentional unauthorised development, so could not be used as a material planning consideration to be weighed against such development.
- 6.8 Prior to Plot 17 being created, the land formed part of a small paddock that was privately owned by a person or persons with direct links to the established part of Top Park. It was laid to grass and used informally as a pony paddock by those occupying Top Park. Plot 17 itself was first occupied by the applicant and his family in early 2020 and the applicant purchased the land they and their family now occupy from the previous owner. They have always accessed their plot via the existing access track to the right of the site, rather than via the established Top Park access road to the left of their plot. Whilst they have gradually developed their plot over time, they have now completed the majority of the works they wanted to do and are not proposing any additional development as part of this application aside from the aforementioned replacement of the remaining tourer caravans with mobile homes.
- 6.9 As noted in Section 4 of this report, the plot is in both Green Belt and open countryside. There is a general presumption against inappropriate development of such land unless the development meets identified criteria set out in Paragraph 6.2 of this report or unless very special circumstances exist that sufficiently outweigh the presumption against inappropriate development. As Gypsy and Traveller site provision is *not* one of the existing exceptions to the presumption, favourable consideration of the principle of development in Green Belt terms would be reliant on the applicant establishing a case of very special circumstances.
- 6.10 Evidence of the personal circumstances of the applicants has been received and considered by the LPA. This evidence identified two key factors for consideration:-
- There are three children residing on the site who are either already in full time education and attending primary school locally or attend a nursery linked to the school with the intention being that they attend the school with their siblings when they are old enough.
  - There are two expectant mothers residing on the site.
  - Familial and cultural links to other occupiers of Top Park and relatives living in close proximity to the site.
- 6.11 In support of the first factor, the LPA have been provided with letters from care providers and the educational establishments attended by the children. This evidence is deemed sufficient to support the applicant's assertions that there are several children living on their

plot who need to remain in the locality in order to ensure consistent access to pre-school and primary education.

- 6.12 In support of the second factor, the applicant has confirmed that both of his children's families are expecting a baby this year, with one mother expecting her fourth child and one expecting her first.
- 6.13 In terms of familial and cultural links to the site and immediate locality, the family have relatives who live on the Top Park site and were already living there prior to the applicant and his family moving onto the site. The applicant and his family identify as Romany Gypsies and were all raised in the practices of Romany culture. Due to the educational needs of the children, they are not able to continue a transient lifestyle as that would affect their ability to maintain the children's regular attendance at school and nursery. They therefore wish to reside on the site to enable them to remain within their family and community and continue to practice as many of their cultural behaviours as their present circumstances allow.
- 6.14 Focussing now on the key tests set out in Policy DS2 of the Local Plan, the development will now be assessed against each of these in turn:-
- 6.15 *Does the site afford good access to local services such as schools and health facilities?*  
The site is located near to, but not within, a number of villages and suburbs that collectively have a range of local facilities including a primary school (Wolvey Church of England Primary in Wolvey where the school aged children are enrolled, and St James' Church of England Academy in Bulkington); pubs (in Shilton, Ansty, Wolvey, and the suburbs of Wood End, Neal's Green and Exhall in Coventry); places of worship (Shilton Baptist Church in Shilton; St James' Church of England Church in Ansty; Our Lady of the Sacred Heart Roman Catholic Church, St James's Church of England Church and Ryton Methodist Church in Bulkington); a dental practice (in Bulkington); medical practices (in Barnacle, Bulkington, Wolvey and the suburbs of Henley Green and Weston Lawns in Coventry); grocery stores (in Shilton, Bulkington and Wolvey), and supermarkets (in the Walsgrave suburb of Coventry). The area is also covered by emergency and hospital care via St Cross Hospital in Rugby, The George Eliot Hospital in Nuneaton, and University Hospitals Coventry and Warwickshire's site in Coventry.
- 6.16 *Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?*  
The site is not within an identified flood risk zone and is not adjacent to any known hazardous land uses that could be likely to endanger the health of the occupants of the site.
- 6.17 *Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?*  
This site is very small, being one of a total of 19 plots currently comprising the wider Top Park site. The recent temporary planning permission granted for the established part of Top Park (see Paragraph 6.7 of this report) means that this will continue to be a key development feature within the locality until March 2028. There are also several other Gypsy and Traveller sites close by on Bulkington Road and Mile Tree Lane. Considering the scale and size of this plot compared to the scale and size of Top Park as a whole, it is not considered that the site is excessive or inappropriate from this perspective.

- 6.18 *Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?*

At present, the solid timber boundary fencing that encloses the site is sufficient to maintain the level of privacy the site occupants prefer, as they like to be in visual contact with the neighbouring plots and share their open space communally between the families on Plot 17. The neighbouring plots prefer a similar degree of privacy so are also content with the arrangement. Due to the relationship between the plots within Top Park, if Members were minded to approve this application conditions have been recommended for inclusion that would tie the use of the plot solely to Gypsy and Traveller accommodation, preventing commercial activities, and preventing vehicles over 3.5 tonnes being brought onto site (to prevent conflicting uses that could detrimentally impact on neighbouring plots). These would be **Conditions 3 to 5** (inclusive). A further condition would also be included making the permission personal to the applicant and his family (**Condition 6**).

- 6.19 In terms of implications for those living outside the Top Park site, there are no neighbouring residences in close enough proximity to experience a direct material impact on privacy from the Top Park site due to their distances from the site (excluding Top Park the closest Gypsy and Traveller sites to Plot 17 are over 200 metres away, and the nearest settled dwellings in the villages of Bulkington, Barnacle, and Shilton are 250 metres, 580 metres, and 620 metres away respectively). It is not therefore considered reasonable or justifiable to place restrictive conditions relating to privacy or acoustic protection for these residents due to their significant distance from Top Park and from Plot 17 in particular.

- 6.20 *Does the development have appropriate vehicular access?*

The applicant uses an existing secondary access to the Top Park site that specifically serves only four of the Top Park plots and land to the rear of Top Park. Although originally just a field track, the access has been surfaced with gravel and widened to accommodate the size and type of vehicles serving the plots, including allowing for the manoeuvring of caravans. WCC Highways were specifically consulted on this application and have raised no objections to the continued use of this access as a primary means of direct vehicular and pedestrian access to Plot 17. However, this is subject to the inclusion of a specifically worded condition regarding reconfiguration of the main access gates so that they only open into the plot as opposed to outwards over the access road in order to ensure that they do not compromise access for other users and to protect the public highway. This would be **Condition 7** in the event that Members were minded to approve the application.

- 6.21 *Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?*

Prior to occupation of the land on which Plot 17 is located, there was a limited degree of partial screening by virtue of a pre-existing mixed species hedge along the back of the highway verge and the presence of some semi-mature trees within it. However, it was still possible to view the land from the highway due to the existing side access road and the fact that both the hedge and the trees were deciduous. Soon after the occupants of Plot 19 moving onto their own site, a section of the hedge was cut back and lowered to better facilitate the use of the access road, leaving more of the frontage of nearby Plot 19 exposed. This undoubtedly affected the visual characteristics of the wider site, although it had only a limited impact on Plot 17 specifically, as has the presence of the structures, tourers, and mobile home that currently occupy the site. However, the development that has been undertaken on and around Plot 17 is consistent with the more established development on Top Park, so whilst it may be the case that the level and type of

development has had a visual impact it has not been one that is so at odds with the pattern and form of development in this part of Top Road as to justify refusal of this application on that basis.

- 6.22 Should Members be minded to approve the application, it is considered reasonable to tightly control the potential for further development of the plot to prevent the intensification of its visual impact. Therefore, in the event of an approval, it is considered reasonable to apply restrictive conditions that would prevent the further intensification or material alteration of the development of the plot (beyond the changes proposed) that could harm the appearance of the locality and detrimentally affect the character and openness of the Green Belt. To that end, it is recommended that in the event of an approval conditions are included that require the prior written permission of the LPA for any additional structures, fences, gates, outbuildings or additional mobile homes and tourers above or beyond those subject of this application, and for the installation of additional external lighting. These would be **Conditions 8 to 10** (inclusive).
- 6.23 It is recognised that replacing mobile homes and tourers, whilst perhaps necessary over time, can also materially affect the overall visual impact of a site especially if they are larger or markedly different in terms of design than those they are replacing. At present the applicant does not intend to change the mobile home already on the site and has provided details of the proposed mobile homes that are to replace the two existing tourers. However, it is recognised that there are currently three children living on the site and that this number will rise to five children during the course of 2023. As they grow up and their needs change the family may find that meeting their needs requires further changes to their set up on the plot. Therefore, it is also considered reasonable in the event of an approval to have a mechanism to control future changes arising from the replacement of any existing mobile homes to ensure that replacements do not cumulatively result in intensification and overdevelopment of the plot by degrees. This would be **Condition 11** in the event that Members are minded to approve this development.
- 6.24 *Is the development well laid out to provide adequate space and privacy for residents?*  
Please see Paragraph 6.18. The applicants are content with their existing arrangements with regards to privacy, and so no further screening is proposed for this purpose within the site. The existing provision is adequate to enable all three families to maintain the degree of privacy that they prefer. They are content to share the site equally and all benefit from the various structures and open spaces within the plot.
- 6.25 *Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?*  
At the moment there is no soft landscaping within the plot. There is little space to accommodate a significant degree of additional planting but again this is commonly the case for plots on Top Park and it is considered unreasonable to require the applicant to undertake this unless the expectation is to be applied to all plots within Top Park (should they be approved). There is however some limited open communal space within the plot that could be utilised as a container garden, and the applicants could also explore options for utilising suspended planters along the fence line enclosing the site if they wished. Were Members minded to approve this application, an informative note would be included guiding the applicants on ways in which they could incorporate a limited degree of

additional biodiversity provision within the site through strategic planters and similar provision.

- 6.26 *Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?*

The application is for residential purposes only and does not include any non-residential uses that could cause these issues. Such non-residential uses would be conditioned against through the aforementioned **Conditions 3 to 5** (inclusive) in the event that Members approve this application, which would limit the development to the purposes set out in the development description. The aforementioned **Condition 6**, which would make the planning permission personal to the applicants, would also help to prevent conflicting operations that could be detrimental to the residential use of the plot.

- 6.27 *Is there adequate provision for on-site services for water supply, power, drainage, sewage and waste disposal facilities?*

The applicant has access to power and water already set up within the site, and they have registered for RBC domestic general waste and recycling collections services (evidenced by the presence and frequent emptying of RBC registered wheelie bins on the site). Each plot on Top Park benefits from its own septic tank to manage sewage and grey water disposal, including Plot 17.

- 6.28 Moving on from Policy DS2 of the Local Plan, Section 5 of the NPPF looks at the provision of homes including those in rural locations. As Gypsy and Traveller accommodation is also considered to come under the umbrella of rural housing provision, this section is relevant to this development. Paragraph 80 of Section 5 sets out criteria for consideration when provision of homes would be in isolated locations. This application does not meet any of these tests specifically, which is one of the reasons why the LPA must decide whether or not the development amounts to very special circumstances based on the case put forward by the applicants as required by Paragraphs 149 and 150 of Section 13 of the NPPF.

- 6.29 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.10 to 6.13 (inclusive) of this report. In the considered opinion of the LPA, the applicant has provided sufficient evidence to establish that they would qualify as having Gypsy and Traveller status for the purposes of assessing planning applications, and that their requirements meet the criteria to be considered as a very special circumstance to allow development that would otherwise be deemed to be inappropriate in the Green Belt. With the use of suitably worded conditions, it is possible to meet all the requirements of Policies SDC1 and DS2 of the Local Plan that have not already been met by the existing and proposed on-site provision, as well as the various requirements set out in Sections 2, 5 and 13 of the NPPF. The principle of this development is therefore considered to be acceptable in Planning terms from this perspective.

- 6.30 Looking now at the Planning Policy for Traveller Sites (PPTS) 2015, as the LPA does not currently have sufficient allocated sites to meet the requirements for Gypsy and Traveller provision within the Borough some of the requirements of Policy B of the PPTS 2015 cannot currently be met. However, this application has been assessed following the principles set out in Paragraphs 10 and 13 of this document, which direct LPA's on the key criteria to be used for assessing the suitability of sites for designation for formal Gypsy

and Traveller provision. The lack of sufficient provision for Gypsy and Traveller sites is a key consideration in favour of this development and carries significant weight in planning terms as a material factor for very special circumstances. Were the application to be refused and the applicant evicted, three generations of this family would be left with very few options available to them. Given the lack of formal provision in the Borough, it is likely that they would have to resort to an unauthorised encampment elsewhere in the Borough, which would then face the same considerations as this one has. As well as being far from ideal in terms of planning, this would also effectively result in three (soon to be five) children and two expectant mothers being made homeless. As well as potentially having serious repercussions for the health and wellbeing of these individuals (and those who care for them), it could also jeopardise the children's access to ongoing primary education provision and the family's access to necessary ongoing medical services. These are factors that weigh strongly in favour of this development on the grounds of very special circumstances.

6.31 Policies C and E of the PPTS 2015 cover sites in rural countryside locations and those in the Green Belt. Policy E in particular makes it clear that even Gypsy and Traveller provision in the Green Belt is considered *unacceptable unless very special circumstances exist that would outweigh the harm*. As set out in this report, the LPA consider that this application *does* warrant consideration as a special exceptional circumstance, and as such the requirements of Policies C and E are also met.

6.32 Levels of existing provision (and the lack thereof) are also a key consideration within Policy H of the PPTS 2015, being identified as a specific consideration in Paragraph 24 alongside the availability or lack of alternative sites and the personal circumstances of the applicants. Policy H also encourages the use of planning conditions as a means of overcoming concerns and objections regarding such developments, which the LPA confirm would be their intention through identification of recommended conditions throughout this report.

6.33 For the reasons set out above, the principle of this development is also considered to be acceptable in terms of compliance with the Planning Policy for Traveller Sites 2015.

7.0 Visual impact

7.1 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well and add to the overall quality of the area over the lifetime of the development, are visually attractive, and are sympathetic to the local character and history.

7.2 Policy SDC1 of the Local Plan states that developments will only be supported where they are of a scale, density and design that responds to the character of the areas in which they are located. It also highlights key considerations for determination of such applications, including massing, landscape, layout and materials.

7.3 In objections received from local residents and the Parish Council, the visual impact of the Top Park site has been highlighted as a key concern. Objections share common themes relating to the contrast between the Top Park site and the rural landscape and the effect of external lighting increasing the impact.

7.4 In addition to considering the impact of the development on the character and appearance of the Green Belt (see above), a key factor of any development is the impact it has on the visual character of an area. In this case, we have a site located in an area away from the

nearest villages of Shilton, Barnacle and Bulkington. There are however several Gypsy and Traveller sites in the locality, and as stated in Paragraph 6.7 of this report the older part of Top Park now benefits from a 5 year temporary planning permission so will continue to be a feature of the area until 2028. The surrounding undeveloped areas are farmland, with boundaries generally marked with field hedges. The general aesthetic of the area is therefore mixed natural landscape and Gypsy and Traveller development.

- 7.5 When approaching the site from the adjacent highway (Top Road), one of the first things to notice are the two entrances now serving Top Park (the established original one and the one the applicant uses to access their own plot) and the front perimeter fencing with the mobile homes lying beyond it. What is also evident is that the plot is surrounded by other Top Road plots that have been developed in a very similar way. Paragraphs 6.21 and 6.22 of this report set out the visual implications of the development, and also the fact that the surrounding development gives this plot context and prevents isolation. They also identify how further intensification would be controlled through a condition preventing the introduction of any more structures or vehicles than are presently on the plot (**Condition 8**) and requirement clauses in **Conditions 9, 10 and 11** relating to the replacement of structures to ensure that existing features that are to be replaced are removed prior to their replacements being brought onto site (so as to prevent cluttering and temporary overdevelopment arising from having a new feature on the plot at the same time as the one it is supposed to be replacing).
- 7.6 The LPA recognises local residents' concerns about the effect that external lighting can have on making the site more prominent in hours of darkness when there are no adjacent light sources (such as streetlights). There are many plots on the wider Top Park site that have some form of external lighting, and undoubtedly this does increase the prominence of the site in visual terms. Some external lighting is required for safety and security purposes given the lack of surrounding light sources in the public domain, so a degree of lighting is considered reasonable. Some mobile homes already come pre-fitted with low level illumination from inbuilt lights near the doors, and the LPA consider that this safety feature would fall within the reasonable requirements category. However, to prevent the installation of excessive or inappropriate additional external light sources in the future it is considered reasonable to restrict such installation through the aforementioned **Condition 11** (see Paragraph 6.23 of this report).
- 7.7 Another common concern raised in objections received by the LPA has been the fear of further development in the event that the Top Park site is approved, in particular the replacement of existing mobile homes with larger ones. The LPA recognise this as a very valid concern, and as set out in Paragraph 6.23 of this report would recommend that in the event of Members approving this application a condition be applied preventing this eventuality by requiring the applicant to seek prior written approval before replacing the mobile homes (**Condition 12**).
- 7.8 Within the plot itself, there is currently a predominance of gravel. Whilst more green relief within the plot would help to break up the monotony of the gravel, the functional requirements of the open communal gravel area means that options for introducing landscaping are very limited. As noted in Paragraph 6.25 of this report, given the limited landscaping provision on other plots within Top Park, it would be unreasonable to apply a requirement for landscaping on this plot, but in the event that Members approve this application an informative note would be applied to give guidance on possible options for increasing biodiversity within the site where possible.

- 7.9 For the reasons set out above, and with the abovementioned conditions applied, the scheme complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to character and appearance. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 8.0 Residential Amenity
- 8.1 Several objectors have raised concerns over the cumulative impact of the level of Gypsy and Traveller accommodation in the locality on their access to services and facilities, but none seem to have raised particular concerns that directly relate to a material impact on their individual residential amenity as a result of the occupation of Plot 17.
- 8.2 Paragraphs 6.18 and 6.19 of this report set out the LPA's assessment of amenities for both those living on Plot 17 and those living either around them on Top Park or in neighbouring settlements. In summary, the applicant has sufficient privacy and space to meet their needs without compromising the amenities of those living on adjacent plots on Top Park, and the nearest settled residents are a sufficient distance away from the site so as not to be materially impacted upon in terms of loss of amenity.
- 8.3 Some objectors have raised concerns over disruption arising from noise nuisance, but again the nearest settled residential properties are a long way away from the site (between 250 metres away and 620 metres away). Whilst some noise may be arising from the site, the LPA considers that it would be unlikely to be to such an extent as to warrant supporting a refusal on amenity grounds given the significant distance between the settled community and Top Park. It would be difficult to discern noise coming purely from Top Park and Plot 17 in particular from adjacent development. Environmental Health have advised that it would not be necessary to require the undertaking of a full noise assessment. This was particularly considered in relation to adjacent plots on Top Road, and if the noise levels for those plots have not been deemed to be of concern, then the same must be true for those settled residents living much further away too.
- 8.4 In the event of an approval, the aforementioned Conditions 3, 4, 5, 8, 9, 10, 11 and 12 will help to protect those living on adjacent plots within Top Park from a loss of amenity arising from further built development, replaced structures or inappropriate non-residential activities within Plot 17. Condition 11 will help to ensure that external lighting was controlled, and as such should help to protect against light nuisance to neighbouring residents.
- 8.5 For the reasons set out above, and with the identified conditions applied, this development complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to residential amenity. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 9.0 Highway Safety
- 9.1 Several concerns have been raised by Parish Council, Borough Councillors and local residents regarding the implications of increasing Gypsy and Traveller development in the area on the intensity of the use of surrounding roads, particular those leading through Barnacle. WCC Highways were consulted on the application and raised no concerns or objections in terms of impact on the road network. They did however request that a condition be applied in the event of an approval regarding works to the access gates

- (Condition 7) and recommended informative notes re surface water run-off to prevent excessive water running onto Top Road.
- 9.2 As regards the parking and manoeuvring of vehicles within the site, whilst Appendix 5 of the Local Plan doesn't set a specific recommended level for parking provision for Gypsy and Traveller sites, for dwellings of a comparable size it is recommended to provide a total of 5no. parking spaces to cover the dwellings collectively.
- 9.3 The central communal area has been deliberately left free of structures to allow for adequate vehicle turning space and the parking of vehicles. They can park all their own vehicles within the site, and the area is large enough to be considered to be sufficient to meet both the parking need of the site and enable turning within the plot even when vehicles are already parked. This was witnessed in practice during the PLA site visit in February 2023. In any event, as the plot is shared by members of the same family, they can easily manage each other's needs and ensure the parking and turning of vehicles works sufficiently well at all times. As they tend to park immediately adjacent to the fences when at home, it is feasible for visitors to also park within the site or adjacent to the recessed access gates without affecting the functionality of the adjacent access track or impacting on Top Road. There is also sufficient space to accommodate additional vehicles to maintain the recommended level of provision in Appendix 5.
- 9.4 With the highway condition applied and the site layout protected through Condition 2, this scheme would comply with Policy D2 and Appendix 5 of the Rugby Borough Council Local Plan 2011-2031.
- 10.0 Sustainability and environmental impact
- 10.1 The environmental implications of development must be carefully considered, particularly as the Rugby Borough Council Local Plan 2011-2031 has reinforced the need to consider offsetting the impact of development through its policies GP1, HS5, SDC4 and SDC7. These in turn reinforce the wider importance and focus raised on these issues within Sections 2 and 12 of the NPPF 2021.
- 10.2 The environmental considerations (such as the implications of being in an Air Quality Management Area, and the need for water and energy efficiency) cross over into the requirements that will be placed on the developer through the need to comply with Building Regulation requirements but can also require control at the planning stage through the application of specifically worded conditions and supportive text.
- 10.3 The Local Plan defines Air Quality Neutral as *"emissions from the development proposal being no worse, if not better, than those associated with the previous use."*
- 10.4 This site does not lie within the Air Quality Management Area, and the type of development applied for does not meet the triggers for requiring conditioned mitigation under Policy HS5. An informative would be applied in the event of an approval to guide the applicant on ways they can reduce their environmental impact. There are also options available to occupiers of the site to adopt water efficiency practices, such as limiting water waste and making more efficient use of the water supply that is consumed.
- 10.5 The Environmental Protection team were specifically consulted on this application and have recommended the application of a condition relating to previously contamination which would be applied as Condition 13 in the event of an approval. The condition sets

out a phased approach to be undertaken in the event that previously unidentified contamination is found within the site. Given the fact that no further development is proposed on Plot 17 that would disturb the ground or sub layers however, whilst this condition would be applied it would not require any response from the applicant at this stage. It should be noted that the LPA are not currently aware of any contamination issues in this area, and this condition is intended as a safeguarding measure rather than confirmation that there is already a contamination issue.

- 10.6 In terms of air quality mitigation, Environmental Health have raised no significant concerns and did not identify the need for any controls or conditions with regards to this. They have however recommended inclusion of an informative note in the event of an approval to guide the applicant on possible options to reduce their impact on air quality through mitigation and/or aiming to achieve air quality neutrality.
- 10.7 Environmental Health have also recommended environmental based informatives regarding drainage and implications of adjacent activities.
- 10.8 For the reasons set out above, the development complies with the environmental directions of policies GP1, HS5, SDC1 and SDC4 of the Rugby Borough Council Local Plan 2011-2031 with regards to air quality and some aspects of environmental impact. In so doing, it would also meet the standards and guidance set out in Sections 2, 11 and 12 of the NPPF 2021 for those same criteria.
- 11.0 Biodiversity
- 11.1 Policy NE1 of the Local Plan focusses on protection of designated biodiversity and geodiversity assets, supporting the aims and objectives of Section 15 of the NPPF. As part of this, both local and national planning policy details the need to consider biodiversity as part of the planning process, with the aim to seek opportunities to protect and enhance biodiversity and protected specials through all types of development whenever possible.
- 11.2 No particular biodiversity related objections were received from residents or the Parish Council, and biodiversity wasn't one of the reasons given in the Ward Councillor's request to take the case before the Planning Committee for consideration.
- 11.3 WCC Ecology were consulted on this application and have confirmed that they have no ecological concerns about the development. They have not requested any conditions or informatives be included in the event of an approval, but as stated in Paragraph 6.24 of this report an informative note would be applied in the event that Members are minded to approve this application to advise the applicant of options they may be able to explore to increase biodiversity opportunities and provisions within their plot.
- 11.4 The scheme is considered to comply with Policy NE1 of the Rugby Borough Council Local Plan 2011-2031, and to accord with Section 15 of the NPPF 2021..

## **12.0 Planning balance and conclusions**

- 12.1 This scheme represents an inappropriate development in the Green Belt, and as such is not acceptable unless there are very special circumstances that sufficiently outweigh the harm that inappropriate development can otherwise cause. In this particular case there are four key factors that collectively represent reasonable grounds for this application to be considered as an exception to the usual presumption against development in the Green Belt :-

- The LPA currently has a shortfall in Gypsy and Traveller site provision within the borough, and there are no more appropriate locations within the borough that the applicant and their family could lawfully move to. This carries significant weight in favour of the application.
  - Refusing this application could result in the education of two children of primary school age and one of nursery age being put at risk, as well as the health and wellbeing of three children and two expectant mothers all of whom require regular access to services and facilities within the locality to meet their education and medical needs.
  - The applicant and their families identify as Romany Gypsies and wish to follow the cultural traditions of their heritage by raising children on a site where those traditions can be practiced as part of the cultural community with which they identify.
  - The applicant has direct familial links to other families residing on the Top Park site and his grandchildren have been raised there from a young age. Both expectant mothers are reliant on both the applicant and their husbands to assist them with meeting the daily needs of both themselves and their children, and the applicant shares supervisory responsibilities for the grandchildren when they are not at school or nursery.
- 12.2 The very special circumstances outlined above clearly outweigh the harm to the Green Belt that has been caused by the inappropriate nature of the development. The development is therefore considered to be acceptable on the grounds of the very special circumstances associated with the application.
- 12.3 The principle of development is deemed to be acceptable, and the development meets all the key tests set out in Policy DS2 of the Local Plan.
- 12.4 The 2015 Ministerial Statement means that this is deemed to be intentional unauthorised development which carries a considerable amount of weight against the development. However, on balance, the harm arising from this does not outweigh the very special circumstances in favour of approving the application as detailed above.
- 12.5 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.6 The scheme is acceptable in terms of scale, character and appearance.
- 12.7 There are no highway safety concerns.
- 12.8 There are no environmental concerns.
- 12.9 There are no biodiversity concerns or necessary provision or protection measures.
- 12.10 The development does not detrimentally impact on the residential amenity of residents living outside Top Park, and the relationship and level of residential amenity for both the applicant and those living on adjacent plots on Top Park is acceptable to all parties affected.

- 12.11 **Condition 3** will tie the use of Plot 17 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.12 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.13 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.14 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.15 **Condition 7** will require the reconfiguration of the access gates to the access road such that they open into the site rather than out over the adopted highway (Top Road), and that the access gates for Plot 17 itself open into the plot as opposed to out over the access road.
- 12.16 **Condition 8** will prevent the erection of any additional structures (including fencing, gates or other means of enclosure) and the installing of any additional mobile homes without the prior written agreement of the LPA.
- 12.17 **Condition 9** will prevent the bringing onto site of any additional tourer caravans without the prior written agreement of the LPA. It will include a requirement for any tourer being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.18 **Condition 10** will require the tourer caravans identified for removal as part of this application to be removed from site PRIOR to replacement tourers or mobile homes already identified in this application being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.19 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.20 **Condition 12** will protect against the replacement of any existing or proposed the proposed mobile homes with larger models without the prior written agreement of the LPA. It will include a requirement for any mobile home being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple additional mobile homes being on site at the same time until the older one is removed.
- 12.21 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.22 Informative notes will be included in the event of an approval to guide the applicant on matters relating to:-
- Surface water run-off onto the highway (Top Road),
  - Biodiversity enhancement options,
  - Requirements for compliance with Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service,

- Requirements of The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, (provision of sprinklers, and maintaining access for emergency vehicles),
- Air quality mitigation and neutrality,
- Drainage,
- Impacts from existing adjacent activities,
- Private sector housing team comments, and
- Domestic waste collection.

12.23 The development complies with all relevant local and national planning policies.

### **13.0 Recommendation**

13.1 Planning application R22/0637 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report.

13.2 The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **DRAFT DECISION**

### **REFERENCE NO:**

R22/0665

### **DATE APPLICATION VALID:**

30-Sep-2022

### **APPLICANT:**

Mr Adolphus Buckland Plot 17 Top Park, Top Road, Barnacle, CV7 9FS

### **ADDRESS OF DEVELOPMENT:**

Plot 17, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

### **APPLICATION DESCRIPTION:**

Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. mobile home, dog kennels, 1no. shed, gravel hardstanding, a paved patio, 2no. amenity buildings, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. mobile homes, and removal of 1no. existing shed.

### **CONDITIONS, REASONS AND INFORMATIVES:**

#### **CONDITION 1:**

This permission shall be deemed to have taken effect on 16 March 2023.

#### **REASON:**

To comply with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

#### **CONDITION 2:**

The development shall be carried out in accordance with the plans and documents detailed below:

Application form (received by the Local Planning Authority on 26 June 2022)

Drawing number 178-01 Revision A (received by the Local Planning Authority on 03 November 2022)

Drawing number 178-05 (received by the Local Planning Authority on 30 January 2023)  
Drawing number 178-31 (received by the Local Planning Authority on 30 January 2023)

**REASON:**

For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority.

**CONDITION 3:**

The development hereby permitted shall only be occupied and used for the purposes of being a Gypsy and Traveller site and for no other purpose.

**REASON:**

As the development is only acceptable due to the applicant's circumstances, and to ensure the proper operational use of the site.

**CONDITION 4:**

No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer or burning of materials.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 5:**

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

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 6:**

The development hereby permitted shall be personal to Mr Adolphus Buckland, and the site shall only be used by Mr Buckland and his spouse, Mr Adolphus James Buckland and his spouse and children, and Mr Wesley Buckland and his spouse and children.

**REASON:**

As the development is only acceptable due to the applicant's personal circumstances.

**CONDITION 7:**

Within three months of the date of this planning permission, both the main gates adjacent to Top Road and the vehicular access gates to the site shall be reconfigured so as to open inwards only. Any further gates installed at the vehicular access shall thereafter open inwards only and shall at no time open outwards toward the public highway.

**REASON:**

In the interests of public and highway safety and the amenity of other users of the access road.

**CONDITION 8:**

Other than those hereby approved, no additional structures or enclosures shall be erected within or around the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. This includes (but is not

limited to) both temporary and permanent structures, fencing, gates, and outbuildings, as well as any additional mobile homes.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 9:**

Other than those hereby approved, no additional tourer caravans shall be brought onto the site without the prior written approval of the Local Planning Authority. No replacement tourer caravan shall be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 10:**

Any tourer identified for removal as part of this development shall be removed prior to the mobile home replacing it being brought onto site. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 11:**

No additional external lighting shall be erected unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. Any lighting shall only be erected in accordance with the approved details.

**REASON:**

To ensure a satisfactory external appearance and in the interests of the visual amenities of the locality and the amenities of neighbouring residents.

**CONDITION 12:**

Other than those hereby approved, no replacement mobile homes shall be brought onto the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. No replacement mobile homes shall be brought onto site unless and until the mobile home being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 13:**

When carry out work as part of this development hereby permitted, in the event that contamination is found it shall be reported in writing immediately to the Local Planning Authority.

Each of the following subsections a) to c) shall then be subject to approval in writing by the Local Planning Authority.

a) An investigation and risk assessment shall be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

b) Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared.

c) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared.

