



3 March 2023

PLANNING COMMITTEE - 15 MARCH 2023

A meeting of the Planning Committee will be held at 5.30pm on Wednesday 15 March 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 8 February 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. Applications for Consideration
5. Advance Notice of Site Visits for Planning Applications – no advance notice of site visits has been received.
6. Delegated Decisions – 19 January to 22 February 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). 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).

Planning Committee – 15 March 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
1	R22/0657	Part of the existing Rugby Central Shopping Centre, North Street, Rugby, CV21 2JR Demolition of part of Rugby Central Shopping Centre and the erection of a mixed-use development scheme in two separate blocks, both 7 storeys in height providing commercial floorspace within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and sui generis floorspace (bar or public house) on the ground floor and residential (Class C3) on the upper floors together with new public realm, hard and soft landscaping, roof top amenity space, cycle storage, refuse storage, plant rooms, a replacement shop front for Unit 3a Manning Walk, revised servicing arrangements, associated infrastructure and works.	5
2	R21/0985	Land at Padge Hall Farm, Watling Street, Burbage Hybrid planning application comprising: Outline application (all matters reserved except for site access from the A5) for the demolition of existing structures and the erection of distribution and industrial buildings (Use Class B2 and B8) including ancillary offices and associated earthworks, infrastructure and landscaping, and highways improvements at Dodwells roundabout; a Full application for the development of a distribution building (Use Class B8), including ancillary offices with associated access, hard standing, parking, and on plot landscaping. The proposals include improvements to the existing railway bridge on the A5 Watling Street including increased height clearance. This is a cross boundary application with Hinckley and Bosworth Borough Council and Nuneaton and Bedworth Borough Council (EIA development).	72
3	R22/0383	Land west side of Heritage Close, Cawston, Rugby Erection of 10 dwellings with access from Heritage Close, Cawston	130
4	R22/0722	50 Windsor Street, Rugby CV21 3NY Loft conversion and change of use to Sui Generis (7-bed HMO)	151
5	R15/2017	Top Park, Top Road, Barnacle 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	167

		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 on-site.	
6	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.	196
7	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.	220
8	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.	245
9	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.	269
10	R22/0772	Plot 14, Top Park, Top Road, Barnacle, Coventry CV7 9FS Retention of 1no. Gypsy and Traveller pitch comprising	293

		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.	
11	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.	317

Reference: R22/0657

Site Address: Part of the existing Rugby Central Shopping Centre, North Street, Rugby, CV21 2JR

Description: Demolition of part of Rugby Central Shopping Centre and the erection of a mixed-use development scheme in two separate blocks, both 7 storeys in height providing commercial floorspace within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and sui generis floorspace (bar or public house) on the ground floor and residential (Class C3) on the upper floors together with new public realm, hard and soft landscaping, roof top amenity space, cycle storage, refuse storage, plant rooms, a replacement shop front for Unit 3a Manning Walk, revised servicing arrangements, associated infrastructure and works.

Recommendation:

1. Planning application R22/0657 be approved subject to:
 - a) The conditions and informatives set out in the draft decision notice appended to this report; and
 - b) The completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.
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.
3. The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

1. Introduction:

- 1.1. This application is being reported to Planning Committee for determination because the proposed development falls within the definition of major development.

2. Proposal:

- 2.1. This is a full planning application for the part demolition of the Rugby Central Shopping Centre and the erection of a mixed-use development scheme in it's place. The proposal is being brought forward on around 0.63 hectares of land and seeks to provide two L-shape building blocks which would both have a maximum height of seven storeys.
- 2.2. The ground floor of the blocks would provide space for 11 commercial units which would be used for purposes falling within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and sui-generis floorspace (for use as a bar or public house). They would collectively provide 1,537 square metres (GIA) of commercial floorspace. The ground

floor would also contain cycle storage, bin storage, servicing and utilities for residential accommodation on the upper floors.

- 2.3. The upper floors of the blocks would be used to provide space for 200 apartments. This would be comprised of 121 x 1-bedroom apartments and 79 x 2-bedroom apartments. Roof gardens would be provided to each block. All apartments would be of a size that would meet the nationally described space standards.
- 2.4. A new public street is proposed to be created inbetween the two blocks providing access to the new commercial units and northern end of what would remain of the existing Rugby Central Shopping Centre. This would be a pedestrian only area and would contain new trees, amenity planting, raised planters, seating and a feature sculpture. It is envisaged that it would provide a place for outdoor seating connected with commercial uses such as coffee shops and cafes.
- 2.5. New shopfronts and external finishes would be provided to the newly exposed elevations of what would remain of Rugby Central Shopping Centre.
- 2.6. The two apartment blocks would vary in height with the frontage facing onto North Street being six storeys (20.70m) high and then stepping up to seven storeys (23.60m) high into the site. The layout of these blocks takes the form of an L shape with the shortest elevations facing onto North Street and the longest facing onto the newly created public street. The design of the buildings are broken into four visual elements across the height of the facades.
- 2.7. At street level there would be active shopfronts with large areas of glazing together with fretwork panels featuring a pattern inspired by the Sir Frank Whittle jet engine. A continuous signage ribbon for the commercial units and enlarged brickwork band set between two stringer courses would distinguish this street level tier from the residential apartments above.
- 2.8. Above the street level tier there would be a lower tier of grouped windows across 2-3 storeys which in key places would incorporate anodised bronze cladding panels. A middle tier is then proposed which groups together windows across 2-3 storeys through the use of patterned brickwork detailing to group windows in pairs. The top tier incorporates a stringer course over the top windows above which would be an enlarged brickwork band.
- 2.9. Structural bays would be created across the elevations of each building together with stringer and flushed soldier courses to collectively provide a clear elevational hierarchy. The elevations would be constructed from red and buff facing bricks. The windows to the apartments would be full height and of two different sizes with their placement arranged in a rhythmic fashion across the elevations. The windows would be set within aluminium frames with deep reveal depths.
- 2.10. The development would be a car free scheme and as such offers no on-site parking. However, it is proposed to create a car club in a nearby car park which would provide residents with a car they can hire for a specified period of time. A total of 214 cycle parking spaces would be provided within secure dedicated cycle stores contained within the ground floor of the blocks. A number of cycle stands for the public would also be provided on land to the front of the development on North Street and within the newly created public street.
- 2.11. The existing service yard accesses for the current Rugby Central Shopping Centre off North Street would remain. These would give access to two repurposed service yards to allow for deliveries and servicing to the commercial units and apartments.
- 2.12. Surface water run-off is proposed to be dealt with by both infiltration through permeable paving and below ground attenuation tank designed for storm events with an intensity up to a 1 in 100 year event plus 40% allowance for climate change. It would then be discharged into the public

sewer network using flow control devices to achieve a 5 litre/second run-off rate designed with a 40% allowance for climate change.

3. Site Description:

- 3.1. The application site comprises of the northern section of Rugby Central Shopping Centre which is located on North Street in Rugby town centre. The site is an irregular shape and is around 0.63 hectares in size. It is situated to the north of the designated Rugby Town Centre Boundary and falls within a designated Primary Shopping Area. The site includes two service yards to the north and south of the building.
- 3.2. The shopping centre first opened in 1979 and accommodates more than 50 outlets. It is housed within a 2-2.5 storeys high building (up to 10.7m high) with a flat roof. The centre was originally constructed as two separate elements but is now connected via a gable glass roof to create a covered pedestrian walkway. The ground floor contains a number of shopfronts to retail and hot-food outlets with the majority of these being designated as a Primary Shopping Frontage. A smaller row of shops along North Street is designated as a Secondary Shopping Frontage. The first floor is principally used for storage and ancillary purposes. The building is constructed from bricks with the majority of these being red and dark multi bricks.
- 3.3. In respect of the application site, the eastern elevation is readily visible within North Street and provides the main face of the building. It contains the main entrance into the shopping centre which is accessed via glazed doors of North Street. It is emphasised with a projecting curved feature canopy and steel beams with a large floating glass roof projecting above this. The majority of this elevation is straight but towards the northern end of the building there are four incremental setbacks in the first floor building line. This is coupled with a progressive drop in the ridge level for each setback to create the appearance of a stepped frontage. The shopfronts to North Street contain large areas of glazing but significant sections of these are now covered with vinyl window wraps which prevent views into the units. Large render panels separate the ground and first floor above the shopfronts. The first floor has no windows to the south of the main entrance whereas the units to the north have large rectangular openings with a mix of clad panels and glazing.
- 3.4. The northern, western and southern elevations are not overly visible in the public streetscene. Public views are rather restricted to those from the access points and associated service yards on North Street, and from public areas and roads within the wider area when viewed across land containing other buildings. These elevations are inconsistent in appearance and are of a variety of heights and projections. There are sections of cladding to the upper storeys and a significant amount of plant, equipment, flues, vents, emergency staircases and railings.
- 3.5. The land within the application site contains 16 units which cumulatively provide 4,650 square metres (GIA) of commercial floorspace within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and sui generis floorspace (hot food takeaway). A number of these units are vacant with many of the remaining units with occupiers subject to leases which expire or have break clauses in the near future.
- 3.6. The main pedestrianised entrance into to the shopping centre (known as Northway) is located off North Street. A further pedestrian access into the shopping centre lies to the south via Manning Walk. There are two vehicular service access points located to the north and south of Northway allowing access to the retail and commercial units fronting the shopping centre. There are several bus stops close to the site including two northbound stands and one southbound stand located immediately in front of the site on North Street. A taxi rank is also located in front of the site with a further larger taxi rank around 85 metres to the south. Rugby Train Station is located approximately 0.7 miles away to the northwest (approximately a 14

minute walk or 4 minute cycle ride). The A426 lies to the west of the site and is the main road link into Rugby.

- 3.7. The centre is bound by commercial and retail units to the south and further retail units and Rugby Central Multi-Storey Car Park to the west. The car park is 4-storeys high (15.4m high) and provides 550 spaces. It is open Monday to Saturday 7am - 7pm and Sunday 9:30am - 4:30pm with season or day tickets available.
- 3.8. The adjacent art-deco building to the south, known as the Napier building, is 5-storeys high (18.3m high). The ground floor is occupied by NatWest Bank with the upper floors containing 41 residential apartments. A number of these apartments in the northern elevation have windows to habitable rooms facing the application site. The fourth floor also has private patio areas to 5 apartments facing the application site.
- 3.9. A McDonalds drive-thru is located to the north of the site and operates from 6am - 11pm on every day of the week. The site perimeter is enclosed by timber slat fencing with a pedestrian access onto North Street. Vehicular access is off Evreux Way and leads to a customer car park with 60-minute maximum stay located adjacent to the application site. The drive-thru lanes also run around the perimeter of the site adjacent to the northern service yard of the application site. The building itself is two storeys high with floor to ceiling glazing featuring in the ground and first floor elevations facing the application site. It has a modern plain rectangular box design with elevations constructed from timber, cladding and glazing with a flat overhanging roof.
- 3.10. To the northwest of the site is the 9-storey (33.7m high) Cemex House office building which fronts onto the Evreux Way and Corporation Street (A426) roundabout. A number of office windows are contained within the elevation facing towards the application site. The building is of a 1960s brutalist design and is finished with concrete and repetitive bands of rectangular glazing and square cement panels. A large surface car park is located to west of the site with access off Evreux Way.
- 3.11. A three-storey building known as Chestnut House is located on the opposite side of North Street to the application site. There are a number of commercial units to the ground floor which is characterised by shopfronts with large areas of glazing. The two floors above this are used for offices and contain windows directly facing the application site. The building has been designed to replicate a Georgian architectural style. It features symmetrical sash windows with soldier courses to the upper floors, stone quoins and projecting stone string course below the parapet to a concealed hipped roof. Adjacent to Chestnut House to the north is The Courthouse pub and restaurant. It currently operates Wednesday to Thursday 12:00 - 21:00, Friday to Saturday 12:00 - 23:00 and Sundays 12:00 - 18:00. It is a 2.5 storey building design in a pastiche Tudor architectural style.
- 3.12. Also on the opposite side of the road is a single storey public toilet block constructed from red bricks and finished with a clay tile dutch gable roof. A public pedestrian footway is located either side of this providing access to North Street car park. Adjacent to this is a modern two-storey red brick building occupied by Barclays Bank. It contains a shopfront with large areas of glazing to the ground floor and large rectangular windows to the first floor. It features brick piers, soldier courses and a parapet gable roof to create a distinct appearance.
- 3.13. The Town Centre Conservation Area lies to the south and east of the site (the boundary being the southern side of the adjacent Napier building). The Conservation Area includes a number of Grade II listed buildings, the closest being on the opposite side of North Street (the Rugby Club) and on the western side of the Market Place grouped near the listed Clock Tower. St Andrew's Church, a Grade II* Listed Building lies further to the southwest on Church Street.

4. Relevant Planning History:

4.1. None.

5. Technical Consultation Responses:

Cadent Gas	No objection subject to informative
Environment Agency	No objection
Health and Safety Executive	No objection
Historic England	Comment raising concern
Natural England	No response
NHS Clinical Commissioning Group	No objection subject to financial contribution
NHS Property Services	No response
RBC Environmental Health	No objection subject to conditions and informatives
RBC Housing	No response
RBC Parks and Grounds	No objection subject to condition and financial contribution
RBC Trees and Landscape	No objection
RBC Viability Consultant	No objection
RBC Works Services Unit	No objection subject to informative
Rugby First	No response
Severn Trent Water	No response
Stagecoach	No objection with comment
UHCW NHST Trust	No objection subject to financial contributions.
Warwickshire Fire and Rescue Service	No objection subject to informative
Warwickshire Police	No objection with comment
WCC Archaeology	No objection subject to condition
WCC Ecology	No objection subject to conditions and informatives
WCC Flood Risk Management	No objection subject to conditions and informative
WCC Highways	No objection
WCC Strategic Growth and Infrastructure	No objection subject to financial contributions
Western Power	No response

6. Third Party Consultation Responses (Original Plans and Reports):

- Residents Objection (2)
- Design not acceptable.
 - Haven't seen anything concerning the implementation of parking spaces.

7. Third Party Consultation Responses (Amended Plans and Reports):

- Residents Objection (1)
- Development wrong thing for town.
 - No mention of where residents are going to park their cars.
 - Liable to cause more traffic in town, especially during demolition and construction phase and may go against Council's plan for the environment.
 - New Aldi may be constructed at same time so would be chaos.
 - Would effect what is essentially a Conservation Area – two blocks of flats, McDonalds and Aldi in small area so would look cramped.

8. Development Plan and Material Considerations:

8.1. 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.

8.2. The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Council Local Plan 2019. The relevant policies are outlined below.

8.3. Rugby Borough Council Local Plan 2019

GP1: Securing Sustainable Development	Complies
GP2: Settlement Hierarchy	Complies
GP3: Previously Developed Land and Conversions	Complies
GP4: Safeguarding Developed Land and Conversions	Complies
DS1: Overall Development Needs	Complies
DS5: Comprehensive Development of Strategic Sites	Complies
H1: Informing Housing Mix	Complies
H2: Affordable Housing Provision	Complies
TC1: Development in Rugby Town Centre	Complies
TC2: Rugby Town Centre – New Retail and Town Centre Uses	Complies
TC3: Primary Shopping Area and Shopping Frontages	Complies
HS1: Healthy, Safe and Inclusive Communities	Complies
HS2: Health Impact Assessments	Complies
HS4: Open Space, Sports Facilities and Recreation	Complies
HS5: Traffic Generation, Air Quality, Noise and Vibration	Complies
NE1: Protecting Designated Biodiversity and Geodiversity Assets	Complies
NE3: Landscape Protection and Enhancement	Complies
SDC1: Sustainable Design	Complies
SDC2: Landscaping	Complies
SDC3: Protecting and Enhancing the Historic Environment	Complies
SDC4: Sustainable Buildings	Complies
SDC5: Flood Risk Management	Complies
SDC6: Sustainable Drainage	Complies
SDC7: Protection of Water Environment and Water Supply	Complies
SDC9: Broadband and Mobile Internet	Complies
D1: Transport	Complies
D2: Parking Facilities	Complies
D3: Infrastructure and Implementation	Complies
D4: Planning Obligations	Complies

8.4. Supplementary Planning Documents (SPDs)

Air Quality SPD (2021)
Climate Change and Sustainable Design and Construction SPD (2023)
Housing Needs SPD (2012)
Planning Obligations SPD (2012)

8.5. Material Considerations

National Planning Policy Framework (NPPF or “the Framework”) (2021)
National Planning Practice Guidance (NPPG)
Community Infrastructure Levy (CIL) Regulations 2010 (as amended)
National Design Guide (2021)
Rugby Town Centre Regeneration Strategy (2022)
Rugby Town Centre Conservation Area Appraisal (2010)