#### REASON:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property, and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, and other off-site receptors.

#### INFORMATIVE 1:

The applicant/developer is advised that the development will need to comply with Approved Document B, Volume 2, Section B5 - Access and Facilities for the Fire Service. Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc regarding this can be found at: [www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning](http://www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning) Where compliance cannot be met, the applicant/developer will need to provide details of alternative measures intended to be put in place. Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18, Access for Emergency Vehicles. In addition, Warwickshire Fire and Rescue Authority fully endorse and support the fitting of sprinkler installations, in accordance with the relevant clauses of BS EN 12845 : 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

#### INFORMATIVE 2:

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

#### INFORMATIVE 3:

The applicant is encouraged to incorporate measures to assist in reducing their impact upon the Air Quality Management Area as part of this development. Initiatives could include the installation of an ultra-low emission boiler (<40mg/kWh), increased tree planting/landscaping, solar thermal panels, and the incorporation of electric vehicle charging points on any car parking. More information on plants that can be incorporated into landscaping for green walls and roofs can be found here:

[https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed\\_1.pdf](https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed_1.pdf) Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email [ept@rugby.gov.uk](mailto:ept@rugby.gov.uk)

#### INFORMATIVE 4:

The drainage and waste disposal system will need to comply with the Building Regulations 2010 Approved Document H (2015 Edition) – Drainage and Waste Disposal.

**INFORMATIVE 5:**

Where possible enhancements should be incorporated into the development to improve the habitats and opportunities for the local wildlife and increase biodiversity. Enhancements could include bat and bird boxes which may be used by a variety of species, native species planting and enhancement of existing hedges and wild flower planting, habitat piles of rubble, logs and earth which can be used by reptiles, amphibians and invertebrates are also welcomed. Warwickshire County Council Ecological Services (tel: 01926 418060) would be pleased to advise further if required.

**INFORMATIVE 6:**

The development is within farmland and will be subject to reasonable disturbance from noise, dust, odour, vibration and light associated with farming practices. These practices may at times extend into the night or early hours, such as harvest. Noise may also be audible from nearby road and rail traffic.

**INFORMATIVE 7:**

This development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations, the Council's Standards of Amenity, Caravan Sites and Control of Development Act 1960 and Mobile Homes Act 1983 (and subsequent Acts) as these may be applicable in terms of layout, spacing and fire precautions. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

**INFORMATIVE 8:**

The applicant/occupiers should consult with RBC Waste Services Team regarding waste collection proposals for the proposed development.



**Reference: R22/0666**

**Site Address: Plot 18, Top Park, Top Road, Barnacle, Coventry, CV7 9FS**

**Description: Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building.**

### **Recommendation**

Planning application R22/0666 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report. The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **1.0 Introduction**

- 1.1 This application has been called to Committee by Councillor Maoudis on behalf of the Parish Council, who have asked her to do so for the following reasons :-
- Inappropriate development in the Green Belt and no very special circumstances,
  - Unsustainable development (no public transport links or safe walking routes),
  - Visual impact,
  - Light pollution,
  - Inadequate drainage leading to potential environmental and health hazards,
  - Over-concentration of Gypsy and Traveller sites having disproportionate effect on the settled community,
  - Misleading inaccuracies in the application,
  - Existing injunction against such development without prior planning permission,
  - No planning permission currently exists or has ever existed for development on this site, and
  - Disregard for planning law, rules and regulations.

## **2.0 Description of site**

- 2.1 This application relates to a single plot known as Plot 18, which is located on land adjacent to the main access road for a larger Gypsy and Traveller site near the village of Barnacle (Top Park). To the north, south and east of the plot lie similar Gypsy and Traveller plots, as well as aforementioned main access road serving Top Park. To the west of the plot is an unmade access track, beyond which is an open field that separates the site from development along Bulkington Road. Further to the north, Top Park is flanked a highway verge, beyond which is the adopted highway (Top Road). On the opposite side of Top Road is open pastureland bounded by low field hedges.
- 2.2 The plot is currently enclosed on the sides by timber fencing that averages approximately 1.5 metres in height. There is no internal subdivision of the plot. At present there is a single mobile home located such that its rear elevation flanks the southern boundary fence of the site, with an elevated deck to the right hand side. No tourers have been witnessed on site during site visits by the LPA, and none have been provided for on the site plans submitted. However, as the development description makes reference to retention of a single tourer, this assessment is based on provision for both the mobile home and a tourer.

The applicant, her partner, and their three children live together in the mobile home. No-one else resides on the site.

- 2.3 On ground to the right of the mobile home the applicant erected a playhouse/dolls house, a two tier climbing frame and a small shed, the latter of which was to be removed. To the rear of the mobile home is a fabric gazebo, and another small shed was also erected next to it which is to be removed. Finally, in the north-eastern corner of the site is an amenity building which serves as a kitchen and bathroom to complement similar facilities in the mobile home. There are no other structures presently on site.
- 2.4 The majority of the plot is surfaced with loose gravel, with an area of grass where the play equipment is located.
- 2.5 Whilst access to most of the plots on Top Park is via an established and formalised access off Top Road, Plot 18 uses a separate vehicular access via an existing unmade access track located to the right of the main Top Park entrance and leading from Top Road towards land at the rear of the Top Park site. The occupants of the plot utilise a formal gated vehicular access directly off this access track, with double timber gates across the vehicular entrance in the north-western corner of the plot.

### **3.0 Description of proposals**

- 3.1 The applicant and their family have occupied this plot since January 2020. They seek retrospective consent to formally change the use of the land to a Gypsy and Traveller pitch for their family (the applicant, her partner and their three children), and to retain the existing mobile home. Whilst not shown on the proposed or existing site plans, the applicant also wishes to continue to site a tourer on the site. In addition to the accommodation, the applicant also seeks to retain play equipment (comprising a climbing frame and a playhouse/dolls house) and an amenity building (which was recently completed and serves as a kitchen and bathroom with storage for cleaning materials etc.), as well as the existing surfacing materials and access gates.
- 3.2 As part of the proposals two small sheds are to be removed, and no additional structures are proposed.

### **Planning History**

#### *Affecting Plots 14-19 collectively*

R20/0192	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0193	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0194	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22

**NB - These applications were all withdrawn and replaced with applications that more accurately reflected the development undertaken.**

*Affecting adjacent Plots 14-16 and 18-19 (inc)*

- R22/0637 Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and surfacing of the plot with gravel. Siting of 2no. touring caravans. **(Plot 19)** Application ongoing
- R22/0664 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track, and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan. **(Plot 16)** Application ongoing
- R22/0665 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, dog kennels, 1no. shed, gravel hardstanding, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. static caravans, and removal of 1no. existing shed. **(Plot 17)** Application ongoing
- R22/0772 Retention of 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof. **(Plot 14)** Application ongoing
- R22/1055 Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road. **(Plot 15)** Application ongoing

*Affecting the wider Top Park site*

- R15/2017 The retention of the use of land and ancillary operational development as a residential caravan site (renewal of planning permission (Appeal) reference APP/E3715/A/06/2030623 (R06/0743/PLN) dated 18 January 2008) including the erection of six temporary amenity blocks (resubmission of previously withdrawn application R10/0959 dated 26/11/2010). Variation of Condition 1 of R10/2298 refused on 6 April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27 August 2013 to provide a permanent permission onsite at Top Park, Top Road, Barnacle. Temporary approval (5 years) 15 March 2023

## **Relevant Enforcement History**

### *Affecting Plots 14-19 Top Park*

ENF/2020/0058 Temporary Stop Notice issued and served on 10 March 2020 for the undertaking of unauthorised works to apply a hard surface to the site and use of the land for the siting of static caravans/ mobile homes and/or as an unauthorised Gypsy and Traveller encampment in contravention of an injunction on the land dated 6 June 2008.

Enforcement Notices issued and served on 06 April 2020 for breach of planning controls through the material change of use of land, without planning permission, from a paddock to mixed use as a paddock and for the siting of a caravan/mobile home and portaloo and subsequently appealed. Appeal A (APP/E3715/C/20/325193, 3251934, 3251935, 3251936 and 3251937) was dismissed on 15 March 2022 and the Notices varied and upheld.

Enforcement Notices issued and served on 06 April 2020 for the erection, without planning permission, of fencing, gates and structures, and the removal of hedgerow to form an access and subsequently appealed. Appeal B (APP/E3715/C/20/3255440, 3255441, 3255442, 3255443 and 3255444) nullified the original Enforcement Notices and so no further action was required in relation to the appeal. As the Notices were nullified the LPA could take no further action to enforce them.

Neither appeal considered the planning merits of the development as this was not a ground of appeal that the applicants raised. The grounds that were raised were: a) the period for compliance was unreasonable, b) the Enforcement Notices weren't served correctly, c) the works had not occurred, and d) the steps taken to remedy the breach were excessive. As such, the Inspectors comments in the appeal decisions, whilst providing context for his decision, do not provide a view from the Inspector as to whether the development should be allowed or not.

Whilst the upheld Enforcement Notice carried a period of compliance ending no later than 31 October 2022, it was unreasonable for the Council to take further enforcement action until the live planning applications relating to these same plots of land had been determined.

When the Enforcement appeal site visit was conducted in 2022, it transpired that the works undertaken on site by that point no longer accurately reflected what was shown in the live planning applications submitted in 2020. The Council consulted with Counsel and, following Counsel's advice, advised the applicants that it would be pragmatic to withdraw the 2020 applications and submit fresh planning applications which accurately detailed the development that has occurred on site for which the applicant was seeking planning permission. This was without prejudice to any subsequent decisions that may be made by the Council., The resubmitted applications included this application for Plot 14 and until the application has been determined, it would not be expedient for the Council to pursue further action in relation to the upheld Enforcement Notice.

### *The Injunction*

There is a historical injunction from 2008 covering the site, which amongst other things does not cause or permit any caravans or mobile homes to be stationed on the land. However, this does not prevent planning applications being submitted on the sites for the stationing of caravans or mobile homes and being subsequently determined by the Council. As such, whilst useful in explaining the context of this site, the existence of this historical injunction carries little to no weight in terms of determining this application.

## Relevant Planning Policies

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Local Plan 2011-2031. The relevant policies are outlined below.

Rugby Borough Local Plan 2011-2031, June 2019

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

DS2: Sites for Gypsy, Travellers and Travelling Showpeople

HS5: Traffic Generation and Air Quality, Noise and Vibration

NE1: Protecting Designated Biodiversity and Geodiversity Assets

SDC1: Sustainable Design

SDC4: Sustainable Buildings

D2: Parking Facilities

National Planning Policy Framework, 2021 (NPPF)

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 9: Promoting Sustainable Transport

Section 11: Making Effective Use of Land

Section 12: Achieving well-designed places

Section 13: Protecting Green Belt land

Section 15: Conserving and enhancing the natural environment

The Planning Policy for Traveller Sites 2015

Policy B: Planning for traveller sites

Policy C: Sites in rural areas and the countryside

Policy E: Traveller sites in Green Belt

Policy H: Determining planning applications for traveller sites

Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study (GTAA) September 2022

## Technical consultation responses

WCC Highways - No objections subject to condition re vehicular access gates, and informative re surface water run-off onto adopted highways.

WCC Ecology - No ecological concerns. No conditions or informative notes requested.

WCC Fire and Rescue - No objections subject to following criteria being met (as required by Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service):

- A fire appliance to gain access to within 45 metres of all points within the footprint of each building or in accordance with table 15.1 of ADB, Volume 2.
- A fire appliance to gain access to within 45 metres of all points inside each dwelling

- Minimum width of the access road is 3.7 metres along the entire length
- Minimum width of any gateways is 3.1 metres
- Minimum height clearance is 3.7 metres
- Minimum carrying capacity is 12.5 tonnes
- Dead-end access routes longer than 20 metres require turning facilities
- Turning circles should be a minimum of 16.8 metres between kerbs or 19.2 metres between walls.
- Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.

Advisory note re need for development to comply with Approved Document B, Volume 1, Section B5 – Access and Facilities for the Fire Service.

Notes re The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, provision of sprinklers, and maintaining access for emergency vehicles.

RBC Environmental Health - No objections subject to condition re previously unidentified contamination and informatives re air quality, drainage, impacts from existing activities, private sector housing team comments, and waste collection. No concerns over implications from road noise and no need for noise assessments or full contaminated land condition.

### Third party comments

- Parish Council - Objections relating to:-
- Inappropriate development in the Green Belt,
  - Unsustainability,
  - Visual impact,
  - Light pollution,
  - Inadequate drainage,
  - Cumulative impact of Gypsy and Traveller sites in the locality on the settled community,
  - Misleading and inaccurate details in the documentation,
  - Lack of current or historical planning permission for the site, and
  - Lack of respect for planning laws and regulations.
- Ward Councillor - Called for application to be considered by the Planning Committee on behalf of the Parish Council on the grounds of their objections (see above).
- Neighbours - Objections received from 13 households relating to:-
- Inappropriate development in the Green Belt,
  - Unsustainability,
  - Lack of safe footpaths along Top Road and safety implications of this,
  - Risks to health and safety,
  - Impact on property values for settled residents,
  - Detrimental impact on the Coventry Way walking route,

- Lack of explanation as to why the applicant's family needs to be located on this particular site rather than anywhere else,
- Incongruous development in type and scale,
- Insufficient local amenities to support existing demand,
- Visual impact and lack of screening,
- Overdevelopment of the site and exceeding density requirements,
- Light pollution,
- Existing Gypsy and Traveller sites should be used instead of expanding Top Park,
- Increased local flood risk,
- Site is isolated from other villages,
- Lack of supporting evidence of need or very special circumstances,
- Noise nuisance from traffic,
- Impact of traffic to and from the site on surrounding roads and congestion,
- Barnacle, Shilton and Bulkington are already accommodating considerable numbers of Travellers families which isn't fair,
- Misleading and inaccurate details in the documentation,
- Site unsuitable for habitation,
- Duration of unauthorised development on the wider Top Park site,
- Contempt for injunction and laws, and
- Anti-social and criminal behaviour

Comments also received relating to:-

- Need to consider all current Top Park applications collectively and not in isolation,
- Lack of Council provision of alternative sites to prevent this type of unauthorised development,
- Rights of Council Tax payers, and
- Warwickshire Structure Plan asserting that developments in rural areas should have the expressed support of the local community.

#### **4.0 Implications of the recent planning appeal dismissal for Land at Fosse Corner Gypsy and Traveller site (Appeal reference APP/E3715/W/21/3278838)**

- 4.1 Following refusal of a retrospective temporary (two year) planning application for the retention of 2no. Gypsy and Traveller pitches on land adjacent to the Fosse Way/Millers Lane junction near Monks Kirby (which also went before the Planning Committee), the LPA were involved in an appeal against that decision. The outcome of this appeal was recently confirmed, and the appeal was dismissed. For context, the appeal site was also located in open countryside and Green Belt, and Members' reasons for refusing the original planning application related to a) inappropriate development in the Green Belt with insufficient very special circumstances to outweigh the presumption against such development, b) unsustainability, and c) insufficient drainage and flooding risk. Due to insufficient supporting evidence to substantiate Members' third reason for refusal, the LPA were advised by Counsel not to defend it for the purposes of the appeal and so pursued their case on the basis of inappropriate development in the Green Belt and unsustainability (reasons 1 and 2 of the original planning refusal).
- 4.2 In summing up her findings as part of the appeal decision, the Inspector set out her balanced consideration of the pro's and con's of the case. The Inspector found that there was significant harm to the openness of the Green Belt, and that the weight to be applied to this harm was not diminished by the temporary nature of the development. However,

the Inspector did attach significant weight to a) the need for gypsy and traveller sites in the borough, b) the lack of supply of sites within the borough and the lack of an adopted Development Plan Document for such provision, c) the lack of alternative accommodation for the appellants and their families, and d) the personal circumstances of the appellants and their families. She also noted that, whilst not a determinative factor, the best interests of the children directly affected by the development were a primary consideration and no other consideration could be deemed to be more important. The Inspector therefore determined that the best interests of the children residing on the appeal site weighed heavily in favour of the development.

4.3 The Inspector also found that the location of the site was suitable for a Gypsy and Traveller site given the proximity to services and facilities (factors that related to the LPA's unsustainability refusal reason), and ultimately based her decision to dismiss the appeal on the fact that the considerations in favour of the development as outlined above were not sufficient to outweigh the inappropriateness of the development in the Green Belt in light of the impact on openness and the visual impact of the development.

4.4 The location of this application site is also in both the Green Belt and open countryside. However, the plot itself is also located within a parcel of land immediately adjacent to a site that has been used for Gypsy and Traveller accommodation for almost 20 years (Top Park) and which is also subject to consideration by Members at the March 2023 Planning Committee under planning application reference R15/2017. This is a key difference to the Fosse Way site, as it means that the site is neither isolated nor incongruous with its immediate surroundings and benefits from this established context of similar adjacent development. Given the fact that the Inspector directly linked the additional visual harm to the weight she applied to the inappropriateness of the development at Fosse Way, it would therefore be reasonable to argue by extension that the absence of this additional visual harm should carry less weight in favour of a refusal on Green Belt grounds.

## **5.0 Assessment of proposals**

5.1 The key issues to assess in the determination of this application are:

- Principle of development (including Green Belt considerations)
- Visual impact
- Residential amenity
- Highways and parking
- Sustainability and environmental impact
- Biodiversity

6.0 Principle of development

6.1 Policy GP1 of the Local Plan states that when considering development proposals, a positive approach will be taken on development that reflects the presumption in favour of sustainable development and to secure development that improves the economic, social and environmental conditions in the area. This is reflected in Section 2 of the NPPF, where Paragraph 8 sets out the same key objectives. Paragraph 11 of the NPPF states that where there is an up to date development plan applications should be determined in line with that development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted"*.

- 6.2 Policy GP2 sets out the development hierarchy for the borough and states that in Green Belt locations, such as this, development will only be permitted if allowed by national policy. This is supported by Section 13 of the NPPF. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF states that LPA's should ensure that sufficient weight is given to any harm to the Green Belt. It also states that 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.
- 6.3 Policy DS2 of the Local Plan specifically focuses on the provision and enabling of sufficient sites for use by the Gypsy and Traveller and Travelling Showpeople communities. At the time of its adoption, the Local Plan projected that there would be a need for an additional 61no. new Gypsy and Traveller pitches in the borough over the period from 2017-2032. This policy identifies key criteria for consideration when assessing Gypsy and Traveller site applications:-
- Does the site afford good access to local services such as schools and health facilities?
  - Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?
  - Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?
  - Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?
  - Does the development have appropriate vehicular access?
  - Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?
  - Is the development well laid out to provide adequate space and privacy for residents?
  - Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?
  - Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?
- 6.4 According to the published Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study September 2022 (GTAA), which is available on the Council's website, there is a projected need for the provision of 79no. permanent pitches by 2037 for Gypsies and Travellers. To meet this need, the GTAA recommends that 48no. such pitches should be found in the borough by 2027. Paragraph 6.5 of the GTAA recognises that smaller sites are preferred by the Gypsy and Traveller community, and Paragraph 6.6 recognises that some families in the Gypsy and Traveller community are also interested in increasing provision on existing sites. The GTAA report recognises the potential value of developing land that is either already owned by applicants or land that they intend to purchase in potentially meeting some of this identified demand.
- 6.5 Section 11 of the NPPF focuses on the effective use of land, Paragraph 119 stating that *"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses"* and Paragraph 124 directing that consideration needs to

be made in planning policies and decisions for “*the identified need for different types of housing and other forms of development*”. This is not limited to the use of previously developed land, although such sites are often considered for this purpose. The need for homes includes the need to provide accommodation for the Gypsy and Traveller community as well as providing for the settled community.

- 6.6 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well over the lifetime of the development.
- 6.7 On 15 March 2023, the Planning Committee considered an application to grant permanent planning permission for the retention and continuation of operation of the older established part of Top Park (under planning reference number R15/2017). The Committee granted temporary permission for the site for a period of 5 years. The effect of this has been to confirm that the main part of Top Park can continue to operate until March 2028, but the site has not been granted permanent permission and as such cannot contribute towards the Council’s identified provision requirements for permanent Gypsy and Traveller pitch provision in the borough. The development of that site pre-dates the 2015 Ministerial Statement on intentional unauthorised development, so could not be used as a material planning consideration to be weighed against such development.
- 6.8 Prior to Plot 18 being created, the land formed part of a small paddock that was privately owned by a person or persons with direct links to the established part of Top Park. It was laid to grass and used informally as a pony paddock by those occupying Top Park. Plot 18 itself was first occupied by the applicant and his family in March 2020 and the applicant purchased the land they and their family now occupy from the previous owner. They have always accessed their plot via the existing access track to the right of the site, rather than via the established Top Park access road to the left of their plot. Whilst they have gradually developed their plot over time, they have now completed the majority of the works they wanted to do and are not proposing any additional development as part of this application aside from the aforementioned replacement of an existing tourer caravan with a static mobile home and the addition of an extra static mobile home.
- 6.9 As noted in Section 4 of this report, the plot is in both Green Belt and open countryside. There is a general presumption against inappropriate development of such land unless the development meets identified criteria set out in Paragraph 6.2 of this *report or unless very special circumstances exist that sufficiently outweigh the presumption against inappropriate development*. As Gypsy and Traveller site provision is not one of the existing exceptions to the presumption, favourable consideration of the principle of development in Green Belt terms would be reliant on the applicant establishing a case of very special circumstances.
- 6.10 Evidence of the personal circumstances of the applicants has been received and considered by the LPA. This evidence identified three key factors for consideration:-
- There are two children residing on the site who are already in full time pre-school or primary education and attending primary school locally (of the nursery linked to the school). It is the intention that the pre-school aged child will attend the school with their sibling when they are old enough.
  - There is an infant child living on the site (the applicant has given birth within the last year whilst residing on the site).

- The applicant has familial and cultural links to other occupiers of Top Park and relatives living in close proximity to the site.
- 6.11 In support of the first factor, the LPA have been provided with a letter from the primary school and affiliated nursery attended by the two older children. This evidence is deemed sufficient to support the applicant's assertions that there are children living on their plot who need to remain in the locality in order to ensure consistent access to primary education.
- 6.12 In support of the second factor, the applicant has confirmed that the youngest child was born within the last year and the mother and child have been witnessed on site numerous times by LPA officers (indicating that this is their main residence).
- 6.13 In terms of familial and cultural links to the site and immediate locality, the family have relatives who live on the Top Park site and were already living there prior to the applicant and her family moving onto the site. The applicant and his family identify as Romany Gypsies and were all raised in the practices of Romany culture. Due to the educational needs of the older children, and the applicant and her partner's responsibilities towards caring for the children, the family are not able to continue a transient lifestyle as that would affect their ability to maintain the children's regular attendance at school and meet the daily needs of their children. They therefore wish to reside on the site to enable them to remain within their family and community and continue to practice as many of their cultural behaviours as their present circumstances allow.
- 6.14 Focussing now on the key tests set out in Policy DS2 of the Local Plan, the development will now be assessed against each of these in turn:-
- 6.15 *Does the site afford good access to local services such as schools and health facilities?*  
The site is located near to, but not within, a number of villages and suburbs that collectively have a range of local facilities including a primary school (Wolvey Church of England Primary in Wolvey where the school aged children are enrolled, and St James' Church of England Academy in Bulkington); pubs (in Shilton, Ansty, Wolvey, and the suburbs of Wood End, Neal's Green and Exhall in Coventry); places of worship (Shilton Baptist Church in Shilton; St James' Church of England Church in Ansty; Our Lady of the Sacred Heart Roman Catholic Church, St James's Church of England Church and Ryton Methodist Church in Bulkington); a dental practice (in Bulkington); medical practices (in Barnacle, Bulkington, Wolvey and the suburbs of Henley Green and Weston Lawns in Coventry); grocery stores (in Shilton, Bulkington and Wolvey), and supermarkets (in the Walsgrave suburb of Coventry). The area is also covered by emergency and hospital care via St Cross Hospital in Rugby, The George Eliot Hospital in Nuneaton, and University Hospitals Coventry and Warwickshire's site in Coventry.
- 6.16 *Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?*  
The site is not within an identified flood risk zone and is not adjacent to any known hazardous land uses that could be likely to endanger the health of the occupants of the site.

6.17 *Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?*

This site is very small, being one of a total of 19 plots currently comprising the wider Top Park site. The recent temporary planning permission granted for the established part of Top Park (see Paragraph 6.7 of this report) means that this will continue to be a key development feature within the locality until March 2028. There are also several other Gypsy and Traveller sites close by on Bulkington Road and Mile Tree Lane. Considering the scale and size of this plot compared to the scale and size of Top Park as a whole, it is not considered that the site is excessive or inappropriate from this perspective.

6.18 *Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?*

At present, the solid timber boundary fencing that encloses the site is sufficient to maintain the level of privacy the site occupants prefer, as they like to be in visual contact with the neighbouring plots and share their open space communally between themselves on Plot 18. The neighbouring plots prefer a similar degree of privacy so are also content with the arrangement. Due to the relationship between the plots within Top Park, if Members were minded to approve this application conditions have been recommended for inclusion that would tie the use of the plot solely to Gypsy and Traveller accommodation, preventing commercial activities, and preventing vehicles over 3.5 tonnes being brought onto site (to prevent conflicting uses that could detrimentally impact on neighbouring plots). These would be **Conditions 3 to 5** (inclusive). A further condition would also be included making the permission personal to the applicant and his family (**Condition 6**).

6.19 *In terms of implications for those living outside the Top Park site, there are no neighbouring residences in close enough proximity to experience a direct material impact on privacy from the Top Park site due to their distances from the site (excluding Top Park the closest Gypsy and Traveller sites to Plot 16 are over 200 metres away, and the nearest settled dwellings in the villages of Bulkington, Barnacle, and Shilton are 250 metres, 580 metres, and 620 metres away respectively). It is not therefore considered reasonable or justifiable to place restrictive conditions relating to privacy or acoustic protection for these residents due to their significant distance from Top Park and from Plot 18 in particular.*

6.20 *Does the development have appropriate vehicular access?*

The applicants use an existing secondary access to the Top Park site that specifically serves only three of the Top Park plots and land to the rear of Top Park. Although originally just a field track, the access has been surfaced with gravel and widened to accommodate the size and type of vehicles serving the plots, including allowing for the manoeuvring of caravans. WCC Highways were specifically consulted on this application and have raised no objections to the continued use of this access as a primary means of direct vehicular and pedestrian access to Plot 18. However, this is subject to the inclusion of a specifically worded condition regarding reconfiguration of the main access gates so that they only open into the plot as opposed to outwards over the access road in order to ensure that they do not compromise access for other users and to protect the public highway. This would be **Condition 7** in the event that Members were minded to approve the application.

6.21 *Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?*

Prior to occupation of the land on which Plot 18 is located, there was a limited degree of partial screening by virtue of a pre-existing mixed species hedge along the back of the

highway verge and the presence of some semi-mature trees within it. However, it was still possible to view the land from the highway due to the existing side access road and the fact that both the hedge and the trees were deciduous. Soon after the occupants of nearby Plot 19 moving onto their own site, a section of the hedge was cut back and lowered to better facilitate the use of the access road, leaving more of the frontage of Plot 19 exposed. This undoubtedly affected the visual characteristics of the wider site, although it had only a limited impact on Plot 18 specifically, as has the presence of the structures and tourers that currently occupy the site. However, the development that has been undertaken on and around Plot 18 is consistent with the more established development on Top Park, so whilst it may be the case that the level and type of development has had a visual impact it has not been one that is so at odds with the pattern and form of development in this part of Top Road as to justify refusal of this application on that basis.

- 6.22 Should Members be minded to approve the application, it is considered reasonable to tightly control the potential for further development of the plot to prevent the intensification of its visual impact. Therefore, in the event of an approval, it is considered reasonable to apply restrictive conditions that would prevent the further intensification or material alteration of the development of the plot (beyond the changes proposed) that could harm the appearance of the locality and detrimentally affect the character and openness of the Green Belt. To that end, it is recommended that in the event of an approval conditions are included that require the prior written permission of the LPA for any additional structures, fences, gates, outbuildings or additional mobile homes and tourers above or beyond those subject of this application, and for the installation of additional external lighting. These would be **Conditions 8 to 10** (inclusive).
- 6.23 It is recognised that replacing mobile homes and tourers, whilst perhaps necessary over time, can also materially affect the overall visual impact of a site especially if they are larger or markedly different in terms of design than those they are replacing. At present the applicant does not intend to change the mobile home already on the site and has provided details of the proposed mobile homes that are to replace the two existing tourers. However, it is recognised that there are currently three children living on the site and that this number will rise to five children during the course of 2023. As they grow up and their needs change the family may find that meeting their needs requires further changes to their set up on the plot. Therefore, it is also considered reasonable in the event of an approval to have a mechanism to control future changes arising from the replacement of any existing mobile homes to ensure that replacements do not cumulatively result in intensification and overdevelopment of the plot by degrees. This would be **Condition 11** in the event that Members are minded to approve this development.
- 6.24 *Is the development well laid out to provide adequate space and privacy for residents?*  
Please see Paragraphs 6.18 and 6.19. The applicants are content with their existing arrangements with regards to privacy, and so no further screening is proposed for this purpose within the site. The existing provision is adequate to enable the family to maintain the degree of privacy that they prefer. They are content to share the site equally and all benefit from the various structures and open spaces within the plot.
- 6.25 *Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?*

At the moment there is a small soft landscaped area within the plot (around the play equipment). There is little space to accommodate a significant degree of additional planting but again this is commonly the case for plots on Top Park and it is considered unreasonable to require the applicant to undertake this unless the expectation is to be applied to all plots within Top Park (should they be approved). There is however open communal space within the plot that could be utilised as a container garden, and the applicant could also explore options for utilising suspended planters along the fence line enclosing the site if they wished. Were Members minded to approve this application, an informative note would be included guiding the applicants on ways in which they could incorporate a limited degree of additional biodiversity provision within the site through strategic planters and similar provision.

6.26 *Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?*

The application is for residential purposes only and does not include any non-residential uses that could cause these issues. Such non-residential uses would be conditioned against through the aforementioned **Conditions 3 to 5** (inclusive) in the event that Members approve this application, which would limit the development to the purposes set out in the development description. The aforementioned **Condition 6**, which would make the planning permission personal to the applicants, would also help to prevent conflicting operations that could be detrimental to the residential use of the plot.

6.27 *Is there adequate provision for on-site services for water supply, power, drainage, sewage and waste disposal facilities?*

The applicant has access to power and water already set up within the site, and they have registered for RBC domestic general waste and recycling collections services (evidenced by the presence and frequent emptying of RBC registered wheelie bins on the site). Each plot on Top Park benefits from its own septic tank to manage sewage and grey water disposal, including Plot 18.

6.28 Moving on from Policy DS2 of the Local Plan, Section 5 of the NPPF looks at the provision of homes including those in rural locations. As Gypsy and Traveller accommodation is also considered to come under the umbrella of rural housing provision, this section is relevant to this development. Paragraph 80 of Section 5 sets out criteria for consideration when provision of homes would be in isolated locations. This application does not meet any of these tests specifically, which is one of the reasons why the LPA must decide whether or not the development amounts to very special circumstances based on the case put forward by the applicants as required by Paragraphs 149 and 150 of Section 13 of the NPPF.

6.29 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.10 to 6.13 (inclusive) of this report. In the considered opinion of the LPA, the applicant has provided sufficient evidence to establish that they would qualify as having Gypsy and Traveller status for the purposes of assessing planning applications, and that their requirements meet the criteria to be considered as a very special circumstance to allow development that would otherwise be deemed to be inappropriate in the Green Belt. With the use of suitably worded conditions, it is possible to meet all the requirements of Policies SDC1 and DS2 of the Local Plan that have not already been met by the existing and proposed on-site provision, as well as the various requirements set out in Sections 2, 5 and 13 of the NPPF. The principle of this

development is therefore considered to be acceptable in Planning terms from this perspective.

- 6.30 Looking now at the Planning Policy for Traveller Sites (PPTS) 2015, as the LPA does not currently have sufficient allocated sites to meet the requirements for Gypsy and Traveller provision within the Borough some of the requirements of Policy B of the PPTS 2015 cannot currently be met. However, this application has been assessed following the principles set out in Paragraphs 10 and 13 of this document, which direct LPA's on the key criteria to be used for assessing the suitability of sites for designation for formal Gypsy and Traveller provision. The lack of sufficient provision for Gypsy and Traveller sites is a key consideration in favour of this development and carries significant weight in planning terms as a material factor for very special circumstances. Were the application to be refused and the applicant evicted, three generations of this family would be left with very few options available to them. Given the lack of formal provision in the Borough, it is likely that they would have to resort to an unauthorised encampment elsewhere in the Borough, which would then face the same considerations as this one has. As well as being far from ideal in terms of planning, this would also effectively result in two children and two elderly and infirm persons being made homeless. As well as potentially having serious repercussions for the health and wellbeing of these individuals (and those who care for them), it could also jeopardise the children's access to ongoing primary education provision and the family's access to necessary ongoing medical treatments and support services. These are factors that weigh strongly in favour of this development on the grounds of very special circumstances.
- 6.31 Policies C and E of the PPTS 2015 cover sites in rural countryside locations and those in the Green Belt. Policy E in particular makes it clear that even Gypsy and Traveller provision in the Green Belt is considered unacceptable *unless very special circumstances exist that would outweigh the harm*. As set out in this report, the LPA consider that this application *does* warrant consideration as a very special circumstance, and as such the requirements of Policies C and E are also met.
- 6.32 Levels of existing provision (and the lack thereof) are also a key consideration within Policy H of the PPTS 2015, being identified as a specific consideration in Paragraph 24 alongside the availability or lack of alternative sites and the personal circumstances of the applicants. Policy H also encourages the use of planning conditions as a means of overcoming concerns and objections regarding such developments, which the LPA confirm would be their intention through identification of recommended conditions throughout this report.
- 6.33 For the reasons set out above, the principle of this development is also considered to be acceptable in terms of compliance with the Planning Policy for Traveller Sites 2015.
- 6.34 A Written Ministerial Statement published on 31 August 2015 made intentional unauthorised development a material consideration when determining planning applications and appeals from that date onwards. By the time the applicant and his family moved onto their plot, it was deemed to be unauthorised development. Their decision to continue to develop and occupy their plot therefore indicates intentional unauthorised development, and this carries material weight which must be considered as part of the determination of these applications. However, as set out above within Section 6 of this report, there are key factors that weigh in favour of this development being deemed to be acceptable. On balance, in this case the LPA considers that the considerations in favour

of permitting this development outweigh the harm that has been caused through intentional unauthorised development.

7.0 Visual impact

7.1 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well and add to the overall quality of the area over the lifetime of the development, are visually attractive, and are sympathetic to the local character and history.

7.2 Policy SDC1 of the Local Plan states that developments will only be supported where they are of a scale, density and design that responds to the character of the areas in which they are located. It also highlights key considerations for determination of such applications, including massing, landscape, layout and materials.

7.3 In objections received from local residents and the Parish Council, the visual impact of the Top Park site has been highlighted as a key concern. Objections share common themes relating to the contrast between the Top Park site and the rural landscape and the effect of external lighting increasing the impact.

7.4 In addition to considering the impact of the development on the character and appearance of the Green Belt (see above), a key factor of any development is the impact it has on the visual character of an area. In this case, we have a site located in an area away from the nearest villages of Shilton, Barnacle and Bulkington. There are however several Gypsy and Traveller sites in the locality, and as stated in Paragraph 6.7 of this report the older part of Top Park now benefits from a 5 year temporary planning permission so will continue to be a feature of the area until 2028. The surrounding undeveloped areas are farmland, with boundaries generally marked with field hedges. The general aesthetic of the area is therefore mixed natural landscape and Gypsy and Traveller development.

7.5 When approaching the site from the adjacent highway (Top Road), one of the first things to notice are the two entrances now serving Top Park (the established original one and the one the applicant uses to access their own plot) and the front perimeter fencing with the mobile homes lying beyond it. What is also evident is that the plot is surrounded by other Top Road plots that have been developed in a very similar way. Paragraphs 6.21 to 6.23 (inclusive) of this report set out the visual implications of the development, and also the fact that the surrounding development gives this plot context and prevents isolation. They also identify how further intensification would be controlled through a condition preventing the introduction of any more structures or vehicles than are presently on the plot (**Condition 8**) and requirement clauses in **Conditions 9, 10 and 11** relating to the replacement of structures to ensure that existing features that are to be replaced are removed prior to their replacements being brought onto site (so as to prevent cluttering and temporary overdevelopment arising from having a new feature on the plot at the same time as the one it is supposed to be replacing).

7.6 The LPA recognises local residents' concerns about the effect that external lighting can have on making the site more prominent in hours of darkness when there are no adjacent light sources (such as streetlights). There are many plots on the wider Top Park site that have some form of external lighting, and undoubtedly this does increase the prominence of the site in visual terms. Some external lighting is required for safety and security purposes given the lack of surrounding light sources in the public domain, so a degree of lighting is considered reasonable. Some mobile homes already come pre-fitted with low

level illumination from inbuilt lights near the doors, and the LPA consider that this safety feature would fall within the reasonable requirements category. However, to prevent the installation of excessive or inappropriate additional external light sources in the future it is considered reasonable to restrict such installation through the aforementioned **Condition 11** (see Paragraph 6.22 of this report).

- 7.7 Another common concern raised in objections received by the LPA has been the fear of further development in the event that the Top Park site is approved, in particular the replacement of existing mobile homes with larger ones. The LPA recognise this as a very valid concern, and as set out in Paragraph 6.23 of this report would recommend that in the event of Members approving this application a condition be applied preventing this eventuality by **requiring the applicant to seek prior written approval before replacing the mobile homes (Condition 12)**.
- 7.8 Within the plot itself, there is currently a predominance of gravel. Whilst more green relief within the plot would help to break up the monotony of the gravel, the functional requirements of the open communal gravel area means that options for introducing more landscaping are very limited. As noted in Paragraph 6.24 of this report, given the limited landscaping provision on other plots within Top Park, it would be unreasonable to apply a requirement for landscaping on this plot, but in the event that Members approve this application an informative note would be applied to give guidance on possible options for increasing biodiversity within the site where possible.
- 7.9 For the reasons set out above, and with the abovementioned conditions applied, the scheme complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to character and appearance. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 8.0 Residential Amenity
- 8.1 Several objectors have raised concerns over the cumulative impact of the level of Gypsy and Traveller accommodation in the locality on their access to services and facilities, but none seem to have raised particular concerns that directly relate to a material impact on their individual residential amenity as a result of the occupation of Plot 16.
- 8.2 Paragraphs 6.18 and 6.19 of this report set out the LPA's assessment of amenities for both those living on Plot 18 and those living either around them on Top Park or in neighbouring settlements. In summary, the applicant has sufficient privacy and space to meet their needs without compromising the amenities of those living on adjacent plots on Top Park, and the nearest settled residents are a sufficient distance away from the site so as not to be materially impacted upon in terms of loss of amenity.
- 8.3 Some objectors have raised concerns over disruption arising from noise nuisance, but again the nearest settled residential properties are a long way away from the site (between 250 metres away and 620 metres away). Whilst some noise may be arising from the site, the LPA considers that it would be unlikely to be to such an extent as to warrant supporting a refusal on amenity grounds given the significant distance between the settles community and Top Park. It would be difficult to discern noise coming purely from Top Park and Plot 18 in particular from adjacent development. Environmental Health have advised that it would not be necessary to require the undertaking of a full noise assessment. This was particularly considered in relation to adjacent plots on Top Road, and if the noise levels

for those plots have not been deemed to be of concern, then the same must be true for those settled residents living much further away too.

- 8.4 In the event of an approval, the aforementioned **Conditions 3, 4, 5, 8, 9, 10, 11 and 12** will help to protect those living on adjacent plots within Top Park from a loss of amenity arising from further built development, replaced structures or inappropriate non-residential activities within Plot 18. **Condition 11** will help to ensure that external lighting was controlled, and as such should help to protect against light nuisance to neighbouring residents.
- 8.5 For the reasons set out above, and with the identified conditions applied, this development complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to residential amenity. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 9.0 Highway Safety
- 9.1 Several concerns have been raised by Parish Council, Borough Councillors and local residents regarding the implications of increasing Gypsy and Traveller development in the area on the intensity of the use of surrounding roads, particular those leading through Barnacle. WCC Highways were consulted on the application and raised no concerns or objections in terms of impact on the road network. They did however request that a condition be applied in the event of an approval regarding works to the access gates (**Condition 7**) and recommended informative notes re surface water run-off to prevent excessive water running onto Top Road.
- 9.2 As regards the parking and manoeuvring of vehicles within the site, whilst Appendix 5 of the Local Plan doesn't set a specific recommended level for parking provision for Gypsy and Traveller sites, for dwellings of a comparable size it is recommended to provide a total of 3no. parking spaces.
- 9.3 The communal area has been deliberately left free of structures to allow for adequate vehicle turning space and the parking of vehicles. They can park their own vehicles within the site, and the area is large enough to be considered to be sufficient to meet both the parking need of the site and enable turning within the plot even when vehicles are already parked. This was witnessed in practice during the LPA site visit in February 2023. In any event, as the plot is shared by members of the same family, they can easily manage each other's needs and ensure the parking and turning of vehicles works sufficiently well at all times. As they tend to park immediately adjacent to the fences when at home, it is feasible for visitors to also park within the site or adjacent to the access gates without affecting the functionality of the adjacent access track or impacting on Top Road. There is also sufficient space to accommodate additional vehicles to maintain the recommended level of provision in Appendix 5.
- 9.4 With the highway condition applied and the site layout protected through Condition 2, this scheme would comply with Policy D2 and Appendix 5 of the Rugby Borough Council Local Plan 2011-2031.
- 10.0 Sustainability and environmental impact
- 10.1 The environmental implications of development must be carefully considered, particularly as the Rugby Borough Council Local Plan 2011-2031 has reinforced the need to consider offsetting the impact of development through its policies GP1, HS5, SDC4 and SDC7.

These in turn reinforce the wider importance and focus raised on these issues within Sections 2 and 12 of the NPPF 2021.

- 10.2 The environmental considerations (such as the implications of being in an Air Quality Management Area, and the need for water and energy efficiency) cross over into the requirements that will be placed on the developer through the need to comply with Building Regulation requirements but can also require control at the planning stage through the application of specifically worded conditions and supportive text.
- 10.3 The Local Plan defines Air Quality Neutral as “emissions from the development proposal being no worse, if not better, than those associated with the previous use.”
- 10.4 This site does not lie within the Air Quality Management Area, and the type of development applied for does not meet the triggers for requiring conditioned mitigation under Policy HS5. An informative would be applied in the event of an approval to guide the applicant on ways they can reduce their environmental impact. There are also options available to occupiers of the site to adopt water efficiency practices, such as limiting water waste and making more efficient use of the water supply that is consumed.
- 10.5 The Environmental Protection team were specifically consulted on this application and have recommended the application of a condition relating to previously contamination which would be applied as **Condition 13** in the event of an approval. The condition sets out a phased approach to be undertaken in the event that previously unidentified contamination is found within the site. Given the fact that no further development is proposed on Plot 18 that would disturb the ground or sub layers however, whilst this condition would be applied it would not require any response from the applicant at this stage. It should be noted that the LPA are not currently aware of any contamination issues in this area, and this condition is intended as a safeguarding measure rather than confirmation that there is already a contamination issue.
- 10.6 In terms of air quality mitigation, Environmental Health have raised no significant concerns and did not identify the need for any controls or conditions with regards to this. They have however recommended inclusion of an informative note in the event of an approval to guide the applicant on possible options to reduce their impact on air quality through mitigation and/or aiming to achieve air quality neutrality.
- 10.7 Environmental Health have also recommended environmental based informatives regarding drainage and implications of adjacent activities.
- 10.8 For the reasons set out above, the development complies with the environmental directions of policies GP1, HS5, SDC1 and SDC4 of the Rugby Borough Council Local Plan 2011-2031 with regards to air quality and some aspects of environmental impact. In so doing, it would also meet the standards and guidance set out in Sections 2, 11 and 12 of the NPPF 2021 for those same criteria.
- 11.0 Biodiversity
- 11.1 Policy NE1 of the Local Plan focusses on protection of designated biodiversity and geodiversity assets, supporting the aims and objectives of Section 15 of the NPPF. As part of this, both local and national planning policy details the need to consider biodiversity as part of the planning process, with the aim to seek opportunities to protect and enhance biodiversity and protected specials through all types of development whenever possible.

- 11.2 No particular biodiversity related objections were received from residents or the Parish Council, and biodiversity wasn't one of the reasons given in the Ward Councillor's request to take the case before the Planning Committee for consideration.
- 11.3 WCC Ecology were consulted on this application and have confirmed that they have no ecological concerns about the development. They have not requested any conditions or informatives be included in the event of an approval, but as stated in Paragraph 6.24 of this report an informative note would be applied in the event that Members are minded to approve this application to advise the applicant of options they may be able to explore to increase biodiversity opportunities and provisions within their plot.
- 11.4 The scheme is considered to comply with Policy NE1 of the Rugby Borough Council Local Plan 2011-2031, and to accord with Section 15 of the NPPF 2021.

## **12.0 Planning balance and conclusions**

12.1 This scheme represents an inappropriate development in the Green Belt, and as such is not acceptable unless there are very special circumstances that sufficiently outweigh the harm that inappropriate development can otherwise cause. In this particular case there are four key factors that collectively represent reasonable grounds for this application to be considered as an exception to the usual presumption against development in the Green Belt:-

- The LPA currently has a shortfall in Gypsy and Traveller site provision within the borough, and there are no more appropriate locations within the borough that the applicant and their family could lawfully move to. This carries significant weight in favour of the application.
- Refusing this application could result in the education of two children of pre-school and primary school age being put at risk, as well as the health and wellbeing of three children all of whom require regular access to services and facilities within the locality to meet their education and medical needs.
- The applicant and their family identify as Romany Gypsies and wish to follow the cultural traditions of their heritage by raising children on a site where those traditions can be practiced as part of the cultural community with which they identify.
- The applicant has direct familial links to other families residing on the Top Park site and their children have been raised there from a young age. The children are reliant on both the applicant and their spouse to assist them with meeting daily needs, and the applicant shares supervisory responsibilities for the children with her partner when they are not at school.

12.2 The very special circumstances outlined above clearly outweigh the harm to the Green Belt that has been caused by the inappropriate nature of the development. The development is therefore considered to be acceptable on the grounds of the very special circumstances associated with the application.

12.3 The 2015 Ministerial Statement means that this is deemed to be intentional unauthorised development which carries a considerable amount of weight against the development.

However, on balance, the harm arising from this does not outweigh the very special circumstances in favour of approving the application as detailed above.

- 12.4 The principle of development is deemed to be acceptable, and the development meets all the key tests set out in Policy DS2 of the Local Plan.
- 12.5 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.6 The scheme is acceptable in terms of scale, character and appearance.
- 12.7 There are no highway safety concerns.
- 12.8 There are no environmental concerns.
- 12.9 There are no biodiversity concerns or necessary provision or protection measures.
- 12.10 The development does not detrimentally impact on the residential amenity of residents living outside Top Park, and the relationship and level of residential amenity for both the applicant and those living on adjacent plots on Top Park is acceptable to all parties affected.
- 12.11 **Condition 3** will tie the use of Plot 18 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.12 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.13 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.14 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.15 **Condition 7** will require the reconfiguration of the access gates to the access road such that they open into the site rather than out over the adopted highway (Top Road), and that the access gates for Plot 17 itself open into the plot as opposed to out over the access road.
- 12.16 **Condition 8** will prevent the erection of any additional structures (including fencing, gates or other means of enclosure) and the installing of any additional mobile homes without the prior written agreement of the LPA.
- 12.17 **Condition 9** will prevent the bringing onto site of any additional tourer caravans without the prior written agreement of the LPA. It will include a requirement for any tourer being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.18 **Condition 10** will require the tourer caravans identified for removal as part of this application to be removed from site PRIOR to replacement tourers or mobile homes

already identified in this application being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.

- 12.19 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.20 **Condition 12** will protect against the replacement of any existing or proposed the proposed mobile homes with larger models without the prior written agreement of the LPA. It will include a requirement for any mobile home being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple additional mobile homes being on site at the same time until the older one is removed.
- 12.21 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.22 Informative notes will be included in the event of an approval to guide the applicant on matters relating to:-
- Surface water run-off onto the highway (Top Road),
  - Biodiversity enhancement options,
  - Requirements for compliance with Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service,
  - Requirements of The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, (provision of sprinklers, and maintaining access for emergency vehicles),
  - Air quality mitigation and neutrality,
  - Drainage,
  - Impacts from existing adjacent activities,
  - Private sector housing team comments, and
  - Domestic waste collection.
- 12.23 The development complies with all relevant local and national planning policies.
- 13.0 Recommendation**
- 13.1 Planning application R22/0666 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report.
- 13.2 The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **DRAFT DECISION**

**REFERENCE NO:**  
R22/0666

**DATE APPLICATION VALID:**  
30-Sep-2022

**APPLICANT:**

Mrs Ann Marie Connors Plot 18 Top Park, Top Road, Barnacle, CV7 9FS

**ADDRESS OF DEVELOPMENT:**

Plot 18, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

**APPLICATION DESCRIPTION:**

Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building.

**CONDITIONS, REASONS AND INFORMATIVES:****CONDITION 1:**

This permission shall be deemed to have taken effect on 16 March 2023.

**REASON:**

To comply with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

**CONDITION 2:**

The development shall be carried out in accordance with the plans and documents detailed below:  
Application form (received by the Local Planning Authority on 26 June 2022)

Drawing number 178-01 Revision A (received by the Local Planning Authority on 03 November 2022)

Drawing number 178-07 (received by the Local Planning Authority on 30 January 2023)

Drawing number 178-32 (received by the Local Planning Authority on 30 January 2023)

**REASON:**

For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority.

**CONDITION 3:**

The development hereby permitted shall only be occupied and used for the purposes of being a Gypsy and Traveller site and for no other purpose.

**REASON:**

As the development is only acceptable due to the applicant's circumstances, and to ensure the proper operational use of the site.

**CONDITION 4:**

No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer or burning of materials.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 5:**

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

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 6:**

The development hereby permitted shall be personal to Mrs Ann Marie Connors, and the site shall only be used by Mrs Connors and her spouse and children.

**REASON:**

As the development is only acceptable due to the applicant's personal circumstances.

**CONDITION 7:**

Within three months of the date of this planning permission, both the main gates adjacent to Top Road and the vehicular access gates to the site shall be reconfigured so as to open inwards only. Any further gates installed at the vehicular access shall thereafter open inwards only and shall at no time open outwards toward the public highway.

**REASON:**

In the interests of public and highway safety and the amenity of other users of the access road.

**CONDITION 8:**

Other than those hereby approved, no additional structures or enclosures shall be erected within or around the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. This includes (but is not limited to) both temporary and permanent structures, fencing, gates, and outbuildings, as well as any additional mobile homes.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 9:**

Other than those hereby approved, no additional tourer caravans shall be brought onto the site without the prior written approval of the Local Planning Authority. No replacement tourer caravan shall be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 10:**

Any tourer identified for removal as part of this development shall be removed prior to the mobile home replacing it being brought onto site. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 11:**

No additional external lighting shall be erected unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. Any lighting shall only be erected in accordance with the approved details.

**REASON:**

To ensure a satisfactory external appearance and in the interests of the visual amenities of the locality and the amenities of neighbouring residents.

**CONDITION 12:**

Other than those hereby approved, no replacement mobile homes shall be brought onto the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. No replacement mobile homes shall be brought onto site unless and until the mobile home being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 13:**

When carry out work as part of this development hereby permitted, in the event that contamination is found it shall be reported in writing immediately to the Local Planning Authority. Each of the following subsections a) to c) shall then be subject to approval in writing by the Local Planning Authority.

a) An investigation and risk assessment shall be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

b) Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared.

c) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared.

**REASON:**

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property, and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, and other off-site receptors.

**INFORMATIVE 1:**

The applicant/developer is advised that the development will need to comply with Approved Document B, Volume 2, Section B5 - Access and Facilities for the Fire Service. Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc regarding this can be found at: [www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning](http://www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning) Where compliance cannot be met, the applicant/developer will need to provide details of alternative measures intended to be put in place. Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18, Access for Emergency Vehicles. In addition, Warwickshire Fire and Rescue Authority fully endorse and support the fitting of sprinkler installations, in accordance with the relevant clauses of BS EN 12845 : 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

**INFORMATIVE 2:**

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

**INFORMATIVE 3:**

The applicant is encouraged to incorporate measures to assist in reducing their impact upon the Air Quality Management Area as part of this development. Initiatives could include the installation of an ultra-low emission boiler (<40mg/kWh), increased tree planting/landscaping, solar thermal panels, and the incorporation of electric vehicle charging points on any car parking. More information on plants that can be incorporated into landscaping for green walls and roofs can be found here:

[https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed\\_1.pdf](https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed_1.pdf) Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email [ept@rugby.gov.uk](mailto:ept@rugby.gov.uk)

**INFORMATIVE 4:**

The drainage and waste disposal system will need to comply with the Building Regulations 2010 Approved Document H (2015 Edition) – Drainage and Waste Disposal.

**INFORMATIVE 5:**

Where possible enhancements should be incorporated into the development to improve the habitats and opportunities for the local wildlife and increase biodiversity. Enhancements could include bat and bird boxes which may be used by a variety of species, native species planting and enhancement of existing of hedges and wild flower planting, habitat piles of rubble, logs and earth which can be used by reptiles, amphibians and invertebrates are also welcomed. Warwickshire County Council Ecological Services (tel: 01926 418060) would be pleased to advise further if required.

**INFORMATIVE 6:**

The development is within farmland and will be subject to reasonable disturbance from noise, dust, odour, vibration and light associated with farming practices. These practices may at times extend into the night or early hours, such as harvest. Noise may also be audible from nearby road and rail traffic.

**INFORMATIVE 7:**

This development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations, the Council's Standards of Amenity, Caravan Sites and Control of Development Act 1960 and Mobile Homes Act 1983 (and subsequent Acts) as these may be applicable in terms of layout, spacing and fire precautions. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

**INFORMATIVE 8:**

The applicant/occupiers should consult with RBC Waste Services Team regarding waste collection proposals for the proposed development.

**Reference: R22/0772**

**Site Address: Plot 14, Top Park, Top Road, Barnacle, Coventry, CV7 9FS**

**Description: Retention of 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof.**

### **Recommendation**

Planning application R22/0772 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report. The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **1.0 Introduction**

- 1.1 This application has been called to Committee by Councillor Maoudis on behalf of the Parish Council, who have asked her to do so for the following reasons :-
- Inappropriate development in the Green Belt and no very special circumstances,
  - Unsustainable development (no public transport links or safe walking routes),
  - Visual impact,
  - Light pollution,
  - Inadequate drainage leading to potential environmental and health hazards,
  - Over-concentration of Gypsy and Traveller sites having disproportionate effect on the settled community,
  - Misleading inaccuracies in the application,
  - Existing injunction against such development without prior planning permission,
  - No planning permission currently exists or has ever existed for development on this site, and
  - Disregard for planning law, rules and regulations.

## **2.0 Description of site**

2.1 This application relates to a single plot known as Plot 14, which is located on land adjacent to the main access road for a larger Gypsy and Traveller site near the village of Barnacle (Top Park). To the north and east of the plot lie similar Gypsy and Traveller plots, as well as aforementioned main access road serving Top Park. To the west of the plot is an unmade access track, beyond which is an open field that separates the site from development along Bulkington Road. Further to the north, Top Park is flanked a highway verge, beyond which is the adopted highway (Top Road). On the opposite side of Top Road is open pastureland bounded by low field hedges.

2.2 The plot is currently enclosed on the sides by timber fencing that averages approximately 1.5 metres in height. The eastern boundary is marked by a brick wall rising from approximately 1.5 metres to 2 metres in height, within which is a vehicular entrance from the main Top Park access road with ornate metal and timber double gates supported by 2 metre high brick piers. The western boundary is marked partly by a 2 metre high hedge and partly by timber fencing of approximately 2 metres in height. There is no internal subdivision of the plot. At present there is a single mobile home located such that its rear elevation flanks the southern boundary fence of the site. Opposite the mobile home and

flanking the northern boundary of the site is a single tourer caravan. The applicant and his family occupy the mobile home, with the tourer used as additional living space.

- 2.3 On ground to the right of the mobile home is a brick built outbuilding that the applicant uses as an incidental storage and living space. Whilst referred to in the development description and present on site, the applicant has provided no plan details for this structure, and it is not shown on either existing or proposed plans for the site. Adjacent to the outbuilding is a grassed area with a trampoline that the applicant uses as garden space. Opposite this area in the north-western corner of the site is a former stable building of brick and timber construction, which the applicant uses for storage of toys and domestic paraphernalia, to the front of which is a small enclosed covered yard area. There is a small timber shed located adjacent to the retained stable building that is excluded from the submitted plans, but the LPA understand it to be the kennel mentioned in the planning application description. Whilst a two tier climbing frame is shown in the north-eastern corner of the site on both existing and proposed site plans for the plot, it was not observed on recent LPA site visits. With the exception of the grassed area and the small yard to the front of the main storage building (which is concrete) the remainder of the site is surfaced partly with gravel and partly with block paving.
- 2.4 The majority of the plot is surfaced with a combination of loose stone chippings and block paving apart from the aforementioned grassed area (see Paragraph 2.3).
- 2.5 Access to Plot 14 is via the main established Top Park access road, with no access to the newer unmade access road used by Plots 16, 17, 18 and 19.

### **3.0 Description of proposals**

- 3.1 The applicant and their family have occupied this plot since September 2010, 10 years prior to the formation of the nearby Plots 16 to 19 (inclusive). They seek retrospective consent to formally change the use of the land to a Gypsy and Traveller pitch for their family and to retain the existing mobile home and tourer caravan. In addition to the accommodation, the applicant also seeks to retain play equipment and a brick built amenity building (which as noted above does not feature on any of the submitted plans), as well as the existing surfacing materials, fencing, walls and access gates. They also seek to retain the small shed that is understood to be the kennel mentioned in the planning application description.

### **Planning History**

#### *Affecting Plots 14-19 collectively*

R20/0192	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0193	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0194	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. Mobile home.	Withdrawn 05/10/22

**NB - These applications were all withdrawn and replaced with applications that more accurately reflected the development undertaken.**

*Affecting adjacent Plots 15-19 (inc)*

- R22/0637 Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and surfacing of the plot with gravel. Siting of 2no. touring caravans. **(Plot 19)** Application ongoing
- R22/0664 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track, and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan. **(Plot 16)** Application ongoing
- R22/0665 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, dog kennels, 1no. shed, gravel hardstanding, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. static caravans, and removal of 1no. existing shed. **(Plot 17)** Application ongoing
- R22/0666 Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building. **(Plot 18)** Application ongoing
- R22/1055 Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road. **(Plot 15)** Application ongoing

*Affecting the wider Top Park site*

- R15/2017 The retention of the use of land and ancillary operational development as a residential caravan site (renewal of planning permission (Appeal) reference APP/E3715/A/06/2030623 (R06/0743/PLN) dated 18 January 2008) including the erection of six temporary amenity blocks (resubmission of previously withdrawn application R10/0959 dated 26/11/2010). Variation of Condition 1 of R10/2298 refused on 6 April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27 August 2013 to provide a permanent permission onsite at Top Park, Top Road, Barnacle. Temporary approval (5 years) 15 March 2023

Appeal A (above) did not consider the planning merits of the development, only that a) the period for compliance was unreasonable, b) the Enforcement Notices weren't served correctly, c) the works had not occurred, and d) the steps taken to remedy the breach were excessive. Whilst the dismissed appeal carried a period of compliance ending no later than 31 October 2022, it was unreasonable for the Council to take further enforcement action until the associated planning applications had been determined.

When the Enforcement appeal site visit was conducted in 2022, it transpired that the works undertaken on site by that point no longer accurately reflected what was shown in the submitted planning applications from 2020. The Council consulted with Counsel and, following Counsel's advice, advised the applicants that the 2020 applications needed to be withdrawn and resubmitted with the correct details. This was without prejudice to any subsequent decision made by the Council, and the resubmitted applications included this application for Plot 14.

#### *The wider Top Park site*

R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring the cessation of the use of the land for the siting of caravans for residential use, trailers and commercial vehicles; and removal of all static and touring caravans not associated with the agricultural use of the land, all trailers and commercial vehicles parked on the land, and all timber sheds not associated with the use of the land for agricultural purposes. Appeal A (APP/E3715/C/11/2153638) allowed on 27 August 2013 resulting in the Enforcement Notice being corrected and quashed. Planning permission granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision.

R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring removal of hardstandings, fencing not associated with the authorised use, and amenity buildings. Notice also required the restoration of the land to its former condition by seeding with grass in place of the hardstandings. Appeal B (APP/E3715/C/11/2154137) was allowed on 27 August 2013 and the Enforcement Notice was quashed. Planning permission was granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision or 6 months from the cessation of the use of the site as a residential caravan site, whichever was the sooner.

R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the change of use of land, without planning permission, from a paddock and the building of stables to a mixed use for the siting of residential caravans, trailers, and commercial storage, and the erection of a gymnasium and utility room. Appeal A (APP/E3715/C/03/1124483) was dismissed, and the Enforcement Notice varied and upheld on 20 February 2004.

R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the unauthorised formation of hardstanding, erection of fencing, and the erection of external lighting. Appeal B (APP/E3715/C/03/1124483) was dismissed and the Enforcement Notice varied, corrected and upheld on 20 February 2004.

### *The Injunction*

There is a historical injunction from 2008 covering the site, which amongst other things does not cause or permit any caravans or mobile homes to be stationed on the land. However, this is an entirely separate process to planning and does not prevent planning applications being submitted on the sites for the stationing of caravans or mobile homes and being determined. As such, whilst useful in explaining the context of this site, the existence of this historical injunction carries little to no weight in terms of determining this application.

### **Relevant Planning Policies**

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Local Plan 2011-2031. The relevant policies are outlined below.

Rugby Borough Local Plan 2011-2031, June 2019

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

DS2: Sites for Gypsy, Travellers and Travelling Showpeople

HS5: Traffic Generation and Air Quality, Noise and Vibration

NE1: Protecting Designated Biodiversity and Geodiversity Assets

SDC1: Sustainable Design

SDC4: Sustainable Buildings

D2: Parking Facilities

National Planning Policy Framework, 2021 (NPPF)

Section 2: Achieving sustainable development

Section 5: Delivering a sufficient supply of homes

Section 9: Promoting Sustainable Transport

Section 11: Making Effective Use of Land

Section 12: Achieving well-designed places

Section 13: Protecting Green Belt land

Section 15: Conserving and enhancing the natural environment

The Planning Policy for Traveller Sites 2015

Policy B: Planning for traveller sites

Policy C: Sites in rural areas and the countryside

Policy E: Traveller sites in Green Belt

Policy H: Determining planning applications for traveller sites

Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study (GTAA) September 2022

### **Technical consultation responses**

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Local Plan 2011-2031. The relevant policies are outlined below.