9. Assessment of Proposal:

9.1. Key Issues

Section 10	Principle of Development
Section 11	Settlement Hierarchy and Redevelopment of Previously Developed Land
Section 12	Retail and the Vitality and Viability of Rugby Town Centre
Section 13	Housing, Density, Tenure and Mix
Section 14	Economic Growth
Section 14	Design, Layout, Landscaping and Visual Impact
Section 15	Heritage and Archaeology
Section 16	Light, Aspect and Privacy
Section 17	Access, Parking Provision, Traffic Flows and Highway Safety
Section 19	Air Quality
Section 20	Noise and Overheating
Section 21	Contamination
Section 23	Flood Risk and Drainage
Section 22	Ecology
Section 24	Trees
Section 25	Health
Section 18	Fire Safety
Section 26	Climate Change, Sustainable Design and Construction
Section 27	Broadband
Section 28	Water Consumption
Section 29	Viability, Affordable Housing, Infrastructure and Planning Obligations
Section 30	Planning Balance and Sustainability of Development

10. Principle of Development

- 10.1. 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.
- 10.2. This is reflected in Section 2 of the NPPF which states that when considering development proposals, the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development.
- 10.3. 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’.
- 10.4. The Local Plan for Rugby was adopted on the 4th June 2019. On adoption, the authority had a five-year supply of housing. The latest Annual Monitoring Report (AMR), published in October 2021, confirms this position. 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.

11. Settlement Hierarchy and Redevelopment of Previously Developed Land

- 11.1. Policy GP2 of the Local Plan outlines a sequential settlement hierarchy which seeks to ensure that development is directed to the most sustainable locations within the Borough.
- 11.2. In this case the application site is located within Rugby Town which is classified as being the most sequentially preferable location for development. The policy consequently sets out that development will be permitted within existing boundaries. The proposed development therefore complies with policy GP2.
- 11.3. Policy GP3 of the Local Plan sets out support for the redevelopment of previously developed land where proposals are compliant with the policies in the Local Plan. It further sets out that particular consideration will be given to the visual impact, existing services, heritage assets and biodiversity assets.
- 11.4. The application site is currently occupied by a shopping centre with associated service yards so is classified as previously developed land. The redevelopment should be supported where it complies with other Local Plan policies and the impacts are deemed to be acceptable. An assessment of the proposal against these issues and other policies is set out below.

12. Retail Need and the Vitality and Viability of Rugby Town Centre

Retail Need and the Vitality and Viability of Rugby Town Centre

- 12.1. Policy TC2 of the Local Plan identifies a need for 732 net square metres of convenience retail floorspace and 7,859 net square metres of comparison retail floorspace by 2030. To sustain and enhance the vitality and viability of the town centre, new proposals for meeting retail floorspace will be permitted firstly within the designated Primary Shopping Area.
- 12.2. The land within the application site contains 16 units which cumulatively provide 4,650 square metres (GIA) of commercial floorspace within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and sui generis floorspace (hot food takeaway). A number of these units are vacant with many of the remaining units with occupiers subject to leases which expire or have break clauses in the near future.
- 12.3. The proposed development would provide space for 11 commercial units which would cumulatively provide 1,537 square metres (GIA) of commercial floorspace within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and sui-generis floorspace (for use as a bar or public house). There would consequently be a net loss of 3,113 square metres (GIA) of commercial floorspace arising from this development.
- 12.4. Although the proposed development would not contribute towards meeting the retail need identified in the Local Plan, it would be located within the designated Primary Shopping Area. The key purpose and aim of policy TC2 is to ensure that the vitality and viability of this part of the town is sustained and enhanced. In this respect it is noteworthy that a number of units within the existing shopping centre are vacant. The applicant advises that this is due to both a lack of demand and the qualitative shortcomings of the units. Many of the remaining units are occupied by occupiers subject to leases which expire or have break clauses in the near future. There is consequently a risk of further vacancies and decline in the years ahead. This correlates with the general tired appearance of the existing shopping centre which is of its time.
- 12.5. The Local Plan acknowledges that the vacancy problems being experienced are compounded by increasing competition from out-of-centre retailing, the growth of internet shopping and

scale of units which it considers to be unlikely to trade as a purely local facility. The Retail and Town Centre Uses Study (2015) which underpins the Local Plan concluded that:

“[Rugby town] centre’s health is at best described as fragile. The quality of retail offer in the town centre has diminished due a lack of investment in the town centre and the relocation of key retailers to Elliott’s Field Retail Park and the strength of retail and leisure offer at competing centres (e.g. Coventry City Centre) raises serious concern about the future viability of the centre. Without key quality retailers anchoring the town centre this in turn will result in the closure or relocation of other existing retailers. It will also have a knock on effect on other businesses from the loss of shopper footfall. This will only serve to encourage shoppers to out of centre retail parks in the Borough or competing centres, such as Coventry.”

12.6. Policy TC2 of the Local Plan states that:

“Throughout the lifetime of this Local Plan the Council will periodically update its Retail and Main Town Centre Uses study in order that it can respond and continuously review its approach to the town centre and requirements for retail investment in particular.”

12.7. The supporting text to this policy further advises that:

Due to the opening of new retail units at Elliott’s Field Retail Park, Technology Drive and Junction One Retail Parks after the Retail Study was completed, the full impact of the retail parks effect on shopping patterns and the town centre has not been established at the time of writing. In time, the trading patterns that become established could have an impact on the floor space capacity for Rugby Town Centre. Further to this, the Retail Study highlights that the capacity forecast beyond five years should be treated with caution, as it is based on various layers of assumptions and forecasts with regard to the trading performance of existing centres and stores, the growth in population and retail spending, constant market shares, etc. The Council will therefore regularly update its retail and town centre evidence base, identifying the trading patterns that emerge across the town and providing new development in the town centre accordingly.”

12.8. To date the Council has not updated its retail and town centre evidence base or its Retail and Main Town Centre Uses study. However, it is clearly the case that the retail environment today is very different to when the 2015 Study was carried out. At a local level it is evident that Elliott’s Field retail park and the expansion of Junction One has proved to be successful. It is reasonable to assume that these retail parks will be capturing exclusive retail trips at the expense of those to the town centre. At a national level the impact of covid has resulted in a greater shift towards more online shopping. At the same time, supply chain issues and the cost-of-living crisis have placed further pressure on retailers. Consequently, it is highly probable that the amount of new retail floorspace required in the town centre would be lower than that stated in policy TC2.

12.9. The applicant is seeking to respond to this challenging retail environment by consolidating the amount of commercial floorspace being offered at Rugby Central. Indeed, the development seeks to provide a shift and emphasis on quality rather than quantity. The units have been designed to provide appealing and modern spaces which would better meet the needs of operators today. This would be delivered in tandem with a new pedestrian street that would create an attractive public realm that shoppers would be more inclined to visit and spend time within. The end result would be an urban environment that would help to attract commercial businesses back into the area thus have occupied rather than vacant units in this Primary Shopping Area. In turn, this would help to reverse the decline and fragility of the town centre.

12.10. The applicant is also committed to and involved in ongoing discussions with the existing businesses who occupy units to assess the scope to relocate them both during the construction period and then post when the new commercial units have been constructed. The S106 Agreement would include the need for the applicant to submit a shopping centre engagement strategy and marketing strategy to ensure these discussions take place in a positive and proactive manner. This would assist in ensuring all efforts are made to support existing businesses who want to stay in the town centre. As a result, it would help to protect and enhance the vitality and viability of the town centre.

12.11. The need to reduce the quantity of retail floorspace in the town centre is further recognised in the Rugby Town Centre Regeneration Strategy which was written much more recently in November 2022. Paragraphs 3.40 and 4.130 are particularly relevant and in relation to Rugby Central set out that:

“The redevelopment of Rugby Central will have a significant impact on the town centre. It is considered necessary that traditional retail floorspace is contracted within the centre as part of the delivery programme. The proposed Phase 1 delivery [the development subject of this planning application] is a positive strategy for not simply contraction but replacement of space that can diversify the offer and therefore generate footfall in the core area”. [3.40]

“The opportunity to address structural challenges includes addressing traditional high street retail oversupply in the town centre through the delivery of a more diverse retail proposition”. [4.130]

12.12. Overall, despite a reduction in retail floorspace, it is clear that the development would actually help to sustain and enhance the vitality and viability of the town centre and thus complies with the spirit of policy TC2.

Primary Shopping Area and Shopping Frontages

12.13. Policy TC3 of the Local Plan designates a Primary Shopping Area within Rugby town centre together with Primary and Secondary Shopping Frontages. The policy intended to protect and enhance the primary shopping area by seeking to control the amount of retail development within it, particularly along key street frontages. The intention was to attract people to the town and place a strong emphasis on the protection of the core of retail activity at the heart of the town centre.

12.14. The application site falls within the designated Primary Shopping Area. The majority of the units along North Street and within the centre are designated as being a Primary Shopping Frontage. A smaller row of shops along North Street is designated as a Secondary Shopping Frontage.

12.15. Policy TC3 was adopted in June 2019 and referred to specific use classes which were in force at the time. It particularly emphasised the importance of A1 retail which included shops, retail warehouses, post offices, sale of cold food for consumption off premises and hairdressers. However, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1st September 2020 and introduced significant changes to the system of use classes. This included the removal of the A1 retail use class and the amalgamation of this with other use classes into a new E Use Class (for commercial, business and service). This new E Use Class now covers a broad range of uses from shops to offices to nurseries to indoor sport and recreation to food and drink outlets where this is mostly consumed on the premises. It is intended that this broad E Use Class will provide a greater degree of flexibility that allows buildings and high streets to be repurposed and respond quickly to changing

demand. Uses such as hot food takeaways, pubs, betting offices and amusement centres now all fall under their own sui generis use class.

- 12.16. The implication of the changes to the use class system is such that the existing commercial units within the shopping centre now fall within the E Use Class rather than former A1 Use Class. Policy TC3 can consequently no longer be applied in the same way. However, the purpose of Policy TC3 is to protect the town centre for what are now retail and other town centre uses. It is considered that the proposed development would achieve this given the proposal is for commercial units on the ground floor falling within Use Class E and sui-generis floorspace (for use as a bar or public house). However, the composition of ground floor uses is considered critical to ensuring the area is vibrant and active across the day and into the evening. Condition 36 is therefore proposed requiring the submission of a Commercial Unit Use Class Plan. This would require the applicant to clearly identify which commercial units would be used for purposes falling within Use Class E and Sui Generis Use Class (Bar or Public House) prior to a commercial unit being occupied. This would provide a failsafe to ensure an appropriate mix of daytime and night-time uses are provided within the scheme.
- 12.17. Aside from retail, policy TC3 of the Local Plan sets out that residential development within the Town Centre is encouraged providing it does not harm the retail function and character and its vitality and viability. The supporting text further sets out that the use of upper floors in town centres is important to ensure that buildings remain in a good state of repair and also to provide opportunities to introduce other uses such as residential that will have positive benefits for the town centre economy.
- 12.18. In this case the upper floors of the proposed blocks would provide 200 residential apartments. As required by the policy, separate access arrangements to the upper floor space have been secured within the design. The provision of this amount of accommodation would result in a notable increase in the town centre residential population. In turn it would provide more footfall for convenience and comparison uses in the town centre thus having a positive impact on vitality and viability.
- 12.19. The importance of an active ground floor frontage and residential uses to upper floors is highlighted in the Rugby Town Centre Regeneration Strategy (November 2022). Paragraphs 3.40 and 4.130 are particularly relevant and in relation to Rugby Central set out that:

“The Regeneration Strategy considers the activation of this ground floor space to be a key opportunity to create new animation and attract a broader offer into the town centre in the future – including new and enhanced food and drink, leisure and cultural offering. The introduction of a residential offer into the heart of the town centre will increase footfall and 24- hour surveillance and vibrancy, which is much needed within the core of the area.”

- 12.20. In light of the above, it is clear that the proposal would assist in helping the vitality and viability of the town centre and thus complies with the spirit of policy TC3.

13. Housing Need, Density, Tenure and Mix

Housing Need

- 13.1. The Framework makes note of the Government’s objective of significantly boosting the supply of homes. The Council has therefore adopted a Local Plan which at policy DS1 and the supporting text, sets out how it will meet identified housing need within this area between 2011 and 2031. Aside from permitted and allocated dwellings, this need will be met through the delivery of windfall sites such as this application site. Table 4.12 of the Local Plan sets out that 630 windfall homes are needed between 2017 and 2031 to meet the identified need.

- 13.2. The Council is required to have a five-year housing land supply, including buffers, to ensure this identified need is delivered. Following adoption of the Local Plan on 4th June 2019, the Council had a five-year housing land supply. The latest Annual Monitoring Report (AMR), published in October 2021, confirms this position.
- 13.3. The provision of 200 windfall dwellings would make a significant contribution towards ensuring the current housing land supply position is maintained. It would provide almost one third of the windfall homes needed to meet the identified housing need in the Borough. Furthermore, it would be consistent with the Government's objective of significantly boosting the supply of homes. This is a matter which carries significant weight in favour of the proposed development.

Density

- 13.4. Policy SDC1 of the Local Plan sets out the need to consider appropriate housing density on a site-by-site basis with decisions informed by the local context of the area in terms of design considerations, historic or environmental integration, local character and identified local need. The supporting text expands on this and sets out an expectation that new development will be expected to harmonise with or enhance the surrounding area. The Climate Change and Sustainable Design and Construction SPD (2023) further sets out that "Higher density developments can make efficient use of land in more sustainable locations, making destinations easily accessible by walking or cycling, and bringing people together to support local public transport, facilities and local services." The Framework also sets out policies which encourage the efficient and effective use of land.
- 13.5. The proposed development of 200 dwellings on 0.63 hectares of land equates to a density of 317 dwellings per hectare. The consequently represents an extremely high, efficient and effective use of this brownfield previously developed site within the town centre.
- 13.6. The principle of such a high density in this location is supported within the Local Plan. Paragraph 10.9 sets out that where development sites are located in or close to Rugby town centre, densities are expected to be significantly higher than other parts of the Borough. In this respect the site is located within the town centre where there are a range of shops, services and facilities which future occupiers could easily walk and cycle to. Regular bus services are also available from here across the town and to surrounding settlements.
- 13.7. Furthermore, the site is situated approximately 0.7 miles away from Rugby Train Station (approximately a 14 minute walk or 4 minute cycle ride). Regular train services run from here to surrounding towns and cities including London and Birmingham. This is consequently a highly sustainable location with significant opportunities for future occupiers to use sustainable modes of transport.
- 13.8. It is considered that a high density development of this nature would be appropriate in this area subject to the impact on the local context of the area being acceptable. This is considered further below.

Tenure

- 13.9. Local and national policy set out the importance of providing a mix of housing which provides for the different needs of people living and wanting to live within the Borough. In this case the applicant has advised that the apartments would be made available for private sale to individuals or to investors wishing to make the apartments available for private rent. Whether private owned or rented it is considered that this would be acceptable and help to meet the different types of housing tenure needed in the Borough.

Housing Mix

- 13.10. Policy H1 of the Local Plan sets out a requirement for a mix of dwelling types and sizes. In this case the proposal is for 200 dwellings of which 60.5% (121) would be 1-bedroom apartments and 39.5% (79) would be 2-bedroom apartments. This does not accord with the housing mix set out in the Local Plan which indicates 60-70% of the dwellings should be 3-4+ bedroom units. However, the policy allows for an alternative mix such as that proposed in certain circumstances.
- 13.11. In this case the development meets the listed circumstance of being a sustainable and very accessible site within Rugby town centre and close to the train station. The provision of 1 and 2 bedroom units to achieve high densities is appropriate in such locations. In addition, the shape and size of the site is listed as a circumstance which may justify an alternative mix. In this respect it is noteworthy that this is a very small site (0.63 hectares) with a need to accommodate two service yards, a pedestrian street through the middle of the site, and active shopfronts onto the pedestrian street and North Street. The best design response to this and a need to achieve a high density is to provide two development blocks in the form proposed. The nature of apartments in this town centre location lends itself to a market demand for 1 and 2 bedroom units as proposed.
- 13.12. It is considered that the proposed housing mix would be appropriate in this location. It would comply with the alternative mix circumstances listed in policy H1. Moreover, within the context of development across the Borough it is apparent that demand for 3-4+ bedroom units is stronger within the urban extensions. Providing a higher percentage of 1-2 bedroom units in this appropriate location would consequently help to ensure an appropriate balance across the Borough as a whole.