- WCC Highways - No objections subject to condition re vehicular access gates, and informative re surface water run-off onto adopted highways.
- WCC Ecology - No ecological concerns. No conditions or informative notes requested.
- WCC Fire and Rescue - No objections subject to following criteria being met (as required by Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service):
- A fire appliance to gain access to within 45 metres of all points within the footprint of each building or in accordance with table 15.1 of ADB, Volume 2.
  - A fire appliance to gain access to within 45 metres of all points inside each dwelling
  - Minimum width of the access road is 3.7 metres along the entire length
  - Minimum width of any gateways is 3.1 metres
  - Minimum height clearance is 3.7 metres
  - Minimum carrying capacity is 12.5 tonnes
  - Dead-end access routes longer than 20 metres require turning facilities
  - Turning circles should be a minimum of 16.8 metres between kerbs or 19.2 metres between walls.
  - Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.
- Advisory note re need for development to comply with Approved Document B, Volume 1, Section B5 – Access and Facilities for the Fire Service.
- Notes re The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, provision of sprinklers, and maintaining access for emergency vehicles.
- RBC Environmental Health - No objections subject to condition re previously unidentified contamination and informatives re air quality, drainage, impacts from existing activities, private sector housing team comments, and waste collection. No concerns over implications from road noise and no need for noise assessments or full contaminated land condition.

### **Third party comments**

- Parish Council - Objections relating to:-
- Inappropriate development in the Green Belt,
  - Unsustainability,
  - Visual impact,
  - Light pollution,
  - Inadequate drainage,
  - Cumulative impact of Gypsy and Traveller sites in the locality on the settled community,

- Misleading and inaccurate details in the documentation,
- Lack of current or historical planning permission for the site, and
- Lack of respect for planning laws and regulations.

Ward Councillor - Called for application to be considered by the Planning Committee on behalf of the Parish Council on the grounds of their objections (see above).

Neighbours - Objections received from 13 households relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Lack of safe footpaths along Top Road and safety implications of this,
- Risks to health and safety,
- Impact on property values for settled residents,
- Detrimental impact on the Coventry Way walking route,
- Lack of explanation as to why the applicant's family needs to be located on this particular site rather than anywhere else,
- Incongruous development in type and scale,
- Insufficient local amenities to support existing demand,
- Visual impact and lack of screening,
- Overdevelopment of the site and exceeding density requirements,
- Light pollution,
- Existing Gypsy and Traveller sites should be used instead of expanding Top Park,
- Increased local flood risk,
- Site is isolated from other villages,
- Lack of supporting evidence of need or very special circumstances,
- Noise nuisance from traffic,
- Impact of traffic to and from the site on surrounding roads and congestion,
- Barnacle, Shilton and Bulkington are already accommodating considerable numbers of Travellers families which isn't fair,
- Misleading and inaccurate details in the documentation,
- Site unsuitable for habitation,
- Duration of unauthorised development on the wider Top Park site,
- Contempt for injunction and laws, and
- Anti-social and criminal behaviour.

Comments also received relating to:-

- Need to consider all current Top Park applications collectively and not in isolation,
- Lack of Council provision of alternative sites to prevent this type of unauthorised development,
- Rights of Council Tax payers, and
- Warwickshire Structure Plan asserting that developments in rural areas should have the expressed support of the local community.

#### **4.0 Implications of the recent planning appeal dismissal for Land at Fosse Corner Gypsy and Traveller site (Appeal reference APP/E3715/W/21/3278838)**

4.1 Following refusal of a retrospective temporary (two year) planning application for the retention of 2no. Gypsy and Traveller pitches on land adjacent to the Fosse Way/Millers Lane junction near Monks Kirby (which also went before the Planning Committee), the LPA were involved in an appeal against that decision. The outcome of this appeal was

recently confirmed, and the appeal was dismissed. For context, the appeal site was also located in open countryside and Green Belt, and Members' reasons for refusing the original planning application related to a) inappropriate development in the Green Belt with insufficient very special circumstances to outweigh the presumption against such development, b) unsustainability, and c) insufficient drainage and flooding risk. Due to insufficient supporting evidence to substantiate Members' third reason for refusal, the LPA were advised by Counsel not to defend it for the purposes of the appeal and so pursued their case on the basis of inappropriate development in the Green Belt and unsustainability (reasons 1 and 2 of the original planning refusal).

- 4.2 In summing up her findings as part of the appeal decision, the Inspector set out her balanced consideration of the pro's and con's of the case. The Inspector found that there was significant harm to the openness of the Green Belt, and that the weight to be applied to this harm was not diminished by the temporary nature of the development. However, the Inspector did attach significant weight to a) the need for gypsy and traveller sites in the borough, b) the lack of supply of sites within the borough and the lack of an adopted Development Plan Document for such provision, c) the lack of alternative accommodation for the appellants and their families, and d) the personal circumstances of the appellants and their families. She also noted that, whilst not a determinative factor, the best interests of the children directly affected by the development were a primary consideration and no other consideration could be deemed to be more important. The Inspector therefore determined that the best interests of the children residing on the appeal site weighed heavily in favour of the development.
- 4.3 The Inspector also found that the location of the site was suitable for a Gypsy and Traveller site given the proximity to services and facilities (factors that related to the LPA's unsustainability refusal reason), and ultimately based her decision to dismiss the appeal on the fact that the considerations in favour of the development as outlined above were not sufficient to outweigh the inappropriateness of the development in the Green Belt in light of the impact on openness and the visual impact of the development.
- 4.4 The location of this application site is also in both the Green Belt and open countryside. However, the plot itself is also located within a parcel of land immediately adjacent to a site that has been used for Gypsy and Traveller accommodation for almost 20 years (Top Park) and which is also subject to consideration by Members at the March 2023 Planning Committee under planning application reference R15/2017. This is a key difference to the Fosse Way site, as it means that the site is neither isolated nor incongruous with its immediate surroundings and benefits from this established context of similar adjacent development. Given the fact that the Inspector directly linked the additional visual harm to the weight she applied to the inappropriateness of the development at Fosse Way, it would therefore be reasonable to argue by extension that the absence of this additional visual harm should carry less weight in favour of a refusal on Green Belt grounds.

## **5.0 Assessment of proposals**

5.1 The key issues to assess in the determination of this application are:

- Principle of development (including Green Belt considerations)
- Visual impact
- Residential amenity
- Highways and parking
- Sustainability and environmental impact
- Biodiversity

- 6.0 Principle of development
- 6.1 Policy GP1 of the Local Plan states that when considering development proposals, a positive approach will be taken on development that reflects the presumption in favour of sustainable development and to secure development that improves the economic, social and environmental conditions in the area. This is reflected in Section 2 of the NPPF, where Paragraph 8 sets out the same key objectives. Paragraph 11 of the NPPF states that where there is an up to date development plan applications should be determined in line with that development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted”*.
- 6.2 Policy GP2 sets out the development hierarchy for the borough and states that in Green Belt locations, such as this, development will only be permitted if allowed by national policy. This is supported by Section 13 of the NPPF. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF states that LPA’s should ensure that sufficient weight is given to any harm to the Green Belt. It also states that 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.
- 6.3 Policy DS2 of the Local Plan specifically focuses on the provision and enabling of sufficient sites for use by the Gypsy and Traveller and Travelling Showpeople communities. At the time of its adoption, the Local Plan projected that there would be a need for an additional 61no. new Gypsy and Traveller pitches in the borough over the period from 2017-2032. This policy identifies key criteria for consideration when assessing Gypsy and Traveller site applications:-
- Does the site afford good access to local services such as schools and health facilities?
  - Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?
  - Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?
  - Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?
  - Does the development have appropriate vehicular access?
  - Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?
  - Is the development well laid out to provide adequate space and privacy for residents?
  - Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?
  - Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?

- 6.4 According to the published Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study September 2022 (GTAA), which is available on the Council's website, there is a projected need for the provision of 79no. permanent pitches by 2037 for Gypsies and Travellers. To meet this need, the GTAA recommends that 48no. such pitches should be found in the borough by 2027. Paragraph 6.5 of the GTAA recognises that smaller sites are preferred by the Gypsy and Traveller community, and Paragraph 6.6 recognises that some families in the Gypsy and Traveller community are also interested in increasing provision on existing sites. The GTAA report recognises the potential value of developing land that is either already owned by applicants or land that they intend to purchase in potentially meeting some of this identified demand.
- 6.5 Section 11 of the NPPF focuses on the effective use of land, Paragraph 119 stating that *"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses"* and Paragraph 124 directing that consideration needs to be made in planning policies and decisions for *"the identified need for different types of housing and other forms of development"*. This is not limited to the use of previously developed land, although such sites are often considered for this purpose. The need for homes includes the need to provide accommodation for the Gypsy and Traveller community as well as providing for the settled community.
- 6.6 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well over the lifetime of the development.
- 6.7 On 15 March 2023, the Planning Committee considered an application to grant permanent planning permission for the retention and continuation of operation of the older established part of Top Park (under planning reference number R15/2017). The Committee granted temporary permission for the site for a period of 5 years. The effect of this has been to confirm that the main part of Top Park can continue to operate until March 2028, but the site has not been granted permanent permission and as such cannot contribute towards the Council's identified provision requirements for permanent Gypsy and Traveller pitch provision in the borough.
- 6.8 Prior to Plot 14 being created, the land was privately owned by a person or persons with direct links to the established part of Top Park. It was laid to grass and used informally by those occupying Top Park. Plot 14 itself was first occupied by the applicant and his family in September 2010 and the applicant purchased the land they and their family now occupy from the previous owner. They have always accessed their plot via the existing Top Park access road to the left of their plot. Whilst they have gradually developed their plot over time, they have now completed the works they wanted to do and are not proposing any additional development as part of this application.
- 6.9 As noted in Section 4 of this report, the plot is in both Green Belt and open countryside. There is a general presumption against inappropriate development of such land unless the development meets identified criteria set out in Paragraph 6.2 of this report or unless very special circumstances exist that sufficiently outweigh the presumption against inappropriate development. As Gypsy and Traveller site provision is not one of the existing exceptions to the presumption, favourable consideration of the principle of development in Green Belt terms would be reliant on the applicant establishing a case of very special circumstances.

- 6.10 Evidence of the personal circumstances of the applicants has been received and considered by the LPA. This evidence identified two key factors for consideration:-
- The applicant and his family have occupied the plot for 13 years.
  - The applicant has familial and cultural links to other occupiers of Top Park and relatives living in close proximity to the site.
- 6.11 In support of the first factor, the LPA have been provided with documentary evidence pertaining to the purchasing of the plot and the longevity of occupation. This evidence is deemed sufficient to support the applicant's assertions that the site has been occupied and used as a Gypsy and Traveller site for 13 years.
- 6.12 In terms of familial and cultural links to the site and immediate locality, the family have relatives who live on the Top Park site and were already living there prior to the applicant and his family moving onto the site. The applicant and his family identify as Romany Gypsies and were all raised in the practices of Romany culture. They therefore wish to reside on the site to enable them to remain within their family and community and continue to practice their cultural behaviours.
- 6.13 Focussing now on the key tests set out in Policy DS2 of the Local Plan, the development will now be assessed against each of these in turn:-
- 6.14 *Does the site afford good access to local services such as schools and health facilities?*  
The site is located near to, but not within, a number of villages and suburbs that collectively have a range of local facilities including a primary school (Wolvey Church of England Primary in Wolvey where the school aged children are enrolled, and St James' Church of England Academy in Bulkington); pubs (in Shilton, Ansty, Wolvey, and the suburbs of Wood End, Neal's Green and Exhall in Coventry); places of worship (Shilton Baptist Church in Shilton; St James' Church of England Church in Ansty; Our Lady of the Sacred Heart Roman Catholic Church, St James's Church of England Church and Ryton Methodist Church in Bulkington); a dental practice (in Bulkington); medical practices (in Barnacle, Bulkington, Wolvey and the suburbs of Henley Green and Weston Lawns in Coventry); grocery stores (in Shilton, Bulkington and Wolvey), and supermarkets (in the Walsgrave suburb of Coventry). The area is also covered by emergency and hospital care via St Cross Hospital in Rugby, The George Eliot Hospital in Nuneaton, and University Hospitals Coventry and Warwickshire's site in Coventry.
- 6.15 *Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?*  
The site is not within an identified flood risk zone and is not adjacent to any known hazardous land uses that could be likely to endanger the health of the occupants of the site.
- 6.16 *Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?*  
This site is very small, being one of a total of 19 plots currently comprising the wider Top Park site. The recent temporary planning permission granted for the established part of Top Park (see Paragraph 6.7 of this report) means that this will continue to be a key development feature within the locality until March 2028. There are also several other

Gypsy and Traveller sites close by on Bulkington Road and Mile Tree Lane. Considering the scale and size of this plot compared to the scale and size of Top Park as a whole, it is not considered that the site is excessive or inappropriate from this perspective.

6.17 *Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?*

At present, the boundary screening that encloses the site is sufficient to maintain the level of privacy the site occupants prefer, as they like to be in visual contact with the neighbouring plots and share their open space communally between themselves on Plot 14. The neighbouring plots prefer a similar degree of privacy so are also content with the arrangement. Due to the relationship between the plots within Top Park, if Members were minded to approve this application conditions have been recommended for inclusion that would tie the use of the plot solely to Gypsy and Traveller accommodation, preventing commercial activities, and preventing vehicles over 3.5 tonnes being brought onto site (to prevent conflicting uses that could detrimentally impact on neighbouring plots). These would be **Conditions 3 to 5** (inclusive). A further condition would also be included making the permission personal to the applicant and his family (**Condition 6**).

6.18 In terms of implications for those living outside the Top Park site, there are no neighbouring residences in close enough proximity to experience a direct material impact on privacy from the Top Park site due to their distances from the site (excluding Top Park the closest Gypsy and Traveller sites to Plot 16 are over 200 metres away, and the nearest settled dwellings in the villages of Bulkington, Barnacle, and Shilton are 250 metres, 580 metres, and 620 metres away respectively). It is not therefore considered reasonable or justifiable to place restrictive conditions relating to privacy or acoustic protection for these residents due to their significant distance from Top Park and from Plot 14 in particular.

6.19 *Does the development have appropriate vehicular access?*

The applicant exclusively uses the established Top Park access road. WCC Highways were specifically consulted on this application and have raised no objections to the continued use of this access as a primary means of direct vehicular and pedestrian access to Plot 14. However, this is subject to the inclusion of a specifically worded condition regarding configuration of the access gates so that they only open into the plot as opposed to outwards over the access road in order to ensure that they do not compromise access for other users. This would be **Condition 7** in the event that Members were minded to approve the application.

6.20 *Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?*

Prior to occupation nearby Plot 19, there was a limited degree of partial screening by virtue of a pre-existing mixed species hedge along the back of the highway verge and the presence of some semi-mature trees within it. However, it was still possible to view the land from the highway due to the existing side access road and the fact that both the hedge and the trees were deciduous. Soon after the occupants of nearby Plot 19 moving onto their own site, a section of the hedge was cut back and lowered to better facilitate the use of the secondary access road, leaving more of the frontage of Plot 19 exposed. This undoubtedly affected the visual characteristics of the wider site, although it had only a limited impact on Plot 14 specifically, as has the presence of the structures and tower that currently occupy the site. However, the development that has been undertaken on and around Plot 14 is consistent with the more established development on Top Park, so whilst it may be the case that the level and type of development has had a visual impact

it has not been one that is so at odds with the pattern and form of development in this part of Top Road as to justify refusal of this application on that basis.

- 6.21 Should Members be minded to approve the application, it is considered reasonable to tightly control the potential for further development of the plot to prevent the intensification of its visual impact. Therefore, in the event of an approval, it is considered reasonable to apply restrictive conditions that would prevent the further intensification or material alteration of the development of the plot (beyond the changes proposed) that could harm the appearance of the locality and detrimentally affect the character and openness of the Green Belt. To that end, it is recommended that in the event of an approval conditions are included that require the prior written permission of the LPA for any additional structures, fences, gates, outbuildings or additional mobile homes and tourers above or beyond those subject of this application, and for the installation of additional external lighting. These would be **Conditions 8 to 10** (inclusive).
- 6.22 It is recognised that replacing mobile homes and tourers, whilst perhaps necessary over time, can also materially affect the overall visual impact of a site especially if they are larger or markedly different in terms of design than those they are replacing. At present the applicant does not intend to change the mobile home already on the site. However, it is recognised that they may wish to have children in the future and that as those children grow up and their needs change the family may find that meeting their needs requires further changes to their set up on the plot. Therefore, it is also considered reasonable in the event of an approval to have a mechanism to control future changes arising from the replacement of any existing mobile homes to ensure that replacements do not cumulatively result in intensification and overdevelopment of the plot by degrees. This would be **Condition 11** in the event that Members are minded to approve this development.
- 6.23 *Is the development well laid out to provide adequate space and privacy for residents?*  
Please see Paragraph 6.17. The applicants are content with their existing arrangements with regards to privacy, and so no further screening is proposed for this purpose within the site. The existing provision is adequate to enable the family to maintain the degree of privacy that they prefer. They are content to share the site equally and all benefit from the various structures and open spaces within the plot.
- 6.24 *Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?*  
At the moment there is a small soft landscaped area within the plot (around the trampoline). There is little space to accommodate a significant degree of additional planting but again this is commonly the case for plots on Top Park and it is considered unreasonable to require the applicant to undertake this unless the expectation is to be applied to all plots within Top Park (should they be approved). There is however open communal space within the plot that could be utilised as a container garden, and the applicant could also explore options for utilising suspended planters along the fence line enclosing the site if they wished. Were Members minded to approve this application, an informative note would be included guiding the applicants on ways in which they could incorporate a limited degree of additional biodiversity provision within the site through strategic planters and similar provision.

- 6.25 *Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?*

The application is for residential purposes only and does not include any non-residential uses that could cause these issues. Such non-residential uses would be conditioned against through the aforementioned **Conditions 3 to 5** (inclusive) in the event that Members approve this application, which would limit the development to the purposes set out in the development description. The aforementioned **Condition 6**, which would make the planning permission personal to the applicants, would also help to prevent conflicting operations that could be detrimental to the residential use of the plot.

- 6.26 *Is there adequate provision for on-site services for water supply, power, drainage, sewage and waste disposal facilities?*

The applicant has access to power and water already set up within the site, and they have registered for RBC domestic general waste and recycling collections services (evidenced by the presence and frequent emptying of RBC registered wheelie bins on the site). Each plot on Top Park benefits from its own septic tank to manage sewage and grey water disposal, including Plot 14.

- 6.27 Moving on from Policy DS2 of the Local Plan, Section 5 of the NPPF looks at the provision of homes including those in rural locations. As Gypsy and Traveller accommodation is also considered to come under the umbrella of rural housing provision, this section is relevant to this development. Paragraph 80 of Section 5 sets out criteria for consideration when provision of homes would be in isolated locations. This application does not meet any of these tests specifically, which is one of the reasons why the LPA must decide whether or not the development amounts to very special circumstances based on the case put forward by the applicants as required by Paragraphs 149 and 150 of Section 13 of the NPPF.

- 6.28 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.10 to 6.12 (inclusive) of this report. In the considered opinion of the LPA, the applicant has provided sufficient evidence to establish that they would qualify as having Gypsy and Traveller status for the purposes of assessing planning applications, and that their requirements meet the criteria to be considered as a very special circumstance to allow development that would otherwise be deemed to be inappropriate in the Green Belt. With the use of suitably worded conditions, it is possible to meet all the requirements of Policies SDC1 and DS2 of the Local Plan that have not already been met by the existing and proposed on-site provision, as well as the various requirements set out in Sections 2, 5 and 13 of the NPPF. The principle of this development is therefore considered to be acceptable in Planning terms from this perspective.

- 6.29 Looking now at the Planning Policy for Traveller Sites (PPTS) 2015, as the LPA does not currently have sufficient allocated sites to meet the requirements for Gypsy and Traveller provision within the Borough some of the requirements of Policy B of the PPTS 2015 cannot currently be met. However, this application has been assessed following the principles set out in Paragraphs 10 and 13 of this document, which direct LPA's on the key criteria to be used for assessing the suitability of sites for designation for formal Gypsy and Traveller provision. The lack of sufficient provision for Gypsy and Traveller sites is a key consideration in favour of this development and carries significant weight in planning terms as a material factor for special exceptional circumstances. Were the application to

be refused and the applicant evicted, this family would be left with very few options available to them. Given the lack of formal provision in the Borough, it is likely that they would have to resort to an unauthorised encampment elsewhere in the Borough, which would then face the same considerations as this one has. As well as being far from ideal in terms of planning, this would also effectively result the applicant and his family being made homeless. As well as potentially having serious repercussions for their health and wellbeing, it could also jeopardise the family's access to medical and support services. These are factors that weigh strongly in favour of this development on the grounds of very special circumstances.

- 6.30 Policies C and E of the PPTS 2015 cover sites in rural countryside locations and those in the Green Belt. Policy E in particular makes it clear that even Gypsy and Traveller provision in the Green Belt is considered unacceptable *unless very special circumstances exist that would outweigh the harm*. As set out in this report, the LPA consider that this application does warrant consideration as a very special circumstance, and as such the requirements of Policies C and E are also met.
- 6.31 Levels of existing provision (and the lack thereof) are also a key consideration within Policy H of the PPTS 2015, being identified as a specific consideration in Paragraph 24 alongside the availability or lack of alternative sites and the personal circumstances of the applicants. Policy H also encourages the use of planning conditions as a means of overcoming concerns and objections regarding such developments, which the LPA confirm would be their intention through identification of recommended conditions throughout this report.
- 6.32 For the reasons set out above, the principle of this development is also considered to be acceptable in terms of compliance with the Planning Policy for Traveller Sites 2015.
- 6.33 A Written Ministerial Statement published on 31 August 2015 made intentional unauthorised development a material consideration when determining planning applications and appeals from that date onwards. As Plot 14 was occupied prior to the Ministerial Statement, the applicant's decision to develop and occupy their plot in 2010 does not therefore indicate intentional unauthorised development that can be given weight as set out in the Ministerial Statement of 2015 when determining this application. As set out above within Section 6 of this report, there are also key factors that on balance weigh in favour of this development being deemed to be acceptable.
- 7.0 Visual impact
- 7.1 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well and add to the overall quality of the area over the lifetime of the development, are visually attractive, and are sympathetic to the local character and history.
- 7.2 Policy SDC1 of the Local Plan states that developments will only be supported where they are of a scale, density and design that responds to the character of the areas in which they are located. It also highlights key considerations for determination of such applications, including massing, landscape, layout and materials.
- 7.3 In objections received from local residents and the Parish Council, the visual impact of the Top Park site has been highlighted as a key concern. Objections share common themes relating to the contrast between the Top Park site and the rural landscape and the effect of external lighting increasing the impact.

- 7.4 In addition to considering the impact of the development on the character and appearance of the Green Belt (see above), a key factor of any development is the impact it has on the visual character of an area. In this case, we have a site located in an area away from the nearest villages of Shilton, Barnacle and Bulkington. There are however several Gypsy and Traveller sites in the locality, and as stated in Paragraph 6.7 of this report the older part of Top Park now benefits from a 5 year temporary planning permission so will continue to be a feature of the area until 2028. The surrounding undeveloped areas are farmland, with boundaries generally marked with field hedges. The general aesthetic of the area is therefore mixed natural landscape and Gypsy and Traveller development.
- 7.5 When approaching the site from the adjacent highway (Top Road), one of the first things to notice are the two entrances now serving Top Park (the established original one the applicant uses to access their own plot, and the secondary one to the right of Top Park that was formerly an unmade track) and the front perimeter fencing with the mobile homes lying beyond it. What is also evident is that the plot is surrounded by other Top Road plots that have been developed in a very similar way. Paragraphs 6.20 to 6.22 (inclusive) of this report set out the visual implications of the development, and also the fact that the surrounding development gives this plot context and prevents isolation. They also identify how further intensification would be controlled through a condition preventing the introduction of any more structures or vehicles than are presently on the plot (Condition 8) and requirement clauses in **Conditions 9, 10 and 11** relating to the replacement of structures to ensure that existing features that are to be replaced are removed prior to their replacements being brought onto site (so as to prevent cluttering and temporary overdevelopment arising from having a new feature on the plot at the same time as the one it is supposed to be replacing).
- 7.6 The LPA recognises local residents' concerns about the effect that external lighting can have on making the site more prominent in hours of darkness when there are no adjacent light sources (such as streetlights). There are many plots on the wider Top Park site that have some form of external lighting, and undoubtedly this does increase the prominence of the site in visual terms. Some external lighting is required for safety and security purposes given the lack of surrounding light sources in the public domain, so a degree of lighting is considered reasonable. Some mobile homes already come pre-fitted with low level illumination from inbuilt lights near the doors, and the LPA consider that this safety feature would fall within the reasonable requirements category. However, to prevent the installation of excessive or inappropriate additional external light sources in the future it is considered reasonable to restrict such installation through the aforementioned **Condition 7** (see Paragraph 6.20 of this report).
- 7.7 Another common concern raised in objections received by the LPA has been the fear of further development in the event that the Top Park site is approved, in particular the replacement of existing mobile homes with larger ones. The LPA recognise this as a very valid concern, and as set out in Paragraph 6.21 and 6.22 of this report would recommend that in the event of Members approving this application a condition be applied preventing this eventuality by requiring the applicant to seek prior written approval before replacing the mobile homes (**Condition 12**).
- 7.8 Within the plot itself, there is currently a predominance of hard surfacing (gravel and block paving). Whilst more green relief within the plot would help to break up the monotony of the hardstanding, the functional requirements of the open communal area means that

options for introducing more landscaping are very limited. As noted in Paragraph 6.24 of this report, given the limited landscaping provision on other plots within Top Park, it would be unreasonable to apply a requirement for landscaping on this plot, but in the event that Members approve this application an informative note would be applied to give guidance on possible options for increasing biodiversity within the site where possible.

- 7.9 For the reasons set out above, and with the abovementioned conditions applied, the scheme complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to character and appearance. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 8.0 Residential Amenity
- 8.1 Several objectors have raised concerns over the cumulative impact of the level of Gypsy and Traveller accommodation in the locality on their access to services and facilities, but none seem to have raised particular concerns that directly relate to a material impact on their individual residential amenity as a result of the occupation of Plot 14.
- 8.2 Paragraphs 6.16 and 6.17 of this report set out the LPA's assessment of amenities for both those living on Plot 14 and those living either around them on Top Park or in neighbouring settlements. In summary, the applicant has sufficient privacy and space to meet their needs without compromising the amenities of those living on adjacent plots on Top Park, and the nearest settled residents are a sufficient distance away from the site so as not to be materially impacted upon in terms of loss of amenity.
- 8.3 Some objectors have raised concerns over disruption arising from noise nuisance, but again the nearest settled residential properties are a long way away from the site (between 250 metres away and 620 metres away). Whilst some noise may be arising from the site, the LPA considers that it would be unlikely to be to such an extent as to warrant supporting a refusal on amenity grounds given the significant distance between the settles community and Top Park. It would be difficult to discern noise coming purely from Top Park and Plot 14 in particular from adjacent development. Environmental Health have advised that it would not be necessary to require the undertaking of a full noise assessment. This was particularly considered in relation to adjacent plots on Top Road, and if the noise levels for those plots have not been deemed to be of concern, then the same must be true for those settled residents living much further away too.
- 8.4 In the event of an approval, the aforementioned **Conditions 3, 4, 5, 8, 9, 10, 11 and 12** will help to protect those living on adjacent plots within Top Park from further built development or replaced structures within Plot 14. **Condition 11** will help to ensure that external lighting was controlled, and as such should help to protect against light nuisance to neighbouring residents.
- 8.5 For the reasons set out above, and with the identified conditions applied, this development complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to residential amenity. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 9.0 Highway Safety
- 9.1 Several concerns have been raised by Parish Council, Borough Councillors and local residents regarding the implications of increasing Gypsy and Traveller development in the area on the intensity of the use of surrounding roads, particular those leading through

Barnacle. WCC Highways were consulted on the application and raised no concerns or objections in terms of impact on the road network. They did however request that a condition be applied in the event of an approval regarding works to the access gates (Condition 7) and recommended informative notes re surface water run-off to prevent excessive water running onto Top Road.

- 9.2 As regards the parking and manoeuvring of vehicles within the site, whilst Appendix 5 of the Local Plan doesn't set a specific recommended level for parking provision for Gypsy and Traveller sites, for dwellings of a comparable size it is recommended to provide a total of 4no. parking spaces for the mobile home and tourer collectively.
- 9.3 The communal area has been deliberately left free of structures to allow for adequate vehicle turning space and the parking of vehicles. The applicant and his family can park their own vehicles within the site, and the area is large enough to be considered to be sufficient to meet both the parking need of the site and enable turning within the plot even when vehicles are already parked. This was witnessed in practice during the LPA site visit in February 2023. In any event, as the plot is shared by members of the same family, they can easily manage each other's needs and ensure the parking and turning of vehicles works sufficiently well at all times. As they tend to park immediately adjacent to the fences when at home, it is feasible for visitors to also park within the site or adjacent to the access gates without affecting the functionality of the adjacent access track or impacting on Top Road. There is also sufficient space to accommodate additional vehicles to maintain the recommended level of provision in Appendix 5.
- 9.4 With the highway condition applied and the site layout protected through Condition 2, this scheme would comply with Policy D2 and Appendix 5 of the Rugby Borough Council Local Plan 2011-2031.
- 10.0 Sustainability and environmental impact
- 10.1 The environmental implications of development must be carefully considered, particularly as the Rugby Borough Council Local Plan 2011-2031 has reinforced the need to consider offsetting the impact of development through its policies GP1, HS5, SDC4 and SDC7. These in turn reinforce the wider importance and focus raised on these issues within Sections 2 and 12 of the NPPF 2021.
- 10.2 The environmental considerations (such as the implications of being in an Air Quality Management Area, and the need for water and energy efficiency) cross over into the requirements that will be placed on the developer through the need to comply with Building Regulation requirements but can also require control at the planning stage through the application of specifically worded conditions and supportive text.
- 10.3 The Local Plan defines Air Quality Neutral as *"emissions from the development proposal being no worse, if not better, than those associated with the previous use."*
- 10.4 This site does not lie within the Air Quality Management Area, and the type of development applied for does not meet the triggers for requiring conditioned mitigation under Policy HS5. An informative would be applied in the event of an approval to guide the applicant on ways they can reduce their environmental impact. There are also options available to occupiers of the site to adopt water efficiency practices, such as limiting water waste and making more efficient use of the water supply that is consumed.