14. Economic Growth

- 14.1. Paragraph 81 of the Framework outlines that significant weight should be placed on the need to support economic growth. Policy GP1 further sets out a goal to secure development that improves the economic conditions of this area.
- 14.2. In this respect it is recognised that the proposed development would result in a substantial direct investment into the town centre. Indeed, the applicant has indicated this would be a £35 million investment. Moreover, the scheme would be the first major town centre development in a number of years amidst a climate where town centre growth has stagnated and declined. This scheme would therefore represent a significant vote in confidence for the future of the town centre and the ability to reimagine the space which is available within it. It has the potential to show what is possible and capable of being delivered. In doing this it is hoped that it would act as a catalyst for wider regeneration and investment across the town. The potential spinoff to deliver such economic benefits is consequently extremely significant.
- 14.3. The creation of new commercial units within a high quality and modern town centre development would help attract new commercial businesses to the area. It would particularly help it to compete against other out-of-town shopping areas and neighbouring towns and cities. This would help to reverse the shift of such businesses moving out of the shopping centre leaving a high number of vacant units. In turn it is hoped that this will attract further footfall in the town centre thus increasing the vitality and viability of other commercial businesses and the town centre as a whole.
- 14.4. The size and nature of the development is such that it would support construction jobs and associated in-direct jobs. On top of that, the applicant has calculated that the scheme would result in a total of 21 new construction jobs being created by the development.

- 14.5. Once operational the commercial units would provide an opportunity for employment. The broad nature of the E Use Class is such that it is difficult to calculate exactly how many jobs this could support. However, the applicant has calculated that this would be around 98 jobs. Although there would be an overall loss of employment land with technical decrease in the total number of jobs, it is equally recognised that a number of the existing units are vacant with little prospects of these coming back into active use. The proposed development consequently presents a real opportunity to create jobs.
- 14.6. The creation of 200 apartments within the town centre would result in new household spending within the Borough. The applicant has calculated that there would be in the region of £2.1 million per capita retail expenditure. There would also be spending associated with food and drink activities. Allowing for some spending elsewhere and on the internet, it is expected there would be a benefit to town centre businesses from this development of more than £1.5 million per year. Such expenditure would clearly have a significant and positive impact on the local economy and prosperity of the Borough. It would further help to increase the viability of local retail uses, services and businesses.
- 14.7. The specific location of this development, coupled with the nature of the proposed development and timing of the submission, is such that it would be difficult to realise the full range of economic benefits identified here on other sites. The progression of this application and vision to deliver the scheme is such that these economic benefits could be realised far sooner than potential alternative sites elsewhere in the Borough. It is consequently considered they should be afforded significant weight in favour of the proposed development. As a result, the proposal would be in accordance with the Framework and the goal of improving the economic conditions of this area set out in policy GP1.

15. Design, Layout, Landscaping and Visual Impact

- 15.1. Section 12 of the Framework and policies TC1, SDC1 and SDC2 of the Local Plan set out the importance of good design in new developments. The Climate Change and Sustainable Design and Construction SPD (2023) expands on this and sets out more detailed design considerations. It also encourages consideration on the National Design Guide and National Design Code. An assessment of the proposed design and layout of the development against these policies, the SPD, Guide and Code is outlined below. The assessment is based around the ten characteristics outlined in the National Design Guide which achieve a well-designed place.
- 15.2. **Context:** Context is the location of the development and the attributes of its immediate, local and regional surroundings. In this respect, the proposed development is situated within the boundaries of Rugby Town Centre and falls within a designated Primary Shopping Area. It would be located on the site of part of an existing shopping centre which has been present on this site since 1979. The centre was originally constructed as two separate elements but is now connected via a gable glass roof to create a covered pedestrian walkway. Part of the shopping centre would be retained in its current form. The remaining shopping centre falling within the application site boundaries would be demolished. A full description of the site and the local and wider context are set out in the site description above. Further consideration of heritage and local history are set out within the heritage and archaeology section below.
- 15.3. The architects who have designed the proposed development first set out to understand the history of the site and local area in which it would be situated. A site appraisal was carried out which identifies the range of uses, building heights, materials, connections and heritage assets across the site and within the surrounding area. Together with the identification of key views this helped to identify constraints and opportunities which have informed the design of the proposed development.

- 15.4. The appraisal particularly highlights the predominance of commercial uses in this part of the town with an increasing number of residential dwellings to the upper floors. It also highlights the consistency of building heights in the area which then increase along North Street before dropping again for the shopping centre. The Cemex building is also identified as being the tallest building within the immediate context. The changing topography of the site with levels rising up from the north to south and again from east to west is also noteworthy. In addition, an analysis of existing contextual materiality highlights the predominance of red brick elevations interspersed with render elevations. Deep reveal depths to windows and brick detailing including soldier and string courses are also identified.
- 15.5. The historical analysis of the site reveals the presence of smaller groups of terraced buildings fronting onto this part of North Street as far back as 1889. Over time the area was further developed with the most noticeable change being the erection of a long motor garage building in the years preceding 1924. This gave the site more of its larger perimeter block shape with. It wasn't until the shopping centre opened that the pedestrian routes of Northway and Manning Walk were created through the site to provide greater permeability as the town centre expanded westwards. The service yards were also formalised at this time with vehicular access off North Street. The later enclosing and covering of Northway and Manning Walk then restricted pedestrian access outside of open hours for this route. Ultimately, the historical analysis reveals that there has been a notable degree of change on this site over the course of time. This is notably different to many of the buildings within the Conservation Area to the north of the site which have remained unchanged over the years.
- 15.6. Critically, it is essential to recognise that the proposed development would be set within the context of a dense urban town centre environment. A comprehensive understanding of this has consequently influenced the location, siting and design of the proposed scheme as detailed below.
- 15.7. **Identity:** The identity or character of a place comes from the way that buildings, streets and spaces, landscape and infrastructure combine together and how people experience them. In this respect it is clear that the existing shopping centre is of its time and actually detracts from the creation of a place with a strong character and identity. In particular, the bland appearance, horizontal emphasis and low scale is in contrast to the historic buildings of the Conservation Area which have a greater tallness and detailed rhythm. The existing buildings therefore mark a distinct change in streetscene character - both in terms of townscape and constructional quality. The blank facades to the south, which are most prominent from within the Conservation Area, give the building a utilitarian/back of house appearance which detract from the streetscape. This is further compounded by the absence of activity at the first floor level which also suffers from a lack of imaginative and high quality design features on the external North Street elevation.
- 15.8. The opportunity to secure new development on the site presents a unique chance to provide much needed improvement and regeneration to the centre and surrounding area. The site appraisal particularly led to the identification of a need to provide a stronger gateway into the existing centre and northern edge of the town centre. It offers a chance to pay respect to the historical context of the site whilst improving the cumulative visual impact and sense of place along North Street.
- 15.9. To help ensure that the development would respond well to existing local character and identity, the architects created a virtual 3D model of the town centre. This enabled them to test different design responses and examine their relationship with existing streets and buildings together with how they would appear in key views. In doing this it was identified that there were opportunities to achieve a well-designed, high-quality and attractive place which was

reflective or and sensitive to this locality. At the same time, it highlighted that the size and location of the site is such that it warrants the creation of a strong design response that makes its own statement whilst incorporating nods back to the local and historic context.