- 10.5 The Environmental Protection team were specifically consulted on this application and have recommended the application of a condition relating to previously contamination which would be applied as **Condition 13** in the event of an approval. The condition sets out a phased approach to be undertaken in the event that previously unidentified contamination is found within the site. Given the fact that no further development is proposed on Plot 14 that would disturb the ground or sub layers however, whilst this condition would be applied it would not require any response from the applicant at this stage. It should be noted that the LPA are not currently aware of any contamination issues in this area, and this condition is intended as a safeguarding measure rather than confirmation that there is already a contamination issue.
- 10.6 In terms of air quality mitigation, Environmental Health have raised no significant concerns and did not identify the need for any controls or conditions with regards to this. They have however recommended inclusion of an informative note in the event of an approval to guide the applicant on possible options to reduce their impact on air quality through mitigation and/or aiming to achieve air quality neutrality.
- 10.7 Environmental Health have also recommended environmental based informatives regarding drainage and implications of adjacent activities.
- 10.8 For the reasons set out above, the development complies with the environmental directions of policies GP1, HS5, SDC1 and SDC4 of the Rugby Borough Council Local Plan 2011-2031 with regards to air quality and some aspects of environmental impact. In so doing, it would also meet the standards and guidance set out in Sections 2, 11 and 12 of the NPPF 2021 for those same criteria.
- 11.0 Biodiversity
- 11.1 Policy NE1 of the Local Plan focusses on protection of designated biodiversity and geodiversity assets, supporting the aims and objectives of Section 15 of the NPPF. As part of this, both local and national planning policy details the need to consider biodiversity as part of the planning process, with the aim to seek opportunities to protect and enhance biodiversity and protected specials through all types of development whenever possible.
- 11.2 No particular biodiversity related objections were received from residents or the Parish Council, and biodiversity wasn't one of the reasons given in the Ward Councillor's request to take the case before the Planning Committee for consideration.
- 11.3 WCC Ecology were consulted on this application and have confirmed that they have no ecological concerns about the development. They have not requested any conditions or informatives be included in the event of an approval, but as stated in Paragraph 6.24 of this report an informative note would be applied in the event that Members are minded to approve this application to advise the applicant of options they may be able to explore to increase biodiversity opportunities and provisions within their plot.
- 11.4 The scheme is considered to comply with Policy NE1 of the Rugby Borough Council Local Plan 2011-2031, and to accord with Section 15 of the NPPF 2021.
- 12.0 Planning balance and conclusions**
- 12.1 This scheme represents an inappropriate development in the Green Belt, and as such is not acceptable unless there are very special circumstances that sufficiently outweigh the harm that inappropriate development can otherwise cause. In this particular case there

are four key factors that collectively represent reasonable grounds for this application to be considered as an exception to the usual presumption against development in the Green Belt:-

- The LPA currently has a shortfall in Gypsy and Traveller site provision within the borough, and there are no more appropriate locations within the borough that the applicant and their family could lawfully move to. This carries significant weight in favour of the application.
- Refusing this application could result in the health and wellbeing of the family being put at risk, as well as their access to services and facilities within the locality to meet their needs.
- The applicant and his family identify as Romany Gypsies and wish to follow the cultural traditions of their heritage by living on a site where those traditions can be practiced as part of the cultural community with which they identify.
- The applicant has direct links to other families residing on the Top Park site and has been living on this plot for 13 years.

- 12.2 The very special circumstances outlined above clearly outweigh the harm to the Green Belt that has been caused by the inappropriate nature of the development. The development is therefore considered to be acceptable on the grounds of the very special circumstances associated with the application.
- 12.3 As the development and occupation of Plot 14 occurred prior to the 2015 Ministerial Statement intentional unauthorised development is not a material consideration in this instance.
- 12.4 The principle of development is deemed to be acceptable, and the development meets all the key tests set out in Policy DS2 of the Local Plan.
- 12.5 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.6 The scheme is acceptable in terms of scale, character and appearance.
- 12.7 There are no highway safety concerns.
- 12.8 There are no environmental concerns.
- 12.9 There are no biodiversity concerns or necessary provision or protection measures.
- 12.10 The development does not detrimentally impact on the residential amenity of residents living outside Top Park, and the relationship and level of residential amenity for both the applicant and those living on adjacent plots on Top Park is acceptable to all parties affected.
- 12.11 **Condition 3** will tie the use of Plot 14 to Gypsy and Traveller accommodation only and prevent commercial use.

- 12.12 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.13 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.14 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.15 **Condition 7** will require the reconfiguration of the access gates to the access road such that they open into the site rather than out over the adopted highway (Top Road), and that the access gates for Plot 17 itself open into the plot as opposed to out over the access road.
- 12.16 **Condition 8** will prevent the erection of any additional structures (including fencing, gates or other means of enclosure) and the installing of any additional mobile homes without the prior written agreement of the LPA.
- 12.17 **Condition 9** will prevent the bringing onto site of any additional tourer caravans without the prior written agreement of the LPA. It will include a requirement for any tourer being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.18 **Condition 10** will require the tourer caravans identified for removal as part of this application to be removed from site PRIOR to replacement tourers or mobile homes already identified in this application being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.19 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.20 **Condition 12** will protect against the replacement of any existing or proposed the proposed mobile homes with larger models without the prior written agreement of the LPA. It will include a requirement for any mobile home being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple additional mobile homes being on site at the same time until the older one is removed.
- 12.21 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.22 Informative notes will be included in the event of an approval to guide the applicant on matters relating to:-
- Surface water run-off onto the highway (Top Road),
  - Biodiversity enhancement options,
  - Requirements for compliance with Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service,
  - Requirements of The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, (provision of sprinklers, and maintaining access for emergency vehicles),
  - Air quality mitigation and neutrality,

- Drainage,
- Impacts from existing adjacent activities,
- Private sector housing team comments, and
- Domestic waste collection.

12.23 The development complies with all relevant local and national planning policies.

**13.0 Recommendation**

13.1 Planning application R22/0664 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report.

13.2 The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

**DRAFT DECISION**

**REFERENCE NO:**

R22/0772

**DATE APPLICATION VALID:**

30-Sep-2022

**APPLICANT:**

Darren Lee 14, Top Park, Top Road, Barnacle, Dunchurch, CV7 9FS

**ADDRESS OF DEVELOPMENT:**

Plot 14, Top Park, Top Road, Barnacle, Dunchurch, CV7 9FS

**APPLICATION DESCRIPTION:**

Retention of 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof.

**CONDITIONS, REASONS AND INFORMATIVES:**

**CONDITION 1:**

This permission shall be deemed to have taken effect on 16 March 2023.

**REASON:**

To comply with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

**CONDITION 2:**

The development shall be carried out in accordance with the plans and documents detailed below:

Application form (received by the Local Planning Authority on 26 June 2022)

Drawing number 178-01 Revision A (received by the Local Planning Authority on 03 November 2022)

Drawing number 178-07 (received by the Local Planning Authority on 30 January 2023)

Drawing number 178-32 (received by the Local Planning Authority on 30 January 2023)

**REASON:**

For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority.

**CONDITION 3:**

The development hereby permitted shall only be occupied and used for the purposes of being a Gypsy and Traveller site and for no other purpose.

**REASON:**

As the development is only acceptable due to the applicant's circumstances, and to ensure the proper operational use of the site.

**CONDITION 4:**

No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer or burning of materials.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 5:**

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

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 6:**

The development hereby permitted shall be personal to Mr Darren Lee, and the site shall only be used by Mr Darren Lee, his spouse, and his children.

**REASON:**

As the development is only acceptable due to the applicant's personal circumstances.

**CONDITION 7:**

Within three months of the date of this planning permission, both the main gates adjacent to Top Road and the vehicular access gates to the site shall be reconfigured so as to open inwards only. Any further gates installed at the vehicular access shall thereafter open inwards only and shall at no time open outwards toward the public highway.

**REASON:**

In the interests of public and highway safety and the amenity of other users of the access road.

**CONDITION 8:**

Other than those hereby approved, no additional structures or enclosures shall be erected within or around the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. This includes (but is not limited to) both temporary and permanent structures, fencing, gates, and outbuildings, as well as any additional mobile homes.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 9:**

Other than those hereby approved, no additional tourer caravans shall be brought onto the site without the prior written approval of the Local Planning Authority. No replacement tourer caravan shall be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 10:**

Any tourer identified for removal as part of this development shall be removed prior to the mobile home replacing it being brought onto site. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 11:**

No additional external lighting shall be erected unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. Any lighting shall only be erected in accordance with the approved details.

**REASON:**

To ensure a satisfactory external appearance and in the interests of the visual amenities of the locality and the amenities of neighbouring residents.

**CONDITION 12:**

Other than those hereby approved, no replacement mobile homes shall be brought onto the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. No replacement mobile homes shall be brought onto site unless and until the mobile home being replaced has already been removed from the site.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 13:**

When carry out work as part of this development hereby permitted, in the event that contamination is found it shall be reported in writing immediately to the Local Planning Authority. Each of the following subsections a) to c) shall then be subject to approval in writing by the Local Planning Authority.

a) An investigation and risk assessment shall be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

b) Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared.

c) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared.

**REASON:**

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property, and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, and other off-site receptors.

**INFORMATIVE 1:**

The applicant/developer is advised that the development will need to comply with Approved Document B, Volume 2, Section B5 - Access and Facilities for the Fire Service. Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc regarding this can be found at: [www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning](http://www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning) Where compliance cannot be met, the applicant/developer will need to provide details of alternative measures intended to be put in place. Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18, Access for Emergency Vehicles. In addition, Warwickshire Fire and Rescue Authority fully endorse and support the fitting of sprinkler installations, in accordance with the relevant clauses of BS EN 12845 : 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

**INFORMATIVE 2:**

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

**INFORMATIVE 3:**

The applicant is encouraged to incorporate measures to assist in reducing their impact upon the Air Quality Management Area as part of this development. Initiatives could include the installation of an ultra-low emission boiler (<40mg/kWh), increased tree planting/landscaping, solar thermal panels, and the incorporation of electric vehicle charging points on any car parking. More information on plants that can be incorporated into landscaping for green walls and roofs can be found here:

[https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed\\_1.pdf](https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed_1.pdf) Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email [ept@rugby.gov.uk](mailto:ept@rugby.gov.uk)

**INFORMATIVE 4:**

The drainage and waste disposal system will need to comply with the Building Regulations 2010 Approved Document H (2015 Edition) – Drainage and Waste Disposal.

**INFORMATIVE 5:**

Where possible enhancements should be incorporated into the development to improve the habitats and opportunities for the local wildlife and increase biodiversity. Enhancements could include bat and bird boxes which may be used by a variety of species, native species planting and enhancement of existing of hedges and wild flower planting, habitat piles of rubble, logs and

earth which can be used by reptiles, amphibians and invertebrates are also welcomed. Warwickshire County Council Ecological Services (tel: 01926 418060) would be pleased to advise further if required.

**INFORMATIVE 6:**

The development is within farmland and will be subject to reasonable disturbance from noise, dust, odour, vibration and light associated with farming practices. These practices may at times extend into the night or early hours, such as harvest. Noise may also be audible from nearby road and rail traffic.

**INFORMATIVE 7:**

This development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations, the Council's Standards of Amenity, Caravan Sites and Control of Development Act 1960 and Mobile Homes Act 1983 (and subsequent Acts) as these may be applicable in terms of layout, spacing and fire precautions. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

**INFORMATIVE 8:**

The applicant/occupiers should consult with RBC Waste Services Team regarding waste collection proposals for the proposed development.

**Reference: R22/1055**

**Site Address: Plot 15, Top Park, Top Road, Barnacle, Coventry, CV7 9FS**

**Description: Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road.**

### **Recommendation**

Planning application R22/1055 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report. The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **1.0 Introduction**

- 1.1 This application has been called to Committee by Councillor Maoudis on behalf of the Parish Council, who have asked her to do so for the following reasons :-
- Inappropriate development in the Green Belt and no very special circumstances,
  - Unsustainable development (no public transport links or safe walking routes),
  - Visual impact,
  - Light pollution,
  - Inadequate drainage leading to potential environmental and health hazards,
  - Over-concentration of Gypsy and Traveller sites having disproportionate effect on the settled community,
  - Misleading inaccuracies in the application,
  - Existing injunction against such development without prior planning permission,
  - No planning permission currently exists or has ever existed for development on this site, and
  - Disregard for planning law, rules and regulations.

## **2.0 Description of site**

- 2.1 This application relates to a single plot known as Plot 15, which is located on land adjacent to the main access road for a larger Gypsy and Traveller site near the village of Barnacle (Top Park). To the north, south and east of the plot lie similar Gypsy and Traveller plots, as well as aforementioned main access road serving Top Park. To the west of the plot is an unmade access track, beyond which is an open field that separates the site from development along Bulkington Road. Further to the north, Top Park is flanked a highway verge, beyond which is the adopted highway (Top Road). On the opposite side of Top Road is open pastureland bounded by low field hedges.
- 2.2 The plot is currently enclosed on three sides by timber fencing of approximately 1.5 metres in height. The eastern boundary is marked by a brick wall rising from approximately 1.5 metres to 2 metres in height, within which is a vehicular entrance from the main Top Park access road with ornate metal and timber double gates supported by 2 metre high brick piers. There is no internal subdivision of the plot. At present there is a single mobile home located such that its rear elevation flanks the southern boundary fence of the site. Opposite the mobile home and flanking the northern boundary of the site is a single tourer

caravan. The applicant and his family occupy the mobile home, with the tourer used as additional living space.

- 2.3 On ground to the right of the mobile home is a two tier climbing frame, beyond which is a brick built amenity building that serves as a kitchen and utility building. Adjacent to the outbuilding is a grassed area with a trampoline that the applicant uses as garden space. Opposite this area in the north-western corner of the site are a former timber stable building of timber construction (which the applicant uses for storage of toys and domestic paraphernalia) to the front of which is a small enclosed covered yard area, and between the western elevation of this building and the western boundary of the site is a detached kennel building.
- 2.4 The majority of the plot is surfaced with a combination of loose stone chippings and block paving apart from the aforementioned grassed area (see Paragraph 2.3).
- 2.5 Access to Plot 15 is via the main established Top Park access road, with no access to the newer unmade access road used by Plots 16, 17, 18 and 19.

### **3.0 Description of proposals**

- 3.1 The applicant and their family have occupied this plot since March 2020, with works to create the plot commencing in January 2020. They seek retrospective consent to formally change the use of the land to a Gypsy and Traveller pitch for their family (the applicant, his partner and their child), and to retain the existing mobile home and tourer caravan. In addition to the accommodation, the applicant also seeks to retain play equipment, a brick built amenity building (which serves as a kitchen and utility building), a timber former stable building (which is now used for storage) and a kennel building. They also wish to retain the existing surfacing materials and access gates.

### **Planning History**

#### *Affecting Plots 14-19 collectively*

R20/0192	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0193	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0194	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22
R20/0195	Change of Use of paddock land to allow the siting of 1no. mobile home.	Withdrawn 05/10/22

**NB - These applications were all withdrawn and replaced with applications that more accurately reflected the development undertaken.**

#### *Affecting adjacent Plots 14 and 16-19 (inc)*

R22/0637	Retention and occupation of 2no. mobile homes and use of the site as 2no. Gypsy and Traveller pitches. Retention of 2no. sheds, 1no. outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and surfacing of the plot with gravel. Siting of 2no. touring caravans. <b>(Plot 19)</b>	Application ongoing
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- R22/0664 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, 1no. utility building (timber), 1no. shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track, and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 1no. existing tourer with 1no. static caravan and siting of a second static caravan. **(Plot 16)** Application ongoing
- R22/0665 Retention of 1no. pitch for Gypsy and Traveller use, including retention of 1no. tourer caravan, dog kennels, 1no. shed, gravel hardstanding, vehicular access off access road and pedestrian access off Top Park access road. Retention of gates across both accesses and boundary fencing. Replacement of 2no. existing tourer caravans with 2no. static caravans, and removal of 1no. existing shed. **(Plot 17)** Application ongoing
- R22/0666 Retention of 1no. pitch for Gypsy and Traveller use, including 1no. static caravan and 1no. tourer caravan, 1no. wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road. Retention of gates across both accesses and fencing around boundary. Erection of a utility building. **(Plot 18)** Application ongoing
- R22/0772 Retention of 1no. Gypsy and Traveller pitch use comprising 1no. static caravan, 1no. touring caravan, 1no. timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof. **(Plot 14)** Application ongoing

*Affecting the wider Top Park site*

- R15/2017 The retention of the use of land and ancillary operational development as a residential caravan site (renewal of planning permission (Appeal) reference APP/E3715/A/06/2030623 (R06/0743/PLN) dated 18 January 2008) including the erection of six temporary amenity blocks (resubmission of previously withdrawn application R10/0959 dated 26/11/2010). Variation of Condition 1 of R10/2298 refused on 6 April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27 August 2013 to provide a permanent permission onsite at Top Park, Top Road, Barnacle. Temporary approval (5 years) 15 March 2023

**Relevant Enforcement History**

*Affecting Plots 14-19 Top Park*

- ENF/2020/0058 Temporary Stop Notice issued and served on 10 March 2020 for the undertaking of unauthorised works to apply a hard surface to the site and use of the land for the siting of static caravans/ mobile homes and/or as an unauthorised Gypsy

and Traveller encampment in contravention of an injunction on the land dated 6 June 2008.

Enforcement Notices issued and served on 06 April 2020 for breach of planning controls through the material change of use of land, without planning permission, from a paddock to mixed use as a paddock and for the siting of a caravan/mobile home and portaloo and subsequently appealed. Appeal A (APP/E3715/C/20/325193, 3251934, 3251935, 3251936 and 3251937) was dismissed on 15 March 2022 and the Notices varied and upheld.

Enforcement Notices issued and served on 06 April 2020 for the erection, without planning permission, of fencing, gates and structures, and the removal of hedgerow to form an access and subsequently appealed. Appeal B (APP/E3715/C/20/3255440, 3255441, 3255442, 3255443 and 3255444) nullified the original Enforcement Notices and so no further action was required in relation to the appeal. As the Notices were nullified the LPA could take no further action to enforce them.

Neither appeal considered the planning merits of the development as this was not a ground of appeal that the applicants raised. The grounds that were raised were: a) the period for compliance was unreasonable, b) the Enforcement Notices weren't served correctly, c) the works had not occurred, and d) the steps taken to remedy the breach were excessive. As such, the Inspectors comments in the appeal decisions, whilst providing context for his decision, do not provide a view from the Inspector as to whether the development should be allowed or not.

Whilst the upheld Enforcement Notice carried a period of compliance ending no later than 31 October 2022, it was unreasonable for the Council to take further enforcement action until the live planning applications relating to these same plots of land had been determined.

When the Enforcement appeal site visit was conducted in 2022, it transpired that the works undertaken on site by that point no longer accurately reflected what was shown in the live planning applications submitted in 2020. The Council consulted with Counsel and, following Counsel's advice, advised the applicants that it would be pragmatic to withdraw the 2020 applications and submit fresh planning applications which accurately detailed the development that has occurred on site for which the applicant was seeking planning permission. This was without prejudice to any subsequent decisions that may be made by the Council., The resubmitted applications included this application for Plot 14 and until the application has been determined, it would not be expedient for the Council to pursue further action in relation to the upheld Enforcement Notice.

#### *The wider Top Park site*

R10/2298

Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring the cessation of the use of the land for the siting of caravans for residential use, trailers and commercial vehicles; and removal of all static and touring caravans not associated with the agricultural use of the land, all trailers and commercial vehicles parked on the land, and all timber sheds not associated with the use of the land for agricultural purposes. Appeal A (APP/E3715/C/11/2153638) allowed on 27 August 2013 resulting in the Enforcement Notice being corrected and quashed. Planning permission granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision.

- R10/2298 Enforcement Notice issued on 28 April 2011 and served on 03 May 2011 requiring removal of hardstandings, fencing not associated with the authorised use, and amenity buildings. Notice also required the restoration of the land to its former condition by seeding with grass in place of the hardstandings. Appeal B (APP/E3715/C/11/2154137) was allowed on 27 August 2013 and the Enforcement Notice was quashed. Planning permission was granted subject to conditions, including that the use permitted shall be for a period of 3 years from the date of the decision or 6 months from the cessation of the use of the site as a residential caravan site, whichever was the sooner.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the change of use of land, without planning permission, from a paddock and the building of stables to a mixed use for the siting of residential caravans, trailers, and commercial storage, and the erection of a gymnasium and utility room. Appeal A (APP/E3715/C/03/1124483) was dismissed, and the Enforcement Notice varied and upheld on 20 February 2004.
- R03/0393/22761/P Enforcement Notice issued and served on 08 July 2003 for breach of planning control through the unauthorised formation of hardstanding, erection of fencing, and the erection of external lighting. Appeal B (APP/E3715/C/03/1124483) was dismissed and the Enforcement Notice varied, corrected and upheld on 20 February 2004.

### *The Injunction*

There is a historical injunction from 2008 covering the site, which amongst other things does not cause or permit any caravans or mobile homes to be stationed on the land. However, this does not prevent planning applications being submitted on the sites for the stationing of caravans or mobile homes and being subsequently determined by the Council. As such, whilst useful in explaining the context of this site, the existence of this historical injunction carries little to no weight in terms of determining this application.

### **Relevant Planning Policies**

As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Local Plan 2011-2031. The relevant policies are outlined below.

Rugby Borough Local Plan 2011-2031, June 2019

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

DS2: Sites for Gypsy, Travellers and Travelling Showpeople

HS5: Traffic Generation and Air Quality, Noise and Vibration

NE1: Protecting Designated Biodiversity and Geodiversity Assets

SDC1: Sustainable Design

SDC4: Sustainable Buildings

D2: Parking Facilities

National Planning Policy Framework, 2021 (NPPF)  
Section 2: Achieving sustainable development  
Section 5: Delivering a sufficient supply of homes  
Section 9: Promoting Sustainable Transport  
Section 11: Making Effective Use of Land  
Section 12: Achieving well-designed places  
Section 13: Protecting Green Belt land  
Section 15: Conserving and enhancing the natural environment

The Planning Policy for Traveller Sites 2015  
Policy B: Planning for traveller sites  
Policy C: Sites in rural areas and the countryside  
Policy E: Traveller sites in Green Belt  
Policy H: Determining planning applications for traveller sites

Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study  
(GTAA) September 2022

### **Technical consultation responses**

- WCC Highways - No objections subject to condition re vehicular access gates, and informative re surface water run-off onto adopted highways.
- WCC Ecology - No ecological concerns. No conditions or informative notes requested.
- WCC Fire and Rescue - No objections subject to following criteria being met (as required by Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service):
- A fire appliance to gain access to within 45 metres of all points within the footprint of each building or in accordance with table 15.1 of ADB, Volume 2.
  - A fire appliance to gain access to within 45 metres of all points inside each dwelling
  - Minimum width of the access road is 3.7 metres along the entire length
  - Minimum width of any gateways is 3.1 metres
  - Minimum height clearance is 3.7 metres
  - Minimum carrying capacity is 12.5 tonnes
  - Dead-end access routes longer than 20 metres require turning facilities
  - Turning circles should be a minimum of 16.8 metres between kerbs or 19.2 metres between walls.
  - Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m.
- Advisory note re need for development to comply with Approved Document B, Volume 1, Section B5 – Access and Facilities for the Fire Service.
- Notes re The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency

Vehicles, provision of sprinklers, and maintaining access for emergency vehicles.

RBC Environmental Health - No objections subject to condition re previously unidentified contamination and informatives re air quality, drainage, impacts from existing activities, private sector housing team comments, and waste collection. No concerns over implications from road noise and no need for noise assessments or full contaminated land condition.

### **Third party comments**

Parish Council - Objections relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Visual impact,
- Light pollution,
- Inadequate drainage,
- Cumulative impact of Gypsy and Traveller sites in the locality on the settled community,
- Misleading and inaccurate details in the documentation,
- Lack of current or historical planning permission for the site, and
- Lack of respect for planning laws and regulations.

Ward Councillor - Called for application to be considered by the Planning Committee on behalf of the Parish Council on the grounds of their objections (see above).

Neighbours -

Objections received from 13 households relating to:-

- Inappropriate development in the Green Belt,
- Unsustainability,
- Lack of safe footpaths along Top Road and safety implications of this,
- Risks to health and safety,
- Impact on property values for settled residents,
- Detrimental impact on the Coventry Way walking route,
- Lack of explanation as to why the applicant's family needs to be located on this particular site rather than anywhere else,
- Incongruous development in type and scale,
- Insufficient local amenities to support existing demand,
- Visual impact and lack of screening,
- Overdevelopment of the site and exceeding density requirements,
- Light pollution,
- Existing Gypsy and Traveller sites should be used instead of expanding Top Park,
- Increased local flood risk,
- Site is isolated from other villages,
- Lack of supporting evidence of need or very special circumstances,
- Noise nuisance from traffic,
- Impact of traffic to and from the site on surrounding roads and congestion,
- Barnacle, Shilton and Bulkington are already accommodating considerable numbers of Travellers families which isn't fair,
- Misleading and inaccurate details in the documentation,
- Site unsuitable for habitation,

- Duration of unauthorised development on the wider Top Park site,
- Contempt for injunction and laws, and
- Anti-social and criminal behaviour

Comments also received relating to:-

- Need to consider all current Top Park applications collectively and not in isolation,
- Lack of Council provision of alternative sites to prevent this type of unauthorised development,
- Rights of Council Tax payers, and
- Warwickshire Structure Plan asserting that developments in rural areas should have the expressed support of the local community.

#### **4.0 Implications of the recent planning appeal dismissal for Land at Fosse Corner Gypsy and Traveller site (Appeal reference APP/E3715/W/21/3278838)**

- 4.1 Following refusal of a retrospective temporary (two year) planning application for the retention of 2no. Gypsy and Traveller pitches on land adjacent to the Fosse Way/Millers Lane junction near Monks Kirby (which also went before the Planning Committee), the LPA were involved in an appeal against that decision. The outcome of this appeal was recently confirmed, and the appeal was dismissed. For context, the appeal site was also located in open countryside and Green Belt, and Members' reasons for refusing the original planning application related to a) inappropriate development in the Green Belt with insufficient very special circumstances to outweigh the presumption against such development, b) unsustainability, and c) insufficient drainage and flooding risk. Due to insufficient supporting evidence to substantiate Members' third reason for refusal, the LPA were advised by Counsel not to defend it for the purposes of the appeal and so pursued their case on the basis of inappropriate development in the Green Belt and unsustainability (reasons 1 and 2 of the original planning refusal).
- 4.2 In summing up her findings as part of the appeal decision, the Inspector set out her balanced consideration of the pro's and con's of the case. The Inspector found that there was significant harm to the openness of the Green Belt, and that the weight to be applied to this harm was not diminished by the temporary nature of the development. However, the Inspector did attach significant weight to a) the need for gypsy and traveller sites in the borough, b) the lack of supply of sites within the borough and the lack of an adopted Development Plan Document for such provision, c) the lack of alternative accommodation for the appellants and their families, and d) the personal circumstances of the appellants and their families. She also noted that, whilst not a determinative factor, the best interests of the children directly affected by the development were a primary consideration and no other consideration could be deemed to be more important. The Inspector therefore determined that the best interests of the children residing on the appeal site weighed heavily in favour of the development.
- 4.3 The Inspector also found that the location of the site was suitable for a Gypsy and Traveller site given the proximity to services and facilities (factors that related to the LPA's unsustainability refusal reason), and ultimately based her decision to dismiss the appeal on the fact that the considerations in favour of the development as outlined above were not sufficient to outweigh the inappropriateness of the development in the Green Belt in light of the impact on openness and the visual impact of the development.

4.4 The location of this application site is also in both the Green Belt and open countryside. However, the plot itself is also located within a parcel of land immediately adjacent to a site that has been used for Gypsy and Traveller accommodation for almost 20 years (Top Park) and which is also subject to consideration by Members at the March 2023 Planning Committee under planning application reference R15/2017. This is a key difference to the Fosse Way site, as it means that the site is neither isolated nor incongruous with its immediate surroundings and benefits from this established context of similar adjacent development. Given the fact that the Inspector directly linked the additional visual harm to the weight she applied to the inappropriateness of the development at Fosse Way, it would therefore be reasonable to argue by extension that the absence of this additional visual harm should carry less weight in favour of a refusal on Green Belt grounds.

## **5.0 Assessment of proposals**

5.1 The key issues to assess in the determination of this application are:

- Principle of development (including Green Belt considerations)
- Visual impact
- Residential amenity
- Highways and parking
- Sustainability and environmental impact
- Biodiversity

6.0 Principle of development

6.1 Policy GP1 of the Local Plan states that when considering development proposals, a positive approach will be taken on development that reflects the presumption in favour of sustainable development and to secure development that improves the economic, social and environmental conditions in the area. This is reflected in Section 2 of the NPPF, where Paragraph 8 sets out the same key objectives. Paragraph 11 of the NPPF states that where there is an up to date development plan applications should be determined in line with that development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted”*.

6.2 Policy GP2 sets out the development hierarchy for the borough and states that in Green Belt locations, such as this, development will only be permitted if allowed by national policy. This is supported by Section 13 of the NPPF. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF states that LPA’s should ensure that sufficient weight is given to any harm to the Green Belt. It also states that 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.

6.3 Policy DS2 of the Local Plan specifically focuses on the provision and enabling of sufficient sites for use by the Gypsy and Traveller and Travelling Showpeople communities. At the time of its adoption, the Local Plan projected that there would be a need for an additional 61no. new Gypsy and Traveller pitches in the borough over the period from 2017-2032. This policy identifies key criteria for consideration when assessing Gypsy and Traveller site applications:-

- Does the site afford good access to local services such as schools and health facilities?
- Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?
- Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?
- Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?
- Does the development have appropriate vehicular access?
- Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?
- Is the development well laid out to provide adequate space and privacy for residents?
- Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?
- Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?

- 6.4 According to the published Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study September 2022 (GTAA), which is available on the Council's website, there is a projected need for the provision of 79no. permanent pitches by 2037 for Gypsies and Travellers. To meet this need, the GTAA recommends that 48no. such pitches should be found in the borough by 2027. Paragraph 6.5 of the GTAA recognises that smaller sites are preferred by the Gypsy and Traveller community, and Paragraph 6.6 recognises that some families in the Gypsy and Traveller community are also interested in increasing provision on existing sites. The GTAA report recognises the potential value of developing land that is either already owned by applicants or land that they intend to purchase in potentially meeting some of this identified demand.
- 6.5 Section 11 of the NPPF focuses on the effective use of land, Paragraph 119 stating that *"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses"* and Paragraph 124 directing that consideration needs to be made in planning policies and decisions for *"the identified need for different types of housing and other forms of development"*. This is not limited to the use of previously developed land, although such sites are often considered for this purpose. The need for homes includes the need to provide accommodation for the Gypsy and Traveller community as well as providing for the settled community.
- 6.6 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well over the lifetime of the development.
- 6.7 On 15 March 2023, the Planning Committee considered an application to grant permanent planning permission for the retention and continuation of operation of the older established part of Top Park (under planning reference number R15/2017). The Committee granted temporary permission for the site for a period of 5 years. The effect of this has been to confirm that the main part of Top Park can continue to operate until March 2028, but the site has not been granted permanent permission and as such cannot contribute towards the Council's identified provision requirements for permanent Gypsy and Traveller pitch

provision in the borough. The development of that site pre-dates the 2015 Ministerial Statement on intentional unauthorised development, so could not be used as a material planning consideration to be weighed against such development.