- 15.10. As a starting point, the proposed development is divided into two L-shaped blocks to help reduce the cumulative visual impact by creating a break in the streetscene and allowing for articulation. Although there are a range of building heights in this locality, the proposed blocks have been sensitively designed such that they would be limited to six storeys high on the North Street frontage. This would help to ensure that the development would assimilate into this more sensitive streetscene. At the same time it would address the current drop in townscape height and loss of traditional street enclosure as a result. The blocks would then rise up to seven storeys on the longer wings going into the site either side of the proposed new pedestrian street. The permanent and uninhibited re-opening of this pedestrian street to allow free access is fundamental in restoring this historic link created when the town expanded to the west.
- 15.11. The design of the buildings are broken into four visual elements across the height of the facades. At street level there would be active shopfronts with large areas of glazing together with fretwork panels featuring a pattern inspired by the Sir Frank Whittle jet engine. A continuous signage ribbon for the commercial units and enlarged brickwork band set between two stringer courses would distinguish this street level tier from the residential apartments above.
- 15.12. Above the street level tier there would be a lower tier of grouped windows across 2-3 storeys which in key places would incorporate anodised bronze cladding panels. A middle tier is then proposed which groups together windows across 2-3 storeys through the use of patterned brickwork detailing to group windows in pairs. The top tier incorporates a stringer course over the top windows above which would be an enlarged brickwork band.
- 15.13. Structural bays would be created across the elevations of each building together with stringer and flushed soldier courses to collectively provide a clear elevational hierarchy. The elevations would be constructed from red and buff facing bricks. The windows to the apartments would be full height and of two different sizes with their placement arranged in a rhythmic fashion across the elevations. The windows would be set within aluminium frames with deep reveal depths.
- 15.14. These collective responses would have the effect of replacing poor, low-rise buildings with structures of higher design quality that enclose the street and create a more positive, urban character in North Street. Critically, it would also address the weak edge to the town centre at the north end of North Street looking southwards towards the town centre. The increased height and introduction of a design which reinforces enclosure would successfully extend the urban form of the town centre and bring a much more distinctive character to North Street.
- 15.15. The design of the elevations and architectural detailing also takes full advantage of the opportunity provided by this site. It rightly does not seek to replicate the form and appearance of existing buildings in the area which provide excellent examples of different eras in the history of the town. Indeed, to try and copy these with a pastiche replica would diminish the significance and uniqueness of those heritage assets. The development instead draws on the modern and sharp new London vernacular style. However, it does this whilst creatively ensuring it incorporates the style and detailing found in the local area. For example, it continues the use of soldier courses, parapets and deep window reveal depths. It also uses red bricks which are predominant in the area but then utilises buff brick in select elevations to provide contrast and visually break up the blocks. All of this is compounded by the thoughtful and clever use of design features including fretwork panels featuring a pattern inspired by the

Sir Frank Whittle jet engine (thus reflecting and celebrating Rugby's historic links to aeronautical design).

- 15.16. **Built Form:** Built form is the three-dimensional pattern or arrangement of development blocks, streets, buildings and open spaces. Together they create the built environment and contribute to its character and sense of place. In this case the proposal is for a mixed use development incorporating commercial units to the ground floor and 200 residential apartments on the upper floors. The provision of this on 0.63 hectares with an associated density of 317 dwellings per hectare demonstrates that this would be a compact form of development.
- 15.17. The availability of active transport options together with the close proximity to public transport interchanges lends itself to this form of development. It follows that the inclusion of residential apartments on the site in the upper levels is the right and appropriate thing to do in order to maximise the benefits the site can realise. It is also consistent with the densely populated urban nature of this area of the town and increasing trend for other buildings in the town centre to contain apartments on the upper floors.
- 15.18. At the same time, the built form relates well to the site context whilst defining a pattern of streets and development blocks. In addition, the heights of the buildings have taken account of location, siting, character, views, sight lines, composition and environmental impacts. It ultimately strikes a reasonable balance of these factors and the need to achieve a commercially viable redevelopment scheme. In so doing the buildings would make a positive contribution to the built form in this area. The provision of a new pedestrian street and high quality public realm would further serve as a destination for future occupants and the community to come together. The opportunity for the built form to strengthen the local character of this area would therefore be realised.
- 15.19. **Movement:** Patterns of movement for people are integral to well-designed places. Upon opening, the current shopping centre provided new pedestrian routes known as Northway and Manning Walk. These routes enabled people to travel through the site thus creating greater permeability as the town centre expanded westwards. However, this ended when entrance doors were erected and the space between the buildings were covered by a gable glazed roof. Pedestrian movement should the area was consequently restrict to shopping centre opening hours only. The architects have identified an opportunity to redress this through the creation of a new public street inbetween the two proposed blocks. Furthermore, the build line of the proposed blocks fronting onto North Street has been pulled further back into the site. In turn this allows for a wider public footway in front of the site. This would consequently greatly improve movement across the development and on North Street. At the same time, servicing and deliveries would be kept entirely separate to pedestrian areas within dedicated yard areas to the rear of the commercial units.
- 15.20. The highly accessible and sustainable location of this site has resulted in a decision to make this a car free development with no car parking. However, a total of 214 cycle parking spaces would be provided within secure dedicated cycle stores contained within the ground floor of the blocks. A number of cycle stands for the public would also be provided on land to the front of the development on North Street and within the newly created public street. Residents would particularly be able to access the shops, services and facilities they need within easy walking and cycling distance of their homes.
- 15.21. The site also benefits from several bus stops being located in close to the site. This includes two northbound stands and one southbound stand located immediately in front of the site on North Street. A taxi rank is also located in front of the site with a further larger taxi rank around 85 metres to the south. Rugby Train Station is located approximately 0.7 miles away to the northwest (approximately a 14 minute walk or 4 minute cycle ride). These public transport

options would enable residents to travel further afield whilst providing good links to the commercial units from elsewhere in the town and surrounding areas.

- 15.22. **Nature:** Nature contributes to the quality of a place, and to people's quality of life, and it is a critical component of well-designed places. In this case the opportunity to create new green open spaces, improve and enhance water management and support rich and varied diversity is extremely limited given the size of the site. However, trees and shrub planting would be provided in the new pedestrian street and along North Street.
- 15.23. **Public Spaces:** The proposed development would incorporate a new pedestrian street inbetween the two blocks providing access to the new commercial units and northern end of what would remain of the existing Rugby Central Shopping Centre. This would be a pedestrian only area and would contain new trees, amenity planting, raised planters, seating and a feature sculpture. It is envisaged that it would provide a place for outdoor seating connected with commercial uses such as coffee shops and cafes. High quality hard surfacing is proposed with final details to be agreed under condition 5. The relationship of the pedestrian street with the proposed apartment blocks is such that this would feel safe as a result of natural surveillance from windows. This would ultimately re-establish and support social interaction within the community.
- 15.24. **Uses:** Sustainable places include a mix of uses that support everyday activities, including to live, work and play. In this case the application site is located within the town centre where there are a wide range of shops, services and facilities. The proposed development itself would be a mixed use development comprising commercial units on the ground floor and residential dwellings above. The proposed development would therefore contribute towards the provision of a mix of uses in the town centre that would support daily life for the future occupants of the scheme and residents across the Borough.
- 15.25. The proposal would introduce 200 apartments falling within the C3 Use Class into this area. These would be a mix of 1 and 2 bedroom apartments which are well suited for high density developments in the town centre where sustainability is high. Within the context of development across the Borough it is apparent that demand for 3-4+ bedroom units is stronger within the urban extensions with fewer 1-2 bedrooms being delivered in such locations. The provision of 200 x 1 and 2 bedroom apartments would therefore make an important contribution towards ensuring all housing tenures, types and sizes are met.
- 15.26. **Homes and Buildings:** Well-designed homes and buildings are functional, accessible and sustainable. In that respect, all apartments would be of a size that would meet the nationally described space standards referred to in the Climate Change and Sustainable Design and Construction SPD (2023). These standards set out requirements for the gross internal floor area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. Compliance with these provides an assurance that the living conditions of future occupants would be acceptable.
- 15.27. Specifically, the proposal would provide purpose built one and two bedroom apartments. Each two-bedroom apartment would have two bathrooms which provides greater convenience and flexibility if an apartment is shared by two individuals. All master and secondary bedrooms would have sufficient space for storage. Each apartment would have an open plan kitchen, dining and lounge area. Cycle parking and refuse storage would be provided in designated rooms to the ground floor of the apartments. They collectively help to ensure that future occupants would have a good standard of living.