- 6.8 Prior to Plot 15 being created, the land formed part of a small paddock that was privately owned by a person or persons with direct links to the established part of Top Park. It was laid to grass and used informally by those occupying Top Park. Plot 15 itself was first occupied by the applicant and his family in March 2020 and the applicant purchased the land they and their family now occupy from the previous owner. They have always accessed their plot via the existing Top Park access road to the left of their plot. Whilst they have gradually developed their plot over time, they have now completed the works they wanted to do and are not proposing any additional development as part of this application.
- 6.9 As noted in Section 4 of this report, the plot is in both Green Belt and open countryside. There is a general presumption against inappropriate development of such land unless the development meets identified criteria set out in Paragraph 6.2 of this report or unless very special circumstances exist that sufficiently outweigh the presumption against inappropriate development. As Gypsy and Traveller site provision is not one of the existing exceptions to the presumption, favourable consideration of the principle of development in Green Belt terms would be reliant on the applicant establishing a case of very special circumstances.
- 6.10 Evidence of the personal circumstances of the applicants has been received and considered by the LPA. This evidence identified two key factors for consideration:-
- There is a young child with complex medical needs residing on the site who is receiving ongoing medical care and therapy. He is also likely to need special educational support when he is old enough to attend school.
  - The applicant has familial and cultural links to other occupiers of Top Park and relatives living in close proximity to the site.
- 6.11 In support of the first factor, the LPA have been provided with letters from the child's medical specialist and therapist confirming their treatment and needs. This evidence is deemed sufficient to support the applicant's assertions that there is a child living on their plot who needs to remain in the locality in order to ensure consistent access to medical care and therapy.
- 6.12 In terms of familial and cultural links to the site and immediate locality, the family have relatives who live on the Top Park site and were already living there prior to the applicant and his family moving onto the site. The applicant and his family identify as Romany Gypsies and were raised in the practices of Romany culture. Due to the complex needs of their child, and the applicant and his partner's responsibilities towards caring for them, the family are not able to continue a transient lifestyle as that would affect their ability to maintain the children's regular access to medical care and the family's access to support in meeting their child's needs. They therefore wish to reside on the site to enable them to remain within their family and community and continue to practice as many of their cultural behaviours as their present circumstances allow.

- 6.13 Recently the matter of determining a lawful definition of Gypsy and Traveller status was considered in the Court of Appeal (*Smith v Secretary of State for Levelling Up, Housing & Communities & Anor [2022] EWCA Civ 1391*). The Court found that the Planning Policy for Traveller Sites 2015 definition of Gypsies and Travellers is unlawfully discriminatory in relation to aged and disabled Gypsies and Travellers who have permanently ceased to travel (who would for that reason not meet the PPTS 2015 definition of a Gypsy and Traveller). The effect of the court's decision isn't to quash PPTS, but it identified that that it was "*difficult to see how the PPTS 2015 definition can be safely applied in other cases where elderly and disabled Gypsies and Travellers seek planning permission for a caravan site on which to live in accordance with their traditional way of life*". The effect of this case has been the recognition that it may not always be possible for members of the Gypsy and Traveller community to continue to travel for life, and that there is likely to come a time when members of the community find they need to settle in a set location as opposed to remaining transitory. This is therefore a material consideration when looking at cases such as the one subject of this application. This is relevant to this case due to the child's complex medical needs being considered to amount to a physical disability.
- 6.14 Focussing now on the key tests set out in Policy DS2 of the Local Plan, the development will now be assessed against each of these in turn:-
- 6.15 *Does the site afford good access to local services such as schools and health facilities?*  
The site is located near to, but not within, a number of villages and suburbs that collectively have a range of local facilities including a primary school (Wolvey Church of England Primary in Wolvey where the school aged children are enrolled, and St James' Church of England Academy in Bulkington); pubs (in Shilton, Ansty, Wolvey, and the suburbs of Wood End, Neal's Green and Exhall in Coventry); places of worship (Shilton Baptist Church in Shilton; St James' Church of England Church in Ansty; Our Lady of the Sacred Heart Roman Catholic Church, St James's Church of England Church and Ryton Methodist Church in Bulkington); a dental practice (in Bulkington); medical practices (in Barnacle, Bulkington, Wolvey and the suburbs of Henley Green and Weston Lawns in Coventry); grocery stores (in Shilton, Bulkington and Wolvey), and supermarkets (in the Walsgrave suburb of Coventry). The area is also covered by emergency and hospital care via St Cross Hospital in Rugby, The George Eliot Hospital in Nuneaton, and University Hospitals Coventry and Warwickshire's site in Coventry.
- 6.16 *Does the site satisfy the sequential and exception tests for flood risk and is it adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land?*  
The site is not within an identified flood risk zone and is not adjacent to any known hazardous land uses that could be likely to endanger the health of the occupants of the site.
- 6.17 *Is the development appropriate in scale compared with the size of the existing settlement or nearby settlements?*  
This site is very small, being one of a total of 19 plots currently comprising the wider Top Park site. The recent temporary planning permission granted for the established part of Top Park (see Paragraph 6.7 of this report) means that this will continue to be a key development feature within the locality until March 2028. There are also several other Gypsy and Traveller sites close by on Bulkington Road and Mile Tree Lane. Considering the scale and size of this plot compared to the scale and size of Top Park as a whole, it is not considered that the site is excessive or inappropriate from this perspective.

- 6.18 *Will the development be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby?*

At present, the boundary treatments that enclose the site are sufficient to maintain the level of privacy the site occupants prefer, as they like to be in visual contact with the neighbouring plots and share their open space communally between themselves on Plot 15. The neighbouring plots prefer a similar degree of privacy so are also content with the arrangement. Due to the relationship between the plots within Top Park, if Members were minded to approve this application conditions have been recommended for inclusion that would tie the use of the plot solely to Gypsy and Traveller accommodation, preventing commercial activities, and preventing vehicles over 3.5 tonnes being brought onto site (to prevent conflicting uses that could detrimentally impact on neighbouring plots). These would be **Conditions 3 to 5** (inclusive). A further condition would also be included making the permission personal to the applicant and his family (**Condition 6**).

- 6.19 In terms of implications for those living *outside* the Top Park site, there are no neighbouring residences in close enough proximity to experience a direct material impact on privacy from the Top Park site due to their distances from the site (excluding Top Park the closest Gypsy and Traveller sites to Plot 16 are over 200 metres away, and the nearest settled dwellings in the villages of Bulkington, Barnacle, and Shilton are 250 metres, 580 metres, and 620 metres away respectively). It is not therefore considered reasonable or justifiable to place restrictive conditions relating to privacy or acoustic protection for these residents due to their significant distance from Top Park and from Plot 15 in particular.

- 6.20 *Does the development have appropriate vehicular access?*

The applicant exclusively uses the established Top Park access road. WCC Highways were specifically consulted on this application and have raised no objections to the continued use of this access as a primary means of direct vehicular and pedestrian access to Plot 15. However, this is subject to the inclusion of a specifically worded condition regarding configuration of the access gates so that they only open into the plot as opposed to outwards over the access road in order to ensure that they do not compromise access for other users. This would be **Condition 7** in the event that Members were minded to approve the application.

- 6.21 *Does the development will comply with Policy SDC1 in respect of design and impact on the surrounding area and amenity of existing residents?*

Prior to occupation of the land on which Plot 18 is located, there was a limited degree of partial screening by virtue of a pre-existing mixed species hedge along the back of the highway verge and the presence of some semi-mature trees within it. However, it was still possible to view the land from the highway due to the existing side access road and the fact that both the hedge and the trees were deciduous. Soon after the occupants of nearby Plot 19 moving onto their own site, a section of the hedge was cut back and lowered to better facilitate the use of the access road, leaving more of the frontage of Plot 19 exposed. This undoubtedly affected the visual characteristics of the wider site, although it had only a limited impact on Plot 15 specifically, as has the presence of the structures and towers that currently occupy the site. However, the development that has been undertaken on and around Plot 15 is consistent with the more established development on Top Park, so whilst it may be the case that the level and type of development has had a visual impact it has not been one that is so at odds with the pattern and form of development in this part of Top Road as to justify refusal of this application on that basis.

- 6.22 Should Members be minded to approve the application, it is considered reasonable to tightly control the potential for further development of the plot to prevent the intensification of its visual impact. Therefore, in the event of an approval, it is considered reasonable to apply restrictive conditions that would prevent the further intensification or material alteration of the development of the plot (beyond the changes proposed) that could harm the appearance of the locality and detrimentally affect the character and openness of the Green Belt. To that end, it is recommended that in the event of an approval conditions are included that require the prior written permission of the LPA for any additional structures, fences, gates, outbuildings or additional mobile homes and tourers above or beyond those subject of this application, and for the installation of additional external lighting. These would be **Conditions 8 to 10** (inclusive).
- 6.23 It is recognised that replacing mobile homes and tourers, whilst perhaps necessary over time, can also materially affect the overall visual impact of a site especially if they are larger or markedly different in terms of design than those they are replacing. At present the applicant does not intend to change the mobile home already on the site. However, it is recognised that there are currently three children living on the site and that this number will rise to five children during the course of 2023. As they grow up and their needs change the family may find that meeting their needs requires further changes to their set up on the plot. Therefore, it is also considered reasonable in the event of an approval to have a mechanism to control future changes arising from the replacement of any existing mobile homes to ensure that replacements do not cumulatively result in intensification and overdevelopment of the plot by degrees. This would be **Condition 11** in the event that Members are minded to approve this development.
- 6.24 *Is the development well laid out to provide adequate space and privacy for residents?*  
Please see Paragraph 6.18. The applicants are content with their existing arrangements with regards to privacy, and so no further screening is proposed for this purpose within the site. The existing provision is adequate to enable the family to maintain the degree of privacy that they prefer. They are content to share the site equally and all benefit from the various structures and open spaces within the plot.
- 6.25 *Does the development include appropriate landscape measures to mitigate visual impacts and to ensure adequate levels of privacy and residential amenity for occupiers and adjacent occupiers, but which avoids enclosing a site with an inappropriate amount of hard landscaping, high walls or fences?*  
At the moment there is a small soft landscaped area within the plot (around the trampoline). There is little space to accommodate a significant degree of additional planting but again this is commonly the case for plots on Top Park and it is considered unreasonable to require the applicant to undertake this unless the expectation is to be applied to all plots within Top Park (should they be approved). There is however open communal space within the plot that could be utilised as a container garden, and the applicant could also explore options for utilising suspended planters along the fence line enclosing the site if they wished. Were Members minded to approve this application, an informative note would be included guiding the applicants on ways in which they could incorporate a limited degree of additional biodiversity provision within the site through strategic planters and similar provision.
- 6.26 *Does the development accommodate non-residential uses that may cause, by virtue of smell, noise or vibration, significant adverse impact on neighbouring business or residents?*

The application is for residential purposes only and does not include any non-residential uses that could cause these issues. Such non-residential uses would be conditioned against through the aforementioned **Conditions 3 to 5** (inclusive) in the event that Members approve this application, which would limit the development to the purposes set out in the development description. The aforementioned **Condition 6**, which would make the planning permission personal to the applicants, would also help to prevent conflicting operations that could be detrimental to the residential use of the plot.

6.27 *Is there adequate provision for on-site services for water supply, power, drainage, sewage and waste disposal facilities?*

The applicant has access to power and water already set up within the site, and they have registered for RBC domestic general waste and recycling collections services (evidenced by the presence and frequent emptying of RBC registered wheelie bins on the site). Each plot on Top Park benefits from its own septic tank to manage sewage and grey water disposal, including Plot 15.

6.28 Moving on from Policy DS2 of the Local Plan, Section 5 of the NPPF looks at the provision of homes including those in rural locations. As Gypsy and Traveller accommodation is also considered to come under the umbrella of rural housing provision, this section is relevant to this development. Paragraph 80 of Section 5 sets out criteria for consideration when provision of homes would be in isolated locations. This application does not meet any of these tests specifically, which is one of the reasons why the LPA must decide whether or not the development amounts to very special circumstances based on the case put forward by the applicants as required by Paragraphs 149 and 150 of Section 13 of the NPPF.

6.29 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.10 to 6.12 (inclusive) of this report. In the considered opinion of the LPA, the applicant has provided sufficient evidence to establish that they would qualify as having Gypsy and Traveller status for the purposes of assessing planning applications, and that their requirements meet the criteria to be considered as a very special circumstance to allow development that would otherwise be deemed to be inappropriate in the Green Belt. With the use of suitably worded conditions, it is possible to meet all the requirements of Policies SDC1 and DS2 of the Local Plan that have not already been met by the existing and proposed on-site provision, as well as the various requirements set out in Sections 2, 5 and 13 of the NPPF. The principle of this development is therefore considered to be acceptable in Planning terms from this perspective.

6.30 Looking now at the Planning Policy for Traveller Sites (PPTS) 2015, as the LPA does not currently have sufficient allocated sites to meet the requirements for Gypsy and Traveller provision within the Borough some of the requirements of Policy B of the PPTS 2015 cannot currently be met. However, this application has been assessed following the principles set out in Paragraphs 10 and 13 of this document, which direct LPA's on the key criteria to be used for assessing the suitability of sites for designation for formal Gypsy and Traveller provision. The lack of sufficient provision for Gypsy and Traveller sites is a key consideration in favour of this development and carries significant weight in planning terms as a material factor for special exceptional circumstances. Were the application to be refused and the applicant evicted, this family would be left with very few options available to them. Given the lack of formal provision in the Borough, it is likely that they would have to resort to an unauthorised encampment elsewhere in the Borough, which

would then face the same considerations as this one has. As well as being far from ideal in terms of planning, this would also effectively result in a young family with a vulnerable child being made homeless. As well as potentially having serious repercussions for the health and wellbeing of the child (and those who care for them), it could also jeopardise the family's access to necessary medical and support services. These are factors that weigh strongly in favour of this development on the grounds of very special circumstances.

- 6.31 Policies C and E of the PPTS 2015 cover sites in rural countryside locations and those in the Green Belt. Policy E in particular makes it clear that even Gypsy and Traveller provision in the Green Belt is considered unacceptable unless very special circumstances exist that would outweigh the harm. As set out in this report, the LPA consider that this application does warrant consideration as a very special circumstance, and as such the requirements of Policies C and E are also met.
- 6.32 Levels of existing provision (and the lack thereof) are also a key consideration within Policy H of the PPTS 2015, being identified as a specific consideration in Paragraph 24 alongside the availability or lack of alternative sites and the personal circumstances of the applicants. Policy H also encourages the use of planning conditions as a means of overcoming concerns and objections regarding such developments, which the LPA confirm would be their intention through identification of recommended conditions throughout this report.
- 6.33 For the reasons set out above, the principle of this development is also considered to be acceptable in terms of compliance with the Planning Policy for Traveller Sites 2015.
- 6.34 A Written Ministerial Statement published on 31 August 2015 made intentional unauthorised development a material consideration when determining planning applications and appeals from that date onwards. By the time the applicant and his family moved onto their plot, it was deemed to be unauthorised development. Their decision to continue to develop and occupy their plot therefore indicates intentional unauthorised development, and this carries material weight which must be considered as part of the determination of these applications. However, as set out above within Section 6 of this report, there are key factors that weigh in favour of this development being deemed to be acceptable. On balance, in this case the LPA considers that their considerations in favour of permitting this development outweigh the harm that has been caused through intentional unauthorised development.

## 7.0 Visual impact

- 7.1 Paragraph 130 of Section 12 of the NPPF states that planning policies and decisions should ensure, amongst other things, that developments will function well and add to the overall quality of the area over the lifetime of the development, are visually attractive, and are sympathetic to the local character and history.
- 7.2 Policy SDC1 of the Local Plan states that developments will only be supported where they are of a scale, density and design that responds to the character of the areas in which they are located. It also highlights key considerations for determination of such applications, including massing, landscape, layout and materials.
- 7.3 In objections received from local residents and the Parish Council, the visual impact of the Top Park site has been highlighted as a key concern. Objections share common themes relating to the contrast between the Top Park site and the rural landscape and the effect of external lighting increasing the impact.

- 7.4 In addition to considering the impact of the development on the character and appearance of the Green Belt (see above), a key factor of any development is the impact it has on the visual character of an area. In this case, we have a site located in an area away from the nearest villages of Shilton, Barnacle and Bulkington. There are however several Gypsy and Traveller sites in the locality. The surrounding undeveloped areas are farmland, with boundaries generally marked with field hedges. The general aesthetic of the area is therefore mixed natural landscape and Gypsy and Traveller development.
- 7.5 When approaching the site from the adjacent highway (Top Road), one of the first things to notice are the two entrances now serving Top Park (the established original one and the one the applicant uses to access their own plot) and the front perimeter fencing with the mobile homes lying beyond it. What is also evident is that the plot is surrounded by other Top Road plots that have been developed in a very similar way. Paragraphs 6.21 to 6.23 (inclusive) of this report set out the visual implications of the development, and also the fact that the surrounding development gives this plot context and prevents isolation. They also identify how further intensification would be controlled through a condition preventing the introduction of any more structures or vehicles than are presently on the plot (**Condition 8**) and requirement clauses in **Conditions 9, 10 and 11** relating to the replacement of structures to ensure that existing features that are to be replaced are removed prior to their replacements being brought onto site (so as to prevent cluttering and temporary overdevelopment arising from having a new feature on the plot at the same time as the one it is supposed to be replacing).
- 7.6 The LPA recognises local residents' concerns about the effect that external lighting can have on making the site more prominent in hours of darkness when there are no adjacent light sources (such as streetlights). There are many plots on the wider Top Park site that have some form of external lighting, and undoubtedly this does increase the prominence of the site in visual terms. Some external lighting is required for safety and security purposes given the lack of surrounding light sources in the public domain, so a degree of lighting is considered reasonable. Some mobile homes already come pre-fitted with low level illumination from inbuilt lights near the doors, and the LPA consider that this safety feature would fall within the reasonable requirements category. However, to prevent the installation of excessive or inappropriate additional external light sources in the future it is considered reasonable to restrict such installation through the aforementioned **Condition 11** (see Paragraph 6.23 of this report).
- 7.7 Another common concern raised in objections received by the LPA has been the fear of further development in the event that the Top Park site is approved, in particular the replacement of existing mobile homes with larger ones. The LPA recognise this as a very valid concern, and as set out in Paragraphs 6.22 and 6.23 of this report would recommend that in the event of Members approving this application a condition be applied preventing this eventuality by requiring the applicant to seek prior written approval before replacing the mobile home (**Condition 12**).
- 7.8 Within the plot itself, there is currently a predominance of hard surfacing. Whilst more green relief within the plot would help to break up the monotony of the gravel and block paving, the functional requirements of the open communal area means that options for introducing more landscaping are very limited. As noted in Paragraph 6.25 of this report, given the limited landscaping provision on other plots within Top Park, it would be unreasonable to apply a requirement for landscaping on this plot, but in the event that

Members approve this application an informative note would be applied to give guidance on possible options for increasing biodiversity within the site where possible.

- 7.9 For the reasons set out above, and with the abovementioned conditions applied, the scheme complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to character and appearance. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 8.0 Residential Amenity
- 8.1 Several objectors have raised concerns over the cumulative impact of the level of Gypsy and Traveller accommodation in the locality on their access to services and facilities, but none seem to have raised particular concerns that directly relate to a material impact on their individual residential amenity as a result of the occupation of Plot 15.
- 8.2 Paragraphs 6.18 and 6.19 of this report set out the LPA's assessment of amenities for both those living on Plot 15 and those living either around them on Top Park or in neighbouring settlements. In summary, the applicant has sufficient privacy and space to meet their needs without compromising the amenities of those living on adjacent plots on Top Park, and the nearest settled residents are a sufficient distance away from the site so as not to be materially impacted upon in terms of loss of amenity.
- 8.3 Some objectors have raised concerns over disruption arising from noise nuisance, but again the nearest settled residential properties are a long way away from the site (between 250 metres away and 620 metres away). Whilst some noise may be arising from the site, the LPA considers that it would be unlikely to be to such an extent as to warrant supporting a refusal on amenity grounds given the significant distance between the settles community and Top Park. It would be difficult to discern noise coming purely from Top Park and Plot 15 in particular from adjacent development. Environmental Health have advised that it would not be necessary to require the undertaking of a full noise assessment. This was particularly considered in relation to adjacent plots on Top Road, and if the noise levels for those plots have not been deemed to be of concern, then the same must be true for those settled residents living much further away too.
- 8.4 the event of an approval, the aforementioned **Conditions 3, 4, 5, 8, 9, 10, 11 and 12** will help to protect those living on adjacent plots within Top Park from further built development or replaced structures within Plot 15. **Condition 11** will help to ensure that external lighting was controlled, and as such should help to protect against light nuisance to neighbouring residents.
- 8.5 For the reasons set out above, and with the identified conditions applied, this development complies with Policies GP1 and SDC1 of the Rugby Borough Council Local Plan 2011-2031 that relate to residential amenity. It also accords with guidance set out in Section 2 of the NPPF 2021.
- 9.0 Highway Safety
- 9.1 Several concerns have been raised by Parish Council, Borough Councillors and local residents regarding the implications of increasing Gypsy and Traveller development in the area on the intensity of the use of surrounding roads, particular those leading through Barnacle. WCC Highways were consulted on the application and raised no concerns or objections in terms of impact on the road network. They did however request that a condition be applied in the event of an approval regarding works to the access gates

- (Condition 7) and recommended informative notes re surface water run-off to prevent excessive water running onto Top Road.
- 9.2 As regards the parking and manoeuvring of vehicles within the site, whilst Appendix 5 of the Local Plan doesn't set a specific recommended level for parking provision for Gypsy and Traveller sites, for dwellings of a comparable size to the mobile home and tourer it is recommended to provide a combined total of 4no. parking spaces.
- 9.3 The communal area has been deliberately left free of structures to allow for adequate vehicle turning space and the parking of vehicles. The applicant and his family can park their own vehicles within the site, and the area is large enough to be considered to be sufficient to meet both the parking need of the site and enable turning within the plot even when vehicles are already parked. This was witnessed in practice during the LPA site visit in February 2023. In any event, as the plot is shared by members of the same family, they can easily manage each other's needs and ensure the parking and turning of vehicles works sufficiently well at all times. As they tend to park immediately adjacent to the fences when at home, it is feasible for visitors to also park within the site or adjacent to the access gates without affecting the functionality of the adjacent access track or impacting on Top Road. There is also sufficient space to accommodate additional vehicles to maintain the recommended level of provision in Appendix 5.
- 9.4 With the highway condition applied and the site layout protected through Condition 2, this scheme would comply with Policy D2 and Appendix 5 of the Rugby Borough Council Local Plan 2011-2031.
- 10.0 Sustainability and environmental impact
- 10.1 The environmental implications of development must be carefully considered, particularly as the Rugby Borough Council Local Plan 2011-2031 has reinforced the need to consider offsetting the impact of development through its policies GP1, HS5, SDC4 and SDC7. These in turn reinforce the wider importance and focus raised on these issues within Sections 2 and 12 of the NPPF 2021.
- 10.2 The environmental considerations (such as the implications of being in an Air Quality Management Area, and the need for water and energy efficiency) cross over into the requirements that will be placed on the developer through the need to comply with Building Regulation requirements but can also require control at the planning stage through the application of specifically worded conditions and supportive text.
- 10.3 The Local Plan defines Air Quality Neutral as *"emissions from the development proposal being no worse, if not better, than those associated with the previous use."*
- 10.4 This site does not lie within the Air Quality Management Area, and the type of development applied for does not meet the triggers for requiring conditioned mitigation under Policy HS5. An informative would be applied in the event of an approval to guide the applicant on ways they can reduce their environmental impact. There are also options available to occupiers of the site to adopt water efficiency practices, such as limiting water waste and making more efficient use of the water supply that is consumed.
- 10.5 The Environmental Protection team were specifically consulted on this application and have recommended the application of a condition relating to previously contamination which would be applied as Condition 13 in the event of an approval. The condition sets

out a phased approach to be undertaken in the event that previously unidentified contamination is found within the site. Given the fact that no further development is proposed on Plot 18 that would disturb the ground or sub layers however, whilst this condition would be applied it would not require any response from the applicant at this stage. It should be noted that the LPA are not currently aware of any contamination issues in this area, and this condition is intended as a safeguarding measure rather than confirmation that there is already a contamination issue.

- 10.6 In terms of air quality mitigation, Environmental Health have raised no significant concerns and did not identify the need for any controls or conditions with regards to this. They have however recommended inclusion of an informative note in the event of an approval to guide the applicant on possible options to reduce their impact on air quality through mitigation and/or aiming to achieve air quality neutrality.
- 10.7 Environmental Health have also recommended environmental based informatives regarding drainage and implications of adjacent activities.
- 10.8 For the reasons set out above, the development complies with the environmental directions of policies GP1, HS5, SDC1 and SDC4 of the Rugby Borough Council Local Plan 2011-2031 with regards to air quality and some aspects of environmental impact. In so doing, it would also meet the standards and guidance set out in Sections 2, 11 and 12 of the NPPF 2021 for those same criteria.
- 11.0 Biodiversity
- 11.1 Policy NE1 of the Local Plan focusses on protection of designated biodiversity and geodiversity assets, supporting the aims and objectives of Section 15 of the NPPF. As part of this, both local and national planning policy details the need to consider biodiversity as part of the planning process, with the aim to seek opportunities to protect and enhance biodiversity and protected specials through all types of development whenever possible.
- 11.2 No particular biodiversity related objections were received from residents or the Parish Council, and biodiversity wasn't one of the reasons given in the Ward Councillor's request to take the case before the Planning Committee for consideration.
- 11.3 WCC Ecology were consulted on this application and have confirmed that they have no ecological concerns about the development. They have not requested any conditions or informatives be included in the event of an approval, but as stated in Paragraph 6.24 of this report an informative note would be applied in the event that Members are minded to approve this application to advise the applicant of options they may be able to explore to increase biodiversity opportunities and provisions within their plot.
- 11.4 The scheme is considered to comply with Policy NE1 of the Rugby Borough Council Local Plan 2011-2031, and to accord with Section 15 of the NPPF 2021.

## **12.0 Planning balance and conclusions**

- 12.1 This scheme represents an inappropriate development in the Green Belt, and as such is not acceptable unless there are very special circumstances that sufficiently outweigh the harm that inappropriate development can otherwise cause. In this particular case there are four key factors that collectively represent reasonable grounds for this application to be considered as an exception to the usual presumption against development in the Green Belt :-

- The LPA currently has a shortfall in Gypsy and Traveller site provision within the borough, and there are no more appropriate locations within the borough that the applicant and their family could lawfully move to. This carries significant weight in favour of the application.
  - Refusing this application could result in a young child with complex medical needs being put at risk, as well as the health and wellbeing of both the child and those who care for them, as the family require regular access to services and facilities within the locality to meet their child's needs.
  - The applicant and their family identify as Romany Gypsies and wish to follow the cultural traditions of their heritage by raising their child on a site where those traditions can be practiced as part of the cultural community with which they identify.
  - The applicant has direct familial links to other families residing on the Top Park site and their child has been raised there from birth. The child is reliant on both the applicant and their spouse to assist them with meeting daily needs, and the applicant shares supervisory responsibilities for the child with their partner.
- 12.2 The very special circumstances outlined above clearly outweigh the harm to the Green Belt that has been caused by the inappropriate nature of the development. The development is therefore considered to be acceptable on the grounds of the very special circumstances associated with the application.
- 12.3 The 2015 Ministerial Statement means that this is deemed to be intentional unauthorised development which carries a considerable amount of weight against the development. However, on balance, the harm arising from this does not outweigh the very special circumstances in favour of approving the application as detailed above.
- 12.4 The principle of development is deemed to be acceptable, and the development meets all the key tests set out in Policy DS2 of the Local Plan.
- 12.5 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.6 The scheme is acceptable in terms of scale, character and appearance.
- 12.7 There are no highway safety concerns.
- 12.8 There are no environmental concerns.
- 12.9 There are no biodiversity concerns or necessary provision or protection measures.
- 12.10 The development does not detrimentally impact on the residential amenity of residents living outside Top Park, and the relationship and level of residential amenity for both the applicant and those living on adjacent plots on Top Park is acceptable to all parties affected.
- 12.11 **Condition 3** will tie the use of Plot 15 to Gypsy and Traveller accommodation only and prevent commercial use.

- 12.12 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.13 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.14 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.15 **Condition 7** will require the reconfiguration of the access gates to the access road such that they open into the site rather than out over the adopted highway (Top Road), and that the access gates for Plot 17 itself open into the plot as opposed to out over the access road.
- 12.16 **Condition 8** will prevent the erection of any additional structures (including fencing, gates or other means of enclosure) and the installing of any additional mobile homes without the prior written agreement of the LPA.
- 12.17 **Condition 9** will prevent the bringing onto site of any additional tourer caravans without the prior written agreement of the LPA. It will include a requirement for any tourer being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.18 **Condition 10** will require the tourer caravans identified for removal as part of this application to be removed from site PRIOR to replacement tourers or mobile homes already identified in this application being brought on, to protect against the event of multiple tourers being on site at the same time until the older one is removed.
- 12.19 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.20 **Condition 12** will protect against the replacement of any existing or proposed the proposed mobile homes with larger models without the prior written agreement of the LPA. It will include a requirement for any mobile home being replaced to be removed from site PRIOR to the new one being brought on, to protect against the event of multiple additional mobile homes being on site at the same time until the older one is removed.
- 12.21 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.22 Informative notes will be included in the event of an approval to guide the applicant on matters relating to:-
- Surface water run-off onto the highway (Top Road),
  - Biodiversity enhancement options,
  - Requirements for compliance with Approved Document B, Volume 1, Requirement B5 – Access and Facilities for the Fire Service,

- Requirements of The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18; Access for Emergency Vehicles, (provision of sprinklers, and maintaining access for emergency vehicles),
- Air quality mitigation and neutrality,
- Drainage,
- Impacts from existing adjacent activities,
- Private sector housing team comments, and
- Domestic waste collection.

12.23 The development complies with all relevant local and national planning policies.

### **13.0 Recommendation**

- 13.1 Planning application R22/1055 be approved subject to the conditions and informatives set out in the draft decision notice appended to this report.
- 13.2 The Chief Officer for Growth and Investment be given delegated authority to make minor amendments to the conditions and informatives outlined in the draft decision notice.

## **DRAFT DECISION**

**REFERENCE NO:**  
R22/1055

**DATE APPLICATION VALID:**  
30-Sep-2022

### **APPLICANT:**

Mr Milo Lee Plot 15, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

### **ADDRESS OF DEVELOPMENT:**

15, Top Park, Top Road, Barnacle, Coventry, CV7 9FS

### **APPLICATION DESCRIPTION:**

Retention and 1no. Gypsy and Traveller pitch comprising 1no. static caravan, 1no. touring caravan, 1no. stable, 1no. brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road.

### **CONDITIONS, REASONS AND INFORMATIVES:**

#### **CONDITION 1:**

This permission shall be deemed to have taken effect on 16 March 2023.

#### **REASON:**

To comply with Section 91 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

#### **CONDITION 2:**

The development shall be carried out in accordance with the plans and documents detailed below:  
Application form (received by the Local Planning Authority on 26 June 2022)

Drawing number 178-01 Revision A (received by the Local Planning Authority on 03 November 2022)

Drawing number 178-11 (received by the Local Planning Authority on 30 January 2023)

Drawing number 178-34 (received by the Local Planning Authority on 30 January 2023)

**REASON:**

For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority.

**CONDITION 3:**

The development hereby permitted shall only be occupied and used for the purposes of being a Gypsy and Traveller site and for no other purpose.

**REASON:**

As the development is only acceptable due to the applicant's circumstances, and to ensure the proper operational use of the site.

**CONDITION 4:**

No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer or burning of materials.

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 5:**

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

**REASON:**

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

**CONDITION 6:**

The development hereby permitted shall be personal to Mr Milo Lee, his spouse, and his children.

**REASON:**

As the development is only acceptable due to the applicant's personal circumstances.