- 15.28. It is important to note that the proposal contains no private external amenity areas for future occupiers. The absence of balconies to achieve this partly reflects the loud noise environment in this location. It is also influenced by a need to ensure that the design of the proposed development is acceptable and of high quality. To compensate for this it is proposed to provide communal roof top gardens on each apartment block. These gardens would be available to all residents living in the development. They would contain areas of paving, decking and grass turf together with benches and formal planting. Further opportunities to access high quality open space is available within 100 metres of the site at Caldecott Park.
- 15.29. **Resources:** Well-designed places and buildings conserve natural resources including land, water, energy and materials. Their design responds to the impacts of climate change by being energy efficient and minimising carbon emissions to meet net zero by 2050. In this respect the applicant has submitted an Energy and Sustainability Statement which considers the impact of the development on a broad range of environmental considerations and sets out how these can be minimised and mitigated.
- 15.30. In respect of carbon emissions, the development would reduce energy demand through providing a well-insulated envelope which is both airtight and thermal bridge free. High performance glazing would provide a positive energy balance whilst mechanical ventilation with heat recovery would maintain good air quality with minimal heat loss. Energy efficient building systems such as LED lighting and low-power fans and pumps would further drive down regulated energy use. Robust quality assurance, commissioning and handover procedures on site would further drive down energy use. The remaining energy demand would be met through electrical sources. The development would generate hot water through efficient air-source heat pumps and space heating would be provided by electric panel heaters. Condition 20 would ensure that this is delivered.
- 15.31. Demand for water would be reduced through the incorporation of water efficient fixtures and fittings. These would be specified to reduce water consumption below the levels required for national building regulations. Condition 40 would ensure water use is limited to no more than 110 litres per person per day.
- 15.32. In respect of materials, all timber used in the development would be from a responsible or sustainable source, using certified FSC or PEFC sources. To ensure responsible and sustainable procurement, materials would be specified in line with a documented sustainable procurement plan. This would include the use of certification schemes such as ISO14001 and BES 6001. Materials that are durable and resilient would be specified to maximise their lifespan and avoid the need for disposal and replacement. On top of this, a Resource Management Plan would set targets for resource efficiency and procedures for waste management. Moreover, the compact and high density nature of the development (taking the form of 2 blocks for 200 dwellings) on a brownfield site is such that this would result in an efficient and economic use of materials in construction (particularly compared to the impact that would arise from delivering 200 detached dwellings on a greenfield site).
- 15.33. Owing to the town centre location and proximity to public transport, the proposed development would be a car free scheme. No car parking is proposed on the site. Future occupiers would be aware of this when purchasing an apartment. They would be a self-selecting group of those that have determined that they do not require a private vehicle and instead want to live in close proximity to the high street facilities and public transport opportunities. The proposed creation of a car club would further reduce the need to own a private car. Car clubs are short-term car rental services that would provide residents with access to a locally parked car or cars which they can use by the minute, hour or day. This would be secured within a S106 Agreement for the development. A high amount of secure cycle parking within the blocks together with sustainable travel packs and Travel Plan would further support the use of active and public transport. These would be secured by conditions 18, 26, 27 and 34. Furthermore, the town

centre location means that the commercial units would be highly accessible to residents of the Borough by active and public transport options. Public cycle stands are proposed outside the commercial units to encourage trips by cycling. These would be secured by condition 16. All of this would help to maximise and take advantage of low carbon sustainable transport options.

- 15.34. The development seeks to maximise resilience by having regard to the need to adapt to anticipated events such as rising temperatures and increased risks of flooding. Condition 10 requires that an overheating assessment is submitted to ensure overheating caused by variations in the climate, particularly in the summer with allowances for climate change, would not occur. Condition 28 requires the submission of a surface water drainage scheme which makes allowances for increases in rainfall events as a result of climate change.
- 15.35. **Lifespan:** Well-designed places sustain their beauty over the long term. They add to the quality of life of their users and as a result, people are more likely to care for them over their lifespan. The new pedestrian street and communal areas within the development would be privately owned and managed. The pedestrian street and planting within it would be maintained by a management company in accordance with a maintenance schedule and plan which would be agreed within a S106 Agreement. In terms of the proposed buildings, the applicant has advised that materials that are durable and resilient would be specified to maximise their lifespan and avoid the need for disposal and replacement. The communal roof garden also provides an opportunity for community management and maintenance should this be desired by future occupants. Finally, the high-speed digital connectivity required by condition 39 would help to ensure the development continues to be adaptable to changing needs and evolving technologies.
- 15.36. Aside from the National Design Guide characteristics, policy GP4 of the Local Plan is also of critical importance and relates to the need to safeguard the development potential of other land. Essentially it is important to ensure that the proposed development does not undermine the potential to redevelop adjoining sites which are critical to the long-term success and regeneration of the town centre. The Rugby Regeneration Strategy is key to understanding this and sets out a range of different design considerations, priorities and aspirations for the entire town centre. The proposed development subject of this application is identified as a key priority project which needs to be delivered. However, it also identifies the need for future phases of development on adjacent land and sets out how this would interlink with wider ambitions and improvements for the town centre.
- 15.37. In respect of design, the proposed development would align with the key considerations and wider ambitions set out within the Rugby Regeneration Strategy. The proposed replacement of the enclosed and restricted shopping centre walkway with a new open and unrestricted pedestrian street is particularly key. This would provide an opportunity for potential future connections at the western edge of the site to create a greater degree of permeability from east to west as well as north to south. Furthermore, it would assist with strengthening the North Street frontage in parallel with improvements to the North Street environment. This would be achieved through setting the new blocks back from the edge of the existing footway to create more room on the pedestrian footway. The proposed greater building height and form, together with active shopfronts to the ground floor along North Street, would successfully extend the urban form of the town centre and bring a much more distinctive character to North Street. Critically, the layout of the proposed development is such that it would not prohibit the redevelopment of adjoining land. The applicant and architects have demonstrated this through the submission of an indicative block masterplan layout which shows how adjoining sites could be developed in relation to this development.
- 15.38. Overall, it is considered that the design, layout, landscaping and visual impact of the proposed development would be acceptable. In particular, the development would comply with the aims of the ten characteristics outlined in the National Design Guide and thus confirms that the

development would achieve a well-designed place. Moreover, it would comply with the Climate Change and Sustainable Design and Construction SPD whilst aligning with the key considerations and wider ambitions set out within the Rugby Regeneration Strategy. The proposed development consequently complies with policies GP4, TC1, SDC1 and SDC2 of the Local Plan.

16. Heritage and Archaeology

- 16.1. Section 16 of the Framework and policy SDC3 of the Local Plan sets out that new development should seek to conserve and enhance the historic environment.

Archaeological Potential

- 16.2. An Archaeological Assessment has been submitted with the application. It outlines that the application site was on the northern edge of medieval Rugby, possibly holding burgage plots or tofts, until the mid-late 19th century when it became developed along and behind the frontage of North Street. Additional infilling and expansion occurred in the next 50 years. The site was demolished and redeveloped for the Rugby Shopping Centre which opened in 1979. It is not certain what impact the 1970s redevelopment would have had on below ground archaeology, but it is highly likely that given the scale of the development and the wholesale demolition of the 19th century buildings, the majority of any archaeology will have been destroyed. It concludes that there is a very low potential for archaeology to survive within the potential development area.
- 16.3. WCC Archaeology has considered this and advised that site lies within an area of significant archaeological potential. The exact nature of any archaeological deposits, should they survive here, are not known. Whilst recent development across this site is likely to have had an impact on any remains which might be present there, it is acknowledged within the Archaeological Assessment that there is still some potential for archaeological deposits, dating to the medieval and post-medieval periods to survive within less disturbed pockets of the site. They consequently have requested condition 4 which requires the submission of a Written Scheme of Investigation for a programme of archaeological evaluative work and Archaeological Mitigation Strategy before development commences.

Heritage Assets

- 16.4. The application site itself does not contain any designated or non-designated heritage assets. However, the site does lie within close proximity to a number of surrounding heritage assets. The Town Centre Conservation Area lies to the south and east of the site (the boundary being the southern side of the adjacent Napier building). The Conservation Area includes a number of Grade II listed buildings, the closest being on the opposite side of North Street (the Rugby Club) and on the western side of Market Place grouped near the listed Clock Tower. St Andrew's Church, a Grade II* Listed Building lies, further to the southwest on Church Street. There are also non-designated heritage assets located within the vicinity of the application site.
- 16.5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is therefore relevant to these listed buildings and their setting. It requires the Council to have "special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also places a duty on the decision maker to give special attention to the desirability of preserving and enhancing the character of a Conservation Area.