**CONDITION 7:**

Within three months of the date of this planning permission, both the main gates adjacent to Top Road and the vehicular access gates to the site shall be reconfigured so as to open inwards only. Any further gates installed at the vehicular access shall thereafter open inwards only and shall at no time open outwards toward the public highway.

**REASON:**

In the interests of public and highway safety and the amenity of other users of the access road.

**CONDITION 8:**

Other than those hereby approved, no additional structures or enclosures shall be erected within or around the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. This includes (but is not limited to) both temporary and permanent structures, fencing, gates, and outbuildings, as well as any additional mobile homes.

REASON:

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

CONDITION 9:

Other than those hereby approved, no additional tourer caravans shall be brought onto the site without the prior written approval of the Local Planning Authority. No replacement tourer caravan shall be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

REASON:

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

CONDITION 10:

Any tourer identified for removal as part of this development shall be removed prior to the mobile home replacing it being brought onto site. No replacement tourer caravan shall only be brought onto site unless and until the tourer caravan being replaced has already been removed from the site.

REASON:

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

CONDITION 11:

No additional external lighting shall be erected unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. Any lighting shall only be erected in accordance with the approved details.

REASON:

To ensure a satisfactory external appearance and in the interests of the visual amenities of the locality and the amenities of neighbouring residents.

CONDITION 12:

Other than those hereby approved, no replacement mobile homes shall be brought onto the site unless and until full details of the type, design and location have been submitted to and approved in writing by the Local Planning Authority. No replacement mobile homes shall be brought onto site unless and until the mobile home being replaced has already been removed from the site.

REASON:

To protect the Green Belt from inappropriate development and in the interests of the visual amenities of the area.

CONDITION 13:

When carry out work as part of this development herby permitted, in the event that contamination is found it shall be reported in writing immediately to the Local Planning Authority. Each of the following subsections a) to c) shall then be subject to approval in writing by the Local Planning Authority.

a) An investigation and risk assessment shall be undertaken in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

b) Where remediation is necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared.

c) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared.

**REASON:**

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property, and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours, and other off-site receptors.

**INFORMATIVE 1:**

The applicant/developer is advised that the development will need to comply with Approved Document B, Volume 2, Section B5 - Access and Facilities for the Fire Service. Full details including the positioning of access roads relative to buildings, the arrangement of turning circles and hammer heads etc regarding this can be found at: [www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning](http://www.warwickshire.gov.uk/fireguidance-commercialdomesticplanning) Where compliance cannot be met, the applicant/developer will need to provide details of alternative measures intended to be put in place. Please also note The Warwickshire County Council Guide 2001, Transport and Roads for Developments, Section 5.18, Access for Emergency Vehicles. In addition, Warwickshire Fire and Rescue Authority fully endorse and support the fitting of sprinkler installations, in accordance with the relevant clauses of BS EN 12845 : 2004, associated Technical Bulletins, and or to the relevant clauses of British Standard 9251: 2014, for residential premises.

**INFORMATIVE 2:**

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

**INFORMATIVE 3:**

The applicant is encouraged to incorporate measures to assist in reducing their impact upon the Air Quality Management Area as part of this development. Initiatives could include the installation of an ultra-low emission boiler (<40mg/kWh), increased tree planting/landscaping, solar thermal panels, and the incorporation of electric vehicle charging points on any car parking. More information on plants that can be incorporated into landscaping for green walls and roofs can be found here:

[https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed\\_1.pdf](https://www.museumoflondon.org.uk/application/files/4915/2604/2216/2018-05-11-phytosensor-final-web-ok-compressed_1.pdf) Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email [ept@rugby.gov.uk](mailto:ept@rugby.gov.uk)

**INFORMATIVE 4:**

The drainage and waste disposal system will need to comply with the Building Regulations 2010 Approved Document H (2015 Edition) – Drainage and Waste Disposal.

**INFORMATIVE 5:**

Where possible enhancements should be incorporated into the development to improve the habitats and opportunities for the local wildlife and increase biodiversity. Enhancements could include bat and bird boxes which may be used by a variety of species, native species planting and enhancement of existing hedges and wild flower planting, habitat piles of rubble, logs and earth which can be used by reptiles, amphibians and invertebrates are also welcomed. Warwickshire County Council Ecological Services (tel: 01926 418060) would be pleased to advise further if required.

**INFORMATIVE 6:**

The development is within farmland and will be subject to reasonable disturbance from noise, dust, odour, vibration and light associated with farming practices. These practices may at times extend into the night or early hours, such as harvest. Noise may also be audible from nearby road and rail traffic.

**INFORMATIVE 7:**

This development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations, the Council's Standards of Amenity, Caravan Sites and Control of Development Act 1960 and Mobile Homes Act 1983 (and subsequent Acts) as these may be applicable in terms of layout, spacing and fire precautions. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

**INFORMATIVE 8:**

The applicant/occupiers should consult with RBC Waste Services Team regarding waste collection proposals for the proposed development.

**Reference:** R22/0828

**Site Address:** HILLMORTON YARD, THE LOCKS, RUGBY, CV21 4PP

**Description:** Demolition of industrial unit (use class B2) and the erection of 2 pairs of semi-detached 3-bedroom dwellings (4 units).

**Recommendation- Refusal due to;**

- 1. Unsustainable location of the development contrary to Policy GP1 and GP2**

**1.0 Introduction**

- 1.1- This application is being reported to planning committee in accordance with paragraph 5.2.3 (a) Requests by Councillors of the scheme of delegation. This application was called to be determined by the planning committee by Cllr Lawrence during the 21-day statutory consultation period.

**2.0 Description of site**

- 2.1- The application site is located in the Hillmorton Locks Conservation Area, approached through a single vehicular access under the railway line. The area overall comprises of various elements of built form, both in residential and industrial use classes, most of which originally erected in order to serve the waterway and Locks in the vicinity.
- 2.2- The application site is accessed from The Locks itself and is currently a vacant small industrial unit (use class B2). It is surrounded by the boundaries of both residential properties and commercial buildings in the boatyard. The Locks are located outside the confines of the settlement boundary of Rugby town and in relation to Local Plan policy GP2 is situated upon countryside land. Whilst this is apparent, it is noted that the area will be at the periphery of the Houlton SUE once completed, however the site is still considered to be within the countryside and not part of the SUE itself. Therefore, it is on the 4th level of the settlement hierarchy, a sequential test used to determine the sustainability of development for areas across the borough.
- 2.3- The industrial unit has a dual access one within the canalside 'Hillmorton Locks' and the other opposite the dwelling of 24 The Locks. Given its location and part Canal & River Trust ownership, Hillmorton Locks is closely associated with the canal industry and there are numerous buildings around the canal that have a canal and boat heritage.
- 2.4- The site itself is referred to as Hillmorton Yard and the exact date of construction of the industrial building is unknown. This structure has a more modular form to other industrial buildings in the area, with a concrete, steel and brick frame with corrugated concrete and steel roof. The topography is relatively flat albeit 'The Locks' road rises to the north east beyond the site. The application site is surrounded to the south, east and north by residential properties.

- 2.5- There has been no previous application on this site for the same proposal, but residential development was refused on an adjoining garden site.

### **3.0 Description of proposal**

- 3.1- The proposed development comprises the demolition of the existing industrial unit and the erection of four residential units across two pairs of semi-detached dwellings. The dwellings will be simple in nature with a gable ended roof profile and will comprise of slate roof tiles, rustic red brick and hardwood windows and doors throughout. The rear elevation is simple in nature with x2 windows on the first floor and bi-fold doors on the ground floor opening out into the proposed garden area.
- 3.2- All properties propose the same floor plan with an office area, toilet and open plan kitchen/ living space on the ground floor with a bathroom, en-suite master bedroom and x2 smaller bedrooms on the first floor. Houses 1 and 2 propose a small rear garden area with houses 3 and 4 proposing a much larger rear amenity space due to the nature of the site. To the front of the four units will be a hard surfaced parking area and bin store.
- 3.3- The front elevations face The Locks at an oblique angle to No 24. Two parking spaces per unit and one visitor space is proposed with sufficient turning space. This is commensurate with the existing parking to the industrial unit but will be significantly more attractive being landscaped and only suitable for cars.

### **4.0 Planning History**

- 4.1- Planning history of the site;
- ***R03/0242/08915/P- Use of land for the storage of maintenance yard, equipment and materials- Approved***
  - ***R09/0777/PACA- Continuation of use of land for vehicle repairs & servicing with associated vehicle sales (retrospective)- Approved***
  - ***R11/2364 Continuation of use of land for vehicle repairs, breaking and servicing with associated retail and vehicle sales (renewal of R09/0777/PACA)- Approved***
  - ***R12/2221- Change of use of building for B2 (General Industry) purposes for use as a fabrication and manufacturing facility- Approved***
  - ***R14/1147- Continued use of land and building for B2 (General Industry) purposes for use as a fabrication and manufacturing facility- Approved***
  - ***R14/1995- Siting of a portable building externally within the yard area.- Approved***

## **5.0 Technical consultation responses**

**Environmental Health-** No objection subject to conditions

**Warwickshire CC Ecology dept-** No objection

**Warwickshire CC Highways dept-** No Objection

**Work Services-** No objection

**Canal and Rivers trust-** No objection

## **6.0 Third party comments**

**Cllr Ian Picker-** No comment

**Cllr Kathryn Lawrence-** Called the application to committee

**Cllr Adam Daly-** No comment

**Clifton Upon Dunsmore Parish council-** No comment

**Neighbour comments are summarised below;**

- Traffic congestion
- Parking
- How the current property will be demolished and how the surrounding area will be impacted.

## **7.0 Development Plan and Material Considerations**

7.1- As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposed development must be determined in accordance with the Development plan unless material considerations indicate otherwise. The statutory development plan for the area relevant to this application site comprises of the Rugby borough core Local Plan 2011-2031. The relevant policies are outlined below.

### **7.2- Rugby Borough Local Plan 2011-2031, June 2019**

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

GP3: Previously Developed land and conversions

ED1: Protection of Rugby's Employment Land.

HS5: Traffic Generation and Air Quality

NE1: Protecting Designated Biodiversity and Geodiversity Assets

NE3: Landscape protection and enhancement

SDC1: Sustainable Design

SDC4: Sustainable Buildings

SDC3: Protecting and Enhancing the Historic Environment

SDC9: Broadband and Mobile Internet

D1: Transport

D2: Parking Facilities

### **7.3- National Planning Policy Framework, 2021 (NPPF)**

### **7.4- Supplementary Planning guidance**

- *Climate Change and Sustainable Design and Construction SPD (2023)*
- *Hillmorton Locks Conservation Area appraisal*

## **8.0 Assessment of Proposal**

8.1- The main considerations in respect of this application are:

- Section 9 Principle of Development
- Section 10 Removal of an employment site
- Section 11 Character and Design and impact on designated area
- Section 12 Residential Amenity and layout
- Section 13 Highways considerations
- Section 14 Biodiversity
- Section 15 Pollution
- Section 16 Planning Balance and Sustainability of Development
- Section 17 Conclusion

### **9.0 Principle of Development**

9.1- Policy GP1 of the Local Plan outlines when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Section 2 paragraph 7 of the NPPF. This can be assessed through three over-arching objectives, a social progress, economic well-being and environmental protection.

9.2- Policy GP2 of the Local Plan states that development will be allocated and supported in accordance with the settlement hierarchy, a sequential test used to determine the sustainability of development across various areas of the borough. The application site is located within the Countryside as defined in Policy GP2 of the Local Plan; as such new development will be resisted; only where national policy on countryside locations allows will development be permitted. Countryside locations are ranked 4 out of 5 in the sequential test outlined in policy GP2.

- 9.3- Paragraph 3.14 of policy GP2 states that Countryside locations are those which are not defined by a settlement boundary and are therefore generally unsuitable for development. The only anticipated variations to this approach being the exceptional delivery of housing to meet a specifically identified housing need to types of development that are intrinsically appropriate to a countryside setting. An assessment is therefore required in order to determine if whether this is applicable.
- 9.4- Section 2 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. For decision making, this means approving development that accords with an up-to-date development plan without delay. As the authority has been able to demonstrate a 5-year supply of housing land, the housing needs of the Borough have been met in the preferable and sustainable locations.
- 9.5- Paragraph 8 of the NPPF states that an environmental objective is to minimise waste pollution, mitigate and adapt to climate change through moving to a low carbon economy. The site is located in an area defined as the countryside, however is noted to be an in area of existing built form. Whilst the existing built form is established, the hamlet of Hillmorton Locks does not contain everyday amenities such as shops and schools. The introduction of four dwellings to this area will create additional vehicle movements in order to carry out the day-to-day activities of the occupiers whereby a reliance on the private motorcar will be apparent.
- 9.6- The site is located in close proximity to the Houlton sustainable urban extension (SUE) to the north. However, the reliance on the private motor car for the occupiers of the proposed site is apparent in order to carry out day to day activities, as the site is not intrinsically linked to this nearby SUE and the services it will provide. Thus, increasing an environmental impact in the area. Therefore, the environmental objectives as detailed in para 7 of the NPPF are not considered to be complied with in this instance.
- 9.7- There have been 2 new dwellings within The Locks since 2015 under application reference number R14/2257 and R17/1660. However, more recently, application R20/0166 for new residential development in the area was refused. The reason for refusal in this case was the contradiction of policy GP2 aligned with the objectives of sustainable development as detailed in local plan policy GP1 and Section 2 of the NPPF.
- 9.8- The principle of development for applications R14/2257 and R17/1660, was established under former local plan policy CS1 and as part of the Radio Station Sustainable Urban extension. However, within the officer report of approval R14/2257, the case officer established the sites location outside of the urban area and within the countryside. However, at the time this was classified as a small in-fill development and therefore complied with the now paragraph 69 of the NPPF which identifies the importance of small and medium sites in contributing towards a housing land supply. Likewise with application R17/1660, the officer stated that the determining policy CS1 was considered out of date at the time and that weight was given to the conflict. In addition to this, the local authority could not demonstrate a 5-year housing land supply at the time and significant weight was given to this when the assessed was made.
- 9.9- The NPPF (Jul '21) is clear in paragraph 11 that where there is an up-to-date development plan applications should be determined in line with that development plan

unless material considerations indicate otherwise. Paragraph 12 states that “The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted’.

- 9.10- The existing Local Plan for Rugby was adopted on the 4th June 2019. On adoption, the authority had a five-year supply of housing. The latest AMR, published in October 2021, confirmed this position. In addition to this, *5 Year Housing Land Supply Position Statement 2022-2027* provided an update on this deliverability. A base analysis of deliverable sites demonstrated that in a period 2022/2023- 2026/2027 the authority can identify a supply of 5.7 years.
- 9.11- The Local Plan is considered fully up to date and in compliance with the NPPF and therefore is the starting point for decision making. All planning policies are relevant and are supported by a robust and up-to-date evidence base. As the authority has a more than 5-year supply of housing, it does not ‘need’ additional provision to meet dwelling figure. Therefore, not all infill developments as detailed in para 69 of the NPPF are considered appropriate.
- 9.12- As mentioned, the site is excluded from the settlement boundary in policy GP2 of the Local Plan. However, the land is zoned as part of the Houlton (Rugby Radio station) SUE as detailed in policy DS3. It is clear that focus of policy is on large strategic sites like Rugby Radio Station as a sustainable urban extension. The proposal site is on far edge of the allocation and is not intrinsic to the development site itself.
- 9.13- Due to this, there would be an overwhelming reliance of the private car. Any future occupiers of the proposed development would be unlikely to offer any meaningful day-to-day support to the facilities and services at main settlements without the reliance of the motor vehicle. Whilst in close proximity to Houlton geographically, the site does not benefit from the proposed transport infrastructure of this SUE (i.e footpaths and roads) and therefore considerable distance will still have to be travelled by car to access their infrastructure.
- 9.14- In appeal decision (APP/E3715/W/19/3226761) Land adjacent to West View, Stockton Road, Birdingbury the Planning Inspector accepts that the Local Planning Authority can demonstrate a five-year supply of deliverable housing sites and as such the tilted balance in this instance is not engaged. The Inspector also states that lack of isolation does not necessarily mean that a site will be reasonably accessed to services when considered with the other aspects of the NPPF. Birdingbury in this instance was considered to be an unsustainable location; accessibility to services; and limited public transport would make the reliance of the private car likely. The Inspector concludes that the proposal would be in conflict with the NPPF and Local Plan which seek to direct development towards sustainable locations.
- 9.15- Likewise appeal decision (APP/E3715/W/19/3233944) 8 Swedish Houses, Birdingbury Road, Hill the Planning Inspector cites that the potential for future residents to make a meaningful contribution to the vitality of Hill is severely limited given the narrow range of local services. Furthermore, Leamington Hastings and Birdingbury have few facilities, thereby limiting the potential for residents to affect or maintain the vitality in the other nearest settlements. Whilst the proposal would not be isolated it was

considered that the proposal would not promote use of sustainable modes of transport and would fail to have any meaningful effect on the vitality of a rural community.

- 9.16- In conclusion, there are very few facilities close to application site, which will result in more car borne trips for day-to-day activities. This in turn would be contrary to the principle of sustainable development as set out in GP1 and the NPPF. It is therefore considered that this application is contrary to Section 2 and 9 of the NPPF; and Local Plan Policies GP1, GP2. It is therefore considered an unsustainable location for new residential development.

## **10.0 Removal of an employment site**

- 10.1- Local Plan policy ED1 concerns employment land across the borough. This policy details that all employment sites, including the existing strategically significant employment sites, core strategy allocations and new Local Plan employment allocations, as shown on the Policies Map, will be retained for employment purposes in the following use classes: B1(a), B1(b), B1(c), B2 and B8. The site in this application currently holds a B2 use classification. Whilst it is acknowledged that the site is of limited employment value for the economic growth of the borough, the consideration of this policy is still relevant. This policy details that in order to ensure land used for economic development continues to provide jobs in the local economy, where a site is proven to be no longer viable for employment uses, a proposal for change of use to a non B-use class may be considered acceptable.
- 10.2- The applicant has stated that the current occupants of the site have re-located to another area of the borough. However, the site still maintains the same B2 use class and will continue to do so irrespective of the owner and or occupier.
- 10.3- All land currently or last used for employment purposes will be protected where a site continues to make a viable contribution to economic development within the Borough. The site forms part of the larger Locks area and the employment uses within. However, as mentioned, the site is zoned within the nearby SUE as detailed in policy DS3, although is not intrinsically linked to this area.
- 10.4- For proposals that would involve the change of use or loss of any land used for employment purposes, it must be demonstrated that the land or unit under consideration is no longer viable for a B-use class. This should be considered against the six-test listed in this policy that an alternative land use would support sustainable local communities. The relevant points from these 6 tests are detailed in paragraph 10.5 & 10.6.
- 10.5- Whether there is evidence of active marketing. No evidence has been provided demonstrating a difficulty in this unit being re-let or purchased by a new tenant and demonstrating it is no longer economically viable for its current B2 class.
- 10.6- Whether businesses are likely to be displaced through redevelopment, whether there is a supply of alternative suitable accommodation in the locality to help support local businesses and jobs and whether this would promote or hinder sustainable communities and travel patterns. As mentioned, the current occupiers have re-located to another part of the brough and therefore no direct loss of employment is apparent.

- 10.7- However, supporting text in this policy as detailed in paragraph 6.5 states that it is important that the diverse range of industrial sectors that make-up employment provision in the Borough is protected and maintained to offer choices of employment opportunities to both employers and potential employees. The most effective way to achieve this is by protecting different types of employment land, within the context of a flexible policy that is able to deal with potentially changing economic conditions over the plan period. As mentioned, the applicant has stated that the business has moved to an alternative site in the borough. Whilst this means that no likely employment loss will result, weight is given to the fact that removing this site from the local employment stock will lead to another business not being able to expand by potentially moving into the site in the future.
- 10.8- On balance, weight is given to the fact that the existing site is in close proximity to existing built form which contains a residential use class. Removing a B2 use class from the area may improve amenity to the existing housing stock. However, the removal of this employment asset is contrary to the ethos of this policy. No clear justification has been given why this should occur other than the fact that the current occupiers have vacated the site and that the site is zoned in the neighbouring SUE.

## **11.0 Character and Design and impact on designated area**

- 11.1- Local Plan Policy SDC1 states that development will only be supported where the proposals are of a scale, density and design that responds to the character of the areas in which they are situated. Section 12 of the NPPF states that the creation of high-quality buildings and place is fundamental to what the planning and development process should achieve. Furthermore, paragraph 130 (a) states that buildings will add to the overall quality of the area, not just for the short term but over the lifetime of the development. Paragraph 130 (b) states that buildings are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- 11.2- Local Plan policy SDC 3 concerns the protection and enhancement of the historic environment. This policy details that development will be supported that sustains and enhances the significance of the Borough's heritage assets including listed buildings, conservation areas, historic parks and gardens, archaeology, historic landscapes and townscapes. Development affecting the significance of a designated or non-designated heritage asset and its setting will be expected to preserve or enhance its significance.
- 11.3- Section 16 of 'The Framework' states that local authorities should identify the particular significance of their assets and therefore assess the impact of a proposal in accordance with its significance.
- 11.4- Paragraph 206 of the NPPF supports new development within conservation areas that makes a positive contribution. The design of a proposed scheme forms the consideration of this.
- 11.5- Hillmorton Locks is a small hamlet settlement located approximately two miles south-east of Rugby and is centred around the local canal system. The Conservation Area has retained its distinctive character, which contrasts with the suburban development

of Rugby. The railway embankment acts as a physical and visual barrier. A narrow tunnel links the locks to Brindley Road and the housing estates of Hillmorton.

- 11.6- The Conservation Area is characterised by an industrial theme with the canal running through the centre of the hamlet. Many of the original canal buildings, and the dry dock, continue to be used for industrial purposes. The majority of buildings date from the nineteenth century with modern development limited to the craft workshops and a dwelling to the east. The oldest building, and the key focal point of the hamlet, is St John the Baptist Church. The Conservation Area encompasses a relatively large amount of farmland or pastureland, and this provides a large countryside setting. The hamlet is small with a limited number of buildings in a landscaped dominated environment.
- 11.7- The scheme proposes the erection of four dwellings into the local housing stock. The scheme also proposes an area to the front which will provide a buffer between the facades of the buildings and the public land. This area will provide off-street parking and landscaping along with an enclosed bin store. Herringbone paving will be used as the hard surfacing and to ensure that the proposed landscaping will be adequate, the size and quantity of such will be secured through a condition subject to any forthcoming approval.
- 11.8- The proposed dwellings are of simplistic in architectural nature, however certain design elements have been proposed in order to provide an appearance which responds to the nature of the historical context in the vicinity. Elevational drawings submitted as part of the scheme propose x2 gable ended buildings which will comprise of rustic red brickwork, hardwood windows and doors, brick detailing and dentil courses above windows. Brick detailing to the eaves and the addition of chimneys are also proposed along with a slate covered pitched roof. Specific details of specific design features will be secured through a condition subject to any forthcoming approval.
- 11.9- Immediately opposite the site is a row of residential properties which on the whole carry minimal contribution to the overall historical context of the immediate vicinity. The application site is located within the heart of the cluster of existing industrial development, however due to the orientation of the units proposed, it will face away from this area and will be sectioned to the north-eastern corner of the hamlet facing directly opposite 24 The Locks. That proposed in this application, carries similar design features that that seen in the opposite properties. Therefore, that proposed should provide a coalescence between that existing and therefore the design is acceptable and the impact on the historic area is not considered great enough to form a basis for refusal in the planning balance.
- 11.10- Therefore, this proposal will not have a detrimental impact on the surrounding area. The proposal also aims to use suitable materials throughout and will provide no material harm to the existing nature of the street scene. This application is therefore considered to be in accordance with SDC1 & SDC3 of the Local Plan and Section 12 & 16 of the NPPF.

## **12.0 Residential amenity and layout**

- 12.1- Policy SDC1 and Section 12 of the NPPF states that development will ensure that the living conditions of existing and future neighbouring occupiers are safeguarded. In order to determine this assessment, the Climate Change and Sustainable Design and Construction SPD (2023) provides guidance for how this local plan policy should be determined.
- 12.2- Whilst there is no uniformed pattern of development, the layout of the proposed means that all dwellings have frontages facing 24 The Locks rather than towards the commercial buildings to the rear. This improves the amenity of any potential occupiers.
- 12.3- All properties propose the same floor plan with an office area, toilet and an open plan kitchen living space on the ground floor with a bathroom, en-suite master bedroom and x2 smaller bedrooms on the first floor. Cycle and bin stores are shown on the site plan drawing 3722-101 Rev B and are located in appropriate locations. The size and layout of the dwellings are small yet functional.
- 12.4- Paragraph 2.2 of Appendix B Residential design guide, states that new dwellings shall provide an adequate amount of garden amenity space. This is determined by a rear garden area being at least the size of the ground floor footprint of the dwelling. Plots 3 & 4 adhere by this. However, plots 1 & 2 propose small garden areas which subsequently contradicts this supporting guidance. It is however noted that the location of the units are in walking distance to open countryside due to the rural setting. However, this aspect alone does not carry enough weight to overcome this issue.
- 12.5- Development shall also not impact on the residential amenities enjoyed by the occupants of surrounding properties. This can be assessed through 3 main principles, overbearing impact, impact on natural light and impact on privacy. The surrounding properties of 7, 11 & 24 The Locks form the main aspect of this consideration due to their close proximity to the application site. Number 24, whilst located directly opposite, the impact is considered negligible due to the separation distance and the buffer provided by the proposed parking area to the front along with the oblique angle of the two building lines.
- 12.6- In terms of the impact upon 7 & 11 The Locks, both dwellings are screened by trees and other mature vegetation. The proposed windows on the side elevations will serve for natural light onto the internal staircase and are to be obscure glazed and shall be conditioned to remain as such thereafter subject to a forthcoming approval. Whilst there will be an increase in overbearing impact on number 7, the level of harm is considered acceptable and not great enough to warrant a refusal on this aspect. This is due to the separation distances between the existing dwelling and the units proposed and the extent of the mature vegetation on the boundary line.
- 12.7- The location of number 7 southwards of the application site also ensures that there is no loss of sunlight resulting from the development. Likewise, with number 11 being located northwards, an assessment on the impact on natural has been made. Due to the orientation and relationship between the application site and number 11, the impact is minimal.
- 12.8- On the whole, the impact on the amenity of the aforementioned properties is considered acceptable resulting from the size, massing and location of the 4 units

proposed. In addition to this, the removal of an industrial unit and its associated practices and paraphernalia does carry weight in the improvement of amenity for the immediate locality. Therefore, Local plan policy SDC1 is complied with in terms of the impact on neighbouring properties. However, the size of the proposed gardens does contradict the guidance as set in the Climate Change and Sustainable Design and Construction SPD (2023) and weight is given to this fact.

### **13.0 Highways considerations**

- 13.1- Local Plan Policy D1 states that sustainable transport methods should be prioritised with measures put in place to mitigate any transport issues. Local Plan Policy D2 also states that planning permission will only be granted for development which incorporates satisfactory parking facilities as set out within the Planning Obligations SPD and Appendix 5 of the Local Plan.
- 13.2- Section 9 paragraph 110 of the Framework states that it should be ensured that safe and suitable access to a site can be achieved for all users. Paragraph 111 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 13.3- With reference to the local plan and its corresponding parking standards, a 3-bedroom dwelling in a low accessible area of the borough shall provide 2 off-road parking spaces. With reference to amended site plan 3722-101 Rev B, the site proposes a total of 9 off-road spaces within the site. Each of the four dwellings shall have 2 spaces allocated along with an additional visitor space. Therefore, the required number of off-road parking provision is complied with. In addition to this, DRAWING NO: 23\_0179\_0100 provides a detailed diagram showing a swept path analysis within the site, whereby cars parked within all the spaces shown, can enter and egress from the site in a forward moving gear. The size of the parking in terms of its width and length is also in accordance with the guidance used by Warwickshire CC Highways.
- 13.4- The Highways authority therefore have no objection to the scheme as sufficient parking is provided off-site along with safe accessibility for potential occupiers. On this basis, it is duly contended that the development proposals fully accord with the requirements for promoting sustainable parking provision and, as such is in accordance with Local Plan policy D1 & D2.

### **14.0 Biodiversity**

- 14.1- Paragraph 40 of the Natural Environment and Rural Communities Act, under the heading of 'duty to conserve biodiversity' states "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity." The NPPF at chapter 15 'conserving and enhancing the natural environment' sets out government views on minimising the impacts on biodiversity, providing net gains where possible and contributing to halt the overall decline in biodiversity.

- 14.2- Bats and their 'roost' sites are fully protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended) making them a European Protected Species. It is a criminal offence to disturb, obstruct or destroy a bat 'roost', even if the roost is only occasionally used.
- 14.3- Policy NE1 of the Local Plan relates to the protection of designated biodiversity and geodiversity assets. Policy NE3 states that new development which positively contributes to landscape character will be permitted.
- 14.4- Initial consultation with Warwickshire CC Ecology requested the carrying out of a Preliminary Roost Inspection for bats is submitted prior to determination. This was due to the demolition of a large industrial building. Following the submission and review of the Ecology report it was noted that the building was evaluated as 'low' suitability, but also described as generally being of negligible suitability and not to provide hibernation roost potential.
- 14.5- Considering this an ecologist inspected the crevice features internally, with an endoscope, to rule out the likely presence of bats. No evidence of bats was found and as recommended in the report, should approval be forthcoming, demolition should be undertaken with care.
- 14.6- The existing site is industrial in nature and is devoid of landscaping. This is with the exception of the tree vegetation on both the north and south boundaries with 7 & 11 The Locks. The proposed development will improve the landscaped setting of the conservation area and will on balance enhance landscaping on the site as per the proposed plans. The proposed development will result in a net biodiversity gain with specific details of such will be reserved by a suitable planning condition subject to any approval of the scheme.
- 14.7- This application is therefore in accordance with Local plan policy NE1 & NE3 along with Section 15 of 'The Framework'.

## **15.0 Pollution**

- 15.1- Paragraph 174 of the NPPF states that proposals should be prevented from contributing to, being out at risk from, or be adversely affected by, unacceptable levels of soil, air, water or noise pollution. Paragraph 183 of the NPPF states that a site should be suitable for its proposed use by taking account of ground conditions and any risks arising from land instability and contamination.
- 15.2- Local Plan Policy HS5 states that proposals should take full account of the cumulative impact of all development including that proposed in this Local Plan on traffic generation, air quality, noise and vibration. Development proposals should complement the Air Quality action Plan. Development proposals should also promote a shift to the use of sustainable transport modes and low emission vehicles in order to minimise the impact on air quality, noise and vibration caused by traffic generation. Environmental Health have assessed the application and have no objections subject to conditions with their assessment detailed below;

### ***Land Contamination;***

- 15.3- Due to the historic activities associated with the site resulting from the variety of land uses, land contamination is likely. Paragraph 183 (a) of 'The Framework' states that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from former activities. In determining this, an adequate site investigation shall be prepared by a competent person, in order to inform these assessments. Therefore, a suitably worded land contamination assessment condition has been put forward subject to any forthcoming approval of this scheme. This shall be carried out prior to the commencement of development on the site to determine whether a remediation strategy is required.

### ***Noise;***

- 15.4- A Noise assessment was not submitted as part of the application. However, this aspect has been assessed by Environmental Health who have raised concerns regarding the nearby railway line and any noise pollution from the variety of commercial activities in the vicinity. Therefore, a suitably worded noise assessment condition has been put forward subject to any forthcoming approval of this scheme. This will assess the existing noise levels that could adversely affect the proposed development. Regard shall be had to noise from traffic, the existing commercial/industrial operations and general residual noise in the area. This report shall provide recommendations for any necessary acoustic mitigation works, to protect the occupants both inside the dwelling and the external amenity spaces, having regard to current guidance for the residential development. Any recommended works shall be completed prior to occupation of the development in order to maintain the amenity of any potential residential occupiers of the site.

### ***Air Quality***

- 15.5- The site is located within an air quality management area. Therefore, a suitably worded air quality assessment condition has been put forward subject to any forthcoming approval of this scheme. This will secure that no above ground development shall begin until a scheme detailing the on-site measures to be incorporated within the development in order to meet air quality neutral standards or to provide suitable mitigation, has been submitted to and approved in writing by the Local Planning Authority.
- 15.6- Overall, it is considered that the development will have no adverse impacts in terms of pollution and therefore complies with the paragraph 174 of the Framework and Local plan policy HS5.

## **16.0 Planning Balance and sustainability of development**

- 16.1- In terms of the planning balance, the Local Planning Authority benefits from an up to date adopted Local Plan along with a five-year supply of land and therefore the tilted balance in this instance is not engaged. The NPPF is however a document which should be considered as a whole and does state that in achieving sustainable development the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways.

- 16.2- It is acknowledged the scheme would bring a number of benefits including the provision of additional dwellings to the local stock and associated benefits to the local economy, however, the positive effects of a small-scale development over long term would be limited. The harm however in respect of the location of the application site would be in conflict with one of the NPPF's core planning objectives in that the proposal would not demonstrate sustainable development and as such significant weight should be given to this conflict.
- 16.3- In the opinion of the Local Planning Authority, having regard to the location of the development being sited within the countryside, the proposal would result in a development which would result in future residents being heavily reliant on the private car to access services and facilities as well as employment which in turn fails to mitigate and adapt to climate change and support moving to a low carbon economy. As such the proposal fails to comply with Section 2 of the National Planning Policy Framework (2021); and Local Plan Policies GP1 and GP2.

## **17.0 Conclusion**

- 17.1- The proposed development is located within an area of the borough designated as the countryside. Local Plan policy GP2 states that new development within the countryside would be resisted and only where national planning policy allows will development be permitted. The proposed development due to its location would have limited accessibility to essential services and would be heavily reliant upon the private vehicle to access such day-to-day services. As such the proposal would therefore have an adverse impact upon the environmental conditions of the area, and does not minimise waste and pollution, or mitigate to adapt to climate change by moving to a low carbon economy. As a result, it would not fulfil the environmental dimension of sustainable development identified by Section 2 of the NPPF 2021. Due to this, it is considered that it would not enhance or maintain the vitality of the community in a sustainable manner. The proposed development is therefore contrary Section 2 of the National Planning Policy Framework 2021 and policies GP1 and GP2 of the Rugby Local Plan 2011-2031, June 2019.

## **Recommendation**

Refusal.

## DRAFT DECISION

**REFERENCE NO:**  
R22/0828

**DATE APPLICATION VALID:**  
08-Aug-2022

**APPLICANT:**  
MR Pammenter, SP Engineering Services SP

**AGENT:**  
MR Ian Gidley, Land & Planning Consultants Limited

**ADDRESS OF DEVELOPMENT:**  
HILLMORTON YARD,  
THE LOCKS,  
RUGBY,  
RUGBY,  
CV21 4PP

**APPLICATION DESCRIPTION:**  
Demolition of industrial unit (use class B2) and the erection of 2 pairs of semi-detached 3 bedroom dwellings.

**CONDITIONS, REASONS AND INFORMATIVES:**

**RELEVANT DEVELOPMENT PLAN POLICIES & GUIDANCE:**

***National Planning Policy Framework - 2021***  
Section 2: Achieving Sustainable Development

***Rugby Borough Council Local Plan 2011-2031- June 2019***  
Policy GP1: Securing Sustainable Development  
Policy GP2: Settlement Hierarchy

**REASON:**

The proposed development is located within an area of the borough designated as the countryside. Local Plan policy GP2 states that new development within the countryside would be resisted and only where national planning policy allows will development be permitted. The proposed development due to its location would have limited accessibility to essential services and would be heavily reliant upon the private vehicle to access such day-to-day services. As such the proposal would therefore have an adverse impact upon the environmental conditions of the area, and does not minimise waste and pollution, or mitigate to adapt to climate change by moving to a low carbon economy. As a result, it would not fulfil the environmental dimension of sustainable development identified by Section 2 of the NPPF 2021. Due to this, it is considered that it would not enhance or maintain the vitality of the community in a sustainable manner. The proposed development is therefore contrary Section 2 of the National Planning Policy Framework 2021 and policies GP1 and GP2 of the Rugby Local Plan 2011-2031, June 2019.

**STATEMENT OF POSITIVE ENGAGEMENT:**

In dealing with this application Rugby Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the NPPF.



**AGENDA MANAGEMENT SHEET**

<b>Report Title:</b>	Delegated Decisions - 23 February to 22 March 2023
<b>Name of Committee:</b>	Planning Committee
<b>Date of Meeting:</b>	19 April 2023
<b>Report Director:</b>	Chief Officer - Growth and Investment
<b>Portfolio:</b>	Growth and Investment
<b>Ward Relevance:</b>	All
<b>Prior Consultation:</b>	None
<b>Contact Officer:</b>	Chief Officer - Growth and Investment
<b>Public or Private:</b>	Public
<b>Report Subject to Call-In:</b>	No
<b>Report En-Bloc:</b>	No
<b>Forward Plan:</b>	No
<b>Corporate Priorities:</b>	This report relates to the following priority(ies): <input type="checkbox"/> Rugby is an environmentally sustainable place, where we work together to reduce and mitigate the effects of climate change. (C) <input type="checkbox"/> Rugby has a diverse and resilient economy that benefits and enables opportunities for all residents. (E) <input type="checkbox"/> Residents live healthy, independent lives, with the most vulnerable protected. (HC) <input type="checkbox"/> Rugby Borough Council is a responsible, effective and efficient organisation. (O) <a href="#">Corporate Strategy 2021-2024</a> <input type="checkbox"/> This report does not specifically relate to any Council priorities but
<b>(C) Climate</b> <b>(E) Economy</b> <b>(HC) Health and Communities</b> <b>(O) Organisation</b>	
<b>Summary:</b>	The report lists the decisions taken by the Chief Officer for Growth and Investment under delegated powers.
<b>Financial Implications:</b>	There are no financial implications for this report.
<b>Risk Management Implications:</b>	There are no risk management implications for this report.

**Environmental Implications:** There are no environmental implications for this report.

**Legal Implications:** There are no legal implications for this report.

**Equality and Diversity:** There are no equality and diversity implications for this report.

**Options:**

**Recommendation:** The report be noted.

**Reasons for Recommendation:** To ensure that members are informed of decisions on planning applications that have been made by officers under delegated powers.

**Planning Committee - 19 April 2023**

**Delegated Decisions - 23 February to 22 March 2023**

**Public Report of the Chief Officer - Growth and Investment**

**Recommendation**

The report be noted.

**Name of Meeting:** Planning Committee

**Date of Meeting:** 19 April 2023

**Subject Matter:** Delegated Decisions - 23 February to 22 March 2023

**Originating Department:** Growth and Investment

**DO ANY BACKGROUND PAPERS APPLY**  YES  NO

**LIST OF BACKGROUND PAPERS**

<b>Doc No</b>	<b>Title of Document and Hyperlink</b>

The background papers relating to reports on planning applications and which are open to public inspection under Section 100D of the Local Government Act 1972, consist of the planning applications, referred to in the reports, and all written responses to consultations made by the Local Planning Authority, in connection with those applications.

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Exempt information is contained in the following documents:

<b>Doc No</b>	<b>Relevant Paragraph of Schedule 12A</b>

## Delegated

### 8 Weeks Advert

#### Applications Approved

R22/1357 7-8, North Street, Rugby, CV21  
8 Weeks Advert 2AB  
Approval  
02/03/2023

Consent to display an advertisement. Replace existing Double-sided internally illuminated 6-sheet Bus Shelter advertising displays with a Single digital Bus Shelter advertising display. The reverse panel comprises a non-advertising, non-illuminated space for Council or Community content. Replacement digital display will portray static advertising images that change every 10 seconds.

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### 8 Weeks PA Applications

#### Applications Refused

R22/0846 22, Crackthorne Drive, Rugby,  
8 Weeks PA CV23 0GL  
Refusal  
27/02/2023

Single-storey rear extension, conversion of garage to gym and raising of roof by 0.6 metres with front dormer to enable mezzanine floor for office use, new porch, 0.8 metre high metal railings to front garden and 1.8 m high front gates to driveway, demolition of side boundary wall and

## Delegated

### 8 Weeks PA Applications Applications Refused

replacment with timber panelled fence and pedestrian gate to rear, installation of metal railings 0.8 metres in height around open landscaped area to side of property (facing Short Fishers Walk)

R22/1225  
8 Weeks PA  
Refusal  
14/03/2023

52, HEATHER ROAD, BINLEY  
WOODS, COVENTRY, CV3 2DD

Demolition of existing bungalow to develop a detached two story dwelling with garage and new access. Existing trees and access to remain

R23/0067  
8 Weeks PA  
Refusal  
14/03/2023

9, DUNCAN DRIVE, RUGBY,  
CV22 7RS

Two storey side and rear extension

R23/0157  
8 Weeks PA  
Refusal  
15/03/2023

3, Norman Ashman Coppice,  
Binley Woods, Coventry, CV3  
2BP

Single Storey Front and Side Extension

R22/1276  
8 Weeks PA  
Refusal  
16/03/2023

WILLOUGHBY HOUSE, MOOR  
LANE, WILLOUGHBY, RUGBY,  
CV23 8BU

Construction of three detached dwelling houses, car ports and associated works including demolition of existing buildings.

## Delegated

### 8 Weeks PA Applications

#### Applications Approved

R22/1164 8 Weeks PA Approval 23/02/2023	90, COVENTRY ROAD, DUNCHURCH, RUGBY, CV22 6RE	Two storey side extension
R22/0510 8 Weeks PA Approval 24/02/2023	6, WEBB ELLIS ROAD, RUGBY, CV22 7AU	PROPOSED UPPER FLOOR EXTENSION AND ALTERATIONS TO DWELLINGHOUSE INCLUDING THE RAISING OF THE ROOF RIDGE HEIGHT, DORMERS TO THE REAR ELEVATION AND SOLAR PANELS TO THE FRONT ELEVATION
R22/1356 8 Weeks PA Approval 24/02/2023	FITZJOHNS, BARBY ROAD, RUGBY, CV22 5QB	Erection of a timber frame store.
R23/0138 8 Weeks PA Approval 24/02/2023	33 HILLARY ROAD, OVERSLADE, RUGBY, CV22 6EU	Demolition of existing garage & erection of single storey side and rear extension
R22/1282 8 Weeks PA Approval 27/02/2023	240 , Alwyn Road, Bilton, Rugby, Warwickshire, CV22 7RR	Two storey side and rear extension with internal alterations

## Delegated

### 8 Weeks PA Applications Applications Approved

7, MAIN STREET, CLIFTON  
UPON DUNSMORE, RUGBY,  
CV23 0BH

R23/0008  
8 Weeks PA  
Approval  
28/02/2023

Proposed internal and external alterations to the existing Property. The proposals include the extension of existing pitched roof, the alterations of an existing window aperture and the widening of rear bi-folding doors. A new rear facing utility room window and installation of 6 conservation style roof lights are also proposed.

R22/1306  
8 Weeks PA  
Approval  
01/03/2023

8, Windmill Close, Rugby, CV21  
4EJ

Garage conversion to a study/  
office.

R22/1308  
8 Weeks PA  
Approval  
01/03/2023

11, Building Plot, WINDMILL  
CLOSE, RUGBY

Extra Car Parking Space  
(Retrospective)

R20/0658  
8 Weeks PA  
Approval  
03/03/2023

54 VICTORIA STREET, , NEW  
BILTON, RUGBY, CV21 2HN

Erection of a dwellinghouse

## Delegated

### 8 Weeks PA Applications Applications Approved

R21/0173 8 Weeks PA Approval 03/03/2023	THE UNDERACRE, WATLING STREET, RUGBY, CV23 0AQ	Erection of 4 no. industrial units, associated car parking and landscaping.
R23/0004 8 Weeks PA Approval 03/03/2023	AVON LODGE, COVENTRY ROAD, LONG LAWFORD, RUGBY, CV23 9BW	Single storey infill extension to main house
R23/0133 8 Weeks PA Approval 07/03/2023	LAND REAR OF LUTTERWORTH ROAD, PAILTON, RUGBY, CV23 0QE	Change of use of a existing building to a residential dwelling and associated parking.
R22/0562 8 Weeks PA Approval 08/03/2023	150, DUNCHURCH ROAD, RUGBY, CV22 6DR	Retrospective consent for the erection of rear garden boundary walls and excavation works with construction of retaining walls and steps. Proposed northeast side boundary wall.
R22/0924 8 Weeks PA Approval 08/03/2023	4, Page Close, Rugby, CV23 0XW	Retention of decking in rear garden of property (retrospective application)

## Delegated

### 8 Weeks PA Applications Applications Approved

R23/0064 8 Weeks PA Approval 08/03/2023	49, Wordsworth Road, Rugby, Warwickshire, CV22 6HZ	Double storey side and single storey rear extension
R23/0016 8 Weeks PA Approval 09/03/2023	12, MORSON CRESCENT, RUGBY, CV21 4AL	PROPOSED SINGLE STOREY SIDE AND REAR EXTENSION
R22/0534 8 Weeks PA Approval 10/03/2023	THE UNITED PENTECOSTAL CHURCH, 2 WINDSOR STREET, RUGBY, CV21 3NZ	Erection of 3 no. dwelling houses
R23/0074 8 Weeks PA Approval 10/03/2023	14, WESTGATE ROAD, RUGBY, CV21 3UD	Single storey rear extension
R23/0017 8 Weeks PA Approval 14/03/2023	6, Regent Place, Rugby, CV21 2PN	Conversion/extension of buildings from a mixed-use of residential/office space to use as four residential flats (Use Class C3)

## Delegated

### 8 Weeks PA Applications Applications Approved

IVY BARN, LOWER STREET,  
WILLOUGHBY, RUGBY, CV23  
8BX

R23/0072  
8 Weeks PA  
Approval  
14/03/2023

Demolition of existing sheds &  
replacement with outbuilding for  
garden / household storage,  
incorporating Photovoltaic cells to  
pitched roof

R23/0221  
8 Weeks PA  
Approval  
14/03/2023

81, SOUTH STREET, RUGBY,  
CV21 3SF

Re-submission of previously  
approved application R22/0769.  
This amended design proposes a  
render finish to the front and left  
hand elevation.

R23/0095  
8 Weeks PA  
Approval  
15/03/2023

254, RUGBY ROAD, BINLEY  
WOODS, COVENTRY, CV3 2BD

Single storey rear extension and  
single storey porch.

R23/0097  
8 Weeks PA  
Approval  
15/03/2023

343, Newbold Road, Rugby,  
Warwickshire, CV21 1EH

First floor side elevation window

R23/0181  
8 Weeks PA  
Approval  
15/03/2023

Beech Tree House, Ashlawn  
Road, Rugby, Warwickshire,  
CV22 5QE

Extensions and alterations to  
existing dwelling (re-submission  
of planning application ref:  
R22/0400)

## Delegated

### 8 Weeks PA Applications Applications Approved

R23/0223 8 Weeks PA Approval 15/03/2023	Fosse Cottages, Rugby Road, Brinklow, Rugby, Warwickshire, CV23 0LZ	Conversion of car port to provide ancillary accommodation.
R22/1215 8 Weeks PA Approval of Reserved Matters 17/03/2023	LAND OFF ALMOND GROVE, NEWBOLD, RUGBY	Erection of one dwelling and associated works (application for approval of reserved matters relating to appearance, landscaping, layout and scale) following outline planning approval under R19/1506.
R23/0110 8 Weeks PA Approval 17/03/2023	241 Sedlescombe House, Flat 9, Dunchurch Road, Rugby, Warwickshire, CV22 6HP	Conversion of an existing flat into 2 separate units.
R23/0215 8 Weeks PA Approval 17/03/2023	241 Sedlescombe House, Flat 3, Dunchurch Road, Rugby, Warwickshire, CV22 6HP	Conversion of ground floor flat into 2 separate units.
R22/1314 8 Weeks PA Approval 20/03/2023	10, GARRATT CLOSE, LONG LAWFORD, RUGBY, CV23 9DL	Single storey side and rear wrap around extension

## Delegated

### 8 Weeks PA Applications Applications Approved

R23/0217 8 Weeks PA Approval 20/03/2023	SCHOOL FIELD HOUSE, 2 BARBY ROAD, RUGBY, CV22 5DR	Proposed renewal and upgrade of windows
R22/0775 8 Weeks PA Approval 21/03/2023	66, CHURCH STREET, RUGBY, CV21 3PT	Change of use of office space to the rear of the existing retail unit to provide a one-bed ground floor flat.
R22/1330 8 Weeks PA Approval 21/03/2023	2 , Holbrook Avenue, Rugby, Warwickshire, CV21 2QQ	Single storey side extension with internal alterations.
R22/1355 8 Weeks PA Approval 21/03/2023	46 PLANTAGENET DRIVE, BILTON, RUGBY, CV22 6LB	Garage conversion and demolition of existing conservatory to make way for rear extension.
R22/1151 8 Weeks PA Approval 22/03/2023	94, Grove Road, Ansty, Coventry, CV7 9JE	Three front roof dormers and render of property

## Delegated

### Certificate of Lawfulness Applications

#### Applications Approved

R23/0220 40, Birdingbury Road, Marton,  
Certificate of Lawfulness  
Approval  
28/02/2023  
Rugby, CV23 9RZ

HIP TO GABLE LOFT  
CONVERSION WITH REAR  
DORMER WINDOWS

R23/0162 41, BROWNING ROAD, RUGBY,  
Certificate of Lawfulness  
Approval  
15/03/2023  
CV21 4BU

Proposed loft conversion with the  
erection of rear and side pitched  
roof dormers

### Conditions

#### Applications Refused

R22/1134 LAND NORTH OF COVENTRY  
Conditions Refusal  
21/03/2023  
ROAD, COVENTRY ROAD,  
THURLASTON

Details for part of condition 18:  
Transport Assessment and  
Mitigation of R16/2569 (Outline  
application Use Class B8  
buildings with associated  
infrastructure ). Part submission -  
mitigation information only.

#### Applications Approved

R22/1228 Fishery, Burton Farm, Burton  
Conditions Approval  
Lane, Burton Hastings

## Delegated

### Conditions

#### Applications Approved

24/02/2023

Approval of details in relation to condition 4 and 5 attached to R22/0411 - New build catering facility for extant fishery complex (retrospective)

R22/1041  
Conditions  
Approval  
01/03/2023

Units 1 & 2 LAND NORTH OF  
COVENTRY ROAD, COVENTRY  
ROAD, THURLASTON

Details in relation to condition 12:  
Surface Water Maintenance of  
R20/1026 (Erection of 2 logistics  
units with associated  
infrastructure)

R23/0054  
Conditions  
Approval  
02/03/2023

30, HIGH STREET, RUGBY,  
CV21 3BW

Approval of details related to  
condition 6- construction  
management plan of R21/0894  
(The renovation and conversion  
of the existing buildings at 30 and  
32 High Street, and 15 Sheep  
Street (excluding most of the  
ground floor at 30-32) to provide  
residential accommodation  
consisting of 32 units, including  
rooftop penthouse extensions  
and alterations to the existing  
building facades.)

R23/0294  
Conditions  
Approval

LAND NORTH EAST OF  
CASTLE MOUND WAY, CASTLE  
MOUND WAY, RUGBY

## Delegated

### Conditions

#### Applications Approved

03/03/2023

Approval of details related to:  
Condition 28 External Lighting -  
relating to Planning Application  
R22/0551 - Application for full  
planning permission for storage  
and distribution floorspace (Class  
B8 use), with ancillary offices,  
gatehouse, associated car  
parking, HGV parking,  
landscaping and infrastructure.

R23/0272  
Conditions  
Approval  
08/03/2023

Unit 9, Junction One Retail Park,  
Leicester Road, Rugby, CV21  
1RW

Discharge of condition 3 (tree  
protection) imposed on planning  
permission ref: R22/0273 for  
Change of use from Class E  
(previously Class A3) to a Sui  
Generis use consisting of a  
coffee shop/restaurant selling  
food and drink for consumption  
on and off the premises.  
Installation of a 'drive- thru' lane  
and associated engineering  
works. Minor alterations to car  
parking and servicing  
arrangements and associated  
changes to landscaping.  
Demolition and alterations to the  
building and elevations including  
recladding. Provision of new bin  
store and cycle store, approved  
5th July 2022

## Delegated

### Conditions

#### Applications Approved

R23/0091  
Conditions  
Approval  
14/03/2023

MALVERN HALL FARM,  
SOUTHAM ROAD,  
LEAMINGTON HASTINGS,  
RUGBY, CV23 8EY

Discharge of Condition 17  
(drainage) of R21/0887  
(Demolition of existing  
dwellinghouse and construction  
of a replacement dwellinghouse,  
conversion and extension of  
barns to a dwellinghouse  
including demolition of  
agricultural buildings,  
construction of a building for  
ancillary use, construction of  
stable block and associated  
diversion of Public Bridleway  
R222)

R23/0195  
Conditions  
Approval  
14/03/2023

MALVERN HALL FARM,  
SOUTHAM ROAD,  
LEAMINGTON HASTINGS,  
RUGBY, CV23 8EY

Discharge of Conditions 20  
(Bird/Bat Boxes) & 21  
(Landscaping & Enhancements)  
of R21/0887 (Demolition of  
existing dwellinghouse and  
construction of a replacement  
dwellinghouse, conversion and  
extension of barns to a  
dwellinghouse including  
demolition of agricultural  
buildings, construction of a  
building for ancillary  
use, construction of stable block  
and associated diversion of

## Delegated

### Conditions Applications Approved

Public Bridleway R222)

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<p>R22/1136 Conditions Approval 15/03/2023</p>	<p>LAND NORTH OF COVENTRY ROAD, COVENTRY ROAD, THURLASTON</p>	<p>Details for part of condition 18: Transport Assessment and Mitigation of R16/2569 (Outline application Use Class B8 buildings with associated infrastructure ). Part submission - mitigation information only. Duplicate submission.</p>
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<p>R22/1138 Conditions Approval 15/03/2023</p>	<p>LAND NORTH OF COVENTRY ROAD, COVENTRY ROAD, THURLASTON</p>	<p>Details for part of condition 18: Transport Assessment and Mitigation of R16/2569 (Outline application Use Class B8 buildings with associated infrastructure). Part submission - assessment information only.</p>
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<p>R22/1139 Conditions Approval 15/03/2023</p>	<p>LAND NORTH OF COVENTRY ROAD, COVENTRY ROAD, THURLASTON</p>	<p>Details for part of condition 18: Transport Assessment and Mitigation of R16/2569 (Outline application Use Class B8 buildings with associated infrastructure). Part submission - assessment information only. Duplicate submission.</p>
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R23/0321

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## Delegated

### Conditions

#### Applications Approved

Conditions

Approval

15/03/2023

CLIFTON HALL FARM,  
LILBOURNE ROAD, CLIFTON  
UPON DUNSMORE, RUGBY,  
CV23 0BB

Application for the approval of details reserved by a condition (4) following the approval of application R22/1194- Erection of an agricultural building at Clifton Hall Farm, to provide storage for equipment, machinery and materials.

R22/1300

Conditions

Approval

17/03/2023

LAND OFF ALMOND GROVE,  
NEWBOLD, RUGBY

Approval of details in relation to conditions 12, 13 and 14 attached to R19/1506 - 'Outline planning permission for the construction of one dwelling. All matters reserved except for means of access'

R23/0288

Conditions

Approval

21/03/2023

Land South of Brownsover Lane,  
Brownsover Lane, Rugby

Approval of Condition 9 (Archaeology) of R14/1941 (Erection of 14 dwelling houses, together with the creation of new vehicular and pedestrian access, including the provision of landscaping and surface water attenuation.)

Land at Manor Farm, Hinckley

## Delegated

### Conditions

#### Applications Approved

Road, Burton Hastings, Rugby,  
CV11 6RG

R22/0985  
Conditions  
Approval  
22/03/2023

Approval of details in relation to conditions 5, 6, 7, 11, 13, 14 and 21 attached to R17/2041 - Variation of Condition 4 of planning permission reference R17/2041 (Outline planning permission for demolition of the existing buildings and erection of six dwellings, with all matters reserved other than access, dated 11 November 2019) to include reference to an additional plan.

R23/0058  
Conditions  
Approval  
22/03/2023

1, OAKDALE ROAD, BINLEY  
WOODS, COVENTRY, CV3 2BL

Formation of an attached annexe including extension and alterations of the existing dwelling, a loft conversion and a new roof (discharge of Condition 5 of Planning Permission reference R21/0832, dated 24 May 2022).

R23/0287  
Conditions  
Approval  
22/03/2023

Land South of Brownsver Lane,  
Brownsver Lane, Rugby

Approval of Condition 5 (Arboricultural) of R14/1941 (Erection of 14 dwelling houses, together with the creation of new vehicular and pedestrian access, including the provision of landscaping and surface water attenuation.)

## Delegated

### Discharge of Conditions

R23/0048	HOME FARM, MAIN STREET, BRANDON, COVENTRY, CV8 3HW	Approval of details related to: Condition 3 Written Scheme of Investigation, Condition 4 Materials, Condition 5 and 6 Landscaping and Condition 14 Water Calculation - R21/0794 (Appeal APP/E3715/W/22/3290513) - Proposed new dwelling and garage, detached garage, and formation of a new highway access
01/03/2023		

R23/0049	32, THE GREEN, LONG LAWFORD, RUGBY, CV23 9BL	Application to discharge conditions 5,6, 7, 8 & 15 from approved application R19/0464.
02/03/2023		

R22/0449	LAND SOUTH EAST OF BROWNSOVER LANE, BROWNSOVER LANE, RUGBY	Erection of 14 dwelling houses, together with the creation of new vehicular and pedestrian access, including the provision of landscaping and surface water attenuation (Variation of condition 2 of R14/1941 dated 08/04/2020, to include amendment to approved House Types and Site Plan).
21/03/2023		

LAND SOUTH EAST OF

## Delegated

### Discharge of Conditions

R22/0449	BROWNSOVER LANE, BROWNSOVER LANE, RUGBY	Erection of 14 dwelling houses, together with the creation of new vehicular and pedestrian access, including the provision of landscaping and surface water attenuation (Variation of condition 2 of R14/1941 dated 08/04/2020, to include amendment to approved House Types and Site Plan).
22/03/2023		

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### Applications Refused

R20/0281	LAND TO REAR OF DUNSMORE GARAGE, COVENTRY ROAD, THURLASTON	Erection of 4 detached dwellings with associated car parking and landscaping.
21/03/2023		

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### Applications Approved

R20/0618	2, TOP ROAD, BARNACLE, COVENTRY, CV7 9LE	Construction of a detached duplex and associated landscaping to serve as a residential annex
24/02/2023		

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## Committee

### Discharge of Conditions

#### Applications Approved

R22/0411	Burton Farm Fishery, Burton Lane, Burton Hastings, CV11 6RJ	New build catering facility for extant fishery complex (retrospective)
24/02/2023		
R20/1026	UNITS 1 & 2 TRITAX SYMMETRY SITE - LAND NORTH OF COVENTRY ROAD, COVENTRY ROAD, THURLASTON	Full planning application for the erection of 2 logistics units development comprising a total of 30,435 sqm (327,599 sq.ft.) (measured GEA) of Class B8 floorspace of which 1,817.2 sq.m (measured GIA) (19,560 sq. ft.) comprises Class E(g)(i) ancillary office floorspace (measured GIA) with associated infrastructure including lorry parking, landscaping including permanent landscaped mounds, sustainable drainage details, sprinkler tank pump houses, gas and electricity substations, temporary construction access from Coventry Road, temporary marketing suite and temporary stockpile area for additional soil disposal.
01/03/2023		

## Delegated

**Discharge of Conditions****Applications Approved**

R19/1506 LAND AT, ALMOND GROVE,  
NEWBOLD, RUGBY,

Outline planning permission for  
the construction of one dwelling.  
All matters reserved except for  
means of access

17/03/2023

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**Committee****Discharge of Conditions****Applications Approved**

R14/1941 LAND SOUTH EAST OF  
BROWNSOVER LANE,  
BROWNSOVER LANE,  
21/03/2023 BROWNSOVER, RUGBY,

Erection of 14 dwelling houses,  
together with the creation of new  
vehicular and pedestrian access,  
including the provision of  
landscaping and surface water  
attenuation.

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**Delegated****Discharge of Conditions****Applications Approved**

R17/2041 Land at Manor Farm, Hinckley  
Road, Burton Hastings, Rugby,  
CV11 6RG

Outline planning permission for  
demolition of the existing  
buildings and erection of six  
dwellings, with all matters  
reserved other than access.

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22/03/2023

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## Delegated

### Discharge of Conditions Applications Approved

R23/0287	Land South of Brownsover Lane, Brownsover Lane, Rugby	Approval of Condition 5 (Arboricultural) of R14/1941 (Erection of 14 dwelling houses, together with the creation of new vehicular and pedestrian access, including the provision of landscaping and surface water attenuation.)
22/03/2023		

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### Listed Building Consent Applications Applications Approved

R23/0005	AVON LODGE, COVENTRY	Single storey infill extension to main house
Listed Building Consent Approval 03/03/2023	ROAD, LONG LAWFORD, RUGBY, CV23 9BW	
R23/0219	SCHOOL FIELD HOUSE, 2	Proposed Renewal and upgrade of windows
Listed Building Consent Approval 20/03/2023	BARBY ROAD, RUGBY, CV22 5DR	
R22/0897	66, CHURCH STREET, RUGBY,	Change of use of office space to rear of existing retail unit to provide one-bed ground floor flat.
Listed Building Consent Approval 21/03/2023	CV21 3PT	

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## Delegated

### Major Applications

#### Applications Approved

R22/0803                      ZONE C - LAND NORTH OF  
Major Application        COVENTRY ROAD, COVENTRY  
Approval of Reserved    ROAD, THURLASTON  
Matters  
24/02/2023

Erection of two buildings within Class B8 with ancillary office; ancillary structures including gatehouses; with associated access roads; servicing yards; car parking and cycle shelter; external plant and access details for the continuation of the spine road north of Northampton Lane and the access road to the east of the site; landscaping details; security fencing. Approval of reserved matters (access, appearance, layout, scale and landscaping) relating to R16/2569.

### Prior Approval Applications

#### Prior Approval Applications

R23/0254                      LAWFORD HEATH FARM,  
Agriculture Prior        LAWFORD HEATH LANE, LONG  
Approval                      LAWFORD, RUGBY, CV23 9EU  
Not Required  
07/03/2023

Prior Notification: Building for agricultural/forestry use

R23/0144                      13, PIPERS END, WOLVEY,  
Prior Approval            HINCKLEY, LE10 3LQ  
Extension  
Not Required

PAX - Erection of a single storey rear extension.

## Delegated

**Prior Approval Applications**

**Prior Approval Applications**

13/03/2023

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