- 16.6. In relation to listed buildings it is noted that there is no statutory definition of setting. However, having regard to the definition of setting outlined in the Framework, it is possible for a site to be in the setting of a listed building even if there are no clear visual links between the two. In relation to conservation areas, it is again important to recognise that a site can influence and make a positive contribution to its setting. In this case, the proposed area of built development would be approximately 30 metres away from the Conservation Area.
- 16.7. A Heritage Statement has been submitted with the application and considers the impact of development on the significance of the heritage assets identified, including the contribution made by their settings. It concludes that “there would be a range of impacts arising to heritage assets as a result of the proposed development, being both adverse and beneficial.”
- 16.8. Regarding the Rugby Town Centre Conservation Area, it considers that the removal of existing poor-quality buildings and the provision of high-quality buildings and development in its place would have a positive impact on the setting of the Conservation Area. However, it does acknowledge that there would be an adverse impact from the partial loss of the open skyline above the site and the contrast of scales in this location. When weighed in the round, it concludes that there would nonetheless be a moderate beneficial impact on the setting of the Conservation Area and a minor beneficial impact on its significance.
- 16.9. Regarding the Grade II* listed Church of St Andrew, it considers that the proposed scheme would result in a minor adverse impact on its setting as a result of the spire becoming less apparent in certain glimpsed views across the site from the northwest and west. This would correspond to a negligible adverse impact on its significance. It outlines that there would be no impact on the setting of the Grade II Lawn and a neutral impact on the Rugby Baptist Church, Sunday School and 21, 22, 23 & 24 Market Place. There would be an overall neutral impact on the Rugby Club, the Windmill Inn, 25 Market Place and the Clock Tower. The identified levels of adverse impact are considered to be less than substantial harm which should be weighed against the public benefits of the scheme.
- 16.10. Historic England has considered this Heritage Statement. They advise that they have concern regarding the impact upon Rugby Town Centre Conservation Area. In terms of significance, they have advised that “The existing shopping centre is not of any great architectural distinction ... However, the main contribution of the existing shopping centre is in terms of the setting of the town centre Conservation Area. When approaching the town centre down North Street from Evreux Way the shopping centre is of a similar scale at 2 to 3 storeys to the prevailing character of the Conservation Area.”
- 16.11. In terms of impact, they acknowledge that “The designs remain appealing in terms of the potential for an active street scene.” However, their concern is that the proposed development would result “in an over-scale and over-dominant presence on North Street which forms one of the key entrances into the historic town centre. That is potentially damaging to the significance of the Conservation Area.” They consider this needs to be addressed in accordance with the Framework.
- 16.12. They particularly highlight paragraph 206 which states that “Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.” For Historic England they advise that “There is clearly scope for the redevelopment of the existing shopping centre but the proposals still need to pay more attention to the historic environment. A further revision which offered a less bulky presence on the North Street elevation would be preferable.”

- 16.13. It is considered that the extent to which the proposed development impacts upon Rugby Town Centre Conservation Area is open to debate. At present the site is occupied by a shopping centre which is clearly of poor quality. When looking along North Street from the town centre, the site does not currently provide a strong edge to the streetscape. There is a notable and sudden drop in building heights from the 5-storeys (18.3m) high Napier Building to the 2-storey (10.7m) high shopping centre. The impact of this 7.6m drop is compounded by the blank and uninspiring appearance of the building which is of almost no architectural merit. When coupled with its horizontal massing it is left wanting and undeniably detracts from and has an adverse impact on the Conservation Area. Indeed, the Conservation Area boundary actively avoids the existing buildings from being included within the designation due to their limited design and townscape quality.
- 16.14. The proposed scheme seeks to rectify the current deficiencies of the existing buildings and provides an opportunity to comprehensively enhance the site and better connect it with the surrounding context. It is pertinently clear that in order to do this the height of any proposed development on the site would need to increase to redress the sudden drop in heights when looking north along North Street. Moreover, an increase in height provides a greater opportunity for a stronger design to be created which in turn would uplift the visual appearance and character of the area.
- 16.15. In this respect, it is important to be aware that the first plans submitted for this application was for two seven storey apartment blocks. Historic England commented on this scheme in strong terms. They were particularly of the view that a seven storey development would “dominate the character of the Conservation Area to a considerable degree ... the overall bulk of the new buildings is likely to be oppressive in the context of the town centre. Lower proposed heights to North Street, would considerably reduce that impact.” They consequently advised that “A scheme which offered a much less bulky presence on the North Street elevation would be preferable. There is considerable scope for it to step up as it extends westwards towards the car park on Corporation Street.”
- 16.16. In response to the concerns of Historic England, the applicant has reduced the height of the two shorter wings on the development blocks that front onto North Street to six storeys in height. The building height then steps up to seven storeys in height on the return wings of the blocks where they extend westwards towards the car park on Corporation Street. The architect has produced key street views and visual illustrations which demonstrate how the scale and massing of the scheme would now look compared to the original seven storey proposal. It shows that the difference and impact from lowering the North Street wings would be profound. When looking along North Street from the town centre the proposed ridge height of the building would follow the ridge line of the adjoining Napier building. When looking south along North Street towards the town the buildings would appreciably provide a stronger sense or urban form that better ties in and connects with the rest of the town centre.
- 16.17. The applicant has responded decisively in accordance with the comments and suggestions given by Historic England in response to the seven storey scheme. A lower height on North Street is now proposed with the development stepping up to seven storeys as it extends westward. Nonetheless, Historic England maintain their concern and state that “Lower proposed heights to North Street would considerably reduce that impact. The revised proposals address that to a small degree, but the reduction in height is still not sufficient to make a notable difference to the scheme.” No further detail or substantiative evidence is given to support this opinion. The position set out in their response also reveals that any perceived impact would in reality now be marginal. The language noticeably changes to being “potentially damaging” and a further revision simply being “preferable”.

- 16.18. The concern, potential impact and preference expressed by Historic England are duly noted. However, it is respectfully considered that the overall impact on the Conservation Area would in fact now be acceptable. To further decrease the height of the building would result in a weaker urban form which would have less presence and distinctive character in this key streetscene. It is equally acknowledged that the implication of allowing taller buildings in this location is such that it would have a minor adverse impact due to the increased presence of urban built form within the setting of the Conservation Area. Nonetheless, the site in its current form makes a minor-moderate adverse contribution to the setting of the Conservation Area. The proposed development brings with it significant improvements to the appearance of the site, high quality buildings and an enhanced public space offering. These would all create a better relationship between the site and adjacent streetscapes, resulting in the proposals generating a moderate beneficial impact on the setting of the Conservation Area, and a minor beneficial impact to its significance as a result of improving the quality of built form and for supporting the urban character in its setting.
- 16.19. Overall, it is accepted that the proposed scheme would have some impact upon designated heritage assets within the vicinity of the site. In relation to the Rugby Town Conservation Area this impact would moderate beneficial to the setting and minor beneficial impact to its significance. However, in the case of the Grade II* listed Church of St Andrew, there would be a minor adverse impact on its setting as a result of the spire becoming less apparent in certain glimpsed views across the site from the northwest and west. This would correspond to a negligible adverse impact on its significant. It is judged that the proposal would result in 'less than substantial' harm to this asset. This 'less than substantial' harm, does not result in a 'less than substantial' objection and attracts considerable importance and weight, as clarified in the Barnwell judgement of February 2014. Paragraph 202 of the Framework states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use'. This needs to be considered within the overall planning balance.

17. Light, Aspect and Privacy

- 17.1. Policy SDC1 of the Local Plan sets out that proposals for new development should ensure the living conditions of existing and future neighbouring occupiers are safeguarded. It is also necessary to ensure that the proposed development would not have a detrimental impact upon the light and aspect of commercial properties.
- 17.2. The Napier building is located to the immediate south of the application site. It is 5-storeys high. The ground floor is occupied by NatWest Bank with the upper floors containing 41 residential apartments. Of these, 21 apartments have habitable room windows in the northern elevation that face towards the application site. These windows serve bedrooms and open plan lounge, kitchen and dining areas. The fourth floor also has private patio areas on the northern elevation to 5 apartments facing the application site.
- 17.3. The proposed development would result in the replacement of an existing two-storey shopping centre with a six to seven storey building opposite the windows in the Napier building. The upper floors of the proposed building would contain windows to habitable rooms in the southern elevation. These windows would serve bedrooms and open plan lounge, kitchen and dining areas. In total, there would be 34 proposed apartments facing towards the Napier building.
- 17.4. The proposed building would take the form of an L-shape meaning that the shorter wing of the building fronting onto North Street would be closer to the Napier building. The proposed southern elevation of this wing is 16.20m long and six storeys high. It would contain two apartments on each of the residential floors, i.e. 10 apartments in total. The proposed southern

elevation of this shorter wing would be located 10.80 metres from the windows in the Napier building. The proposed southern elevation of the longer wing is set back from this shorter wing by 6.35 metres. The height of this wing would increase two seven storeys. The proposed southern elevation of this longer wing would be located 17.60 metres at the closest point from the windows in the Napier building. The angle of the buildings means that this distance would increase gradually to the west.

- 17.5. In relation to privacy, the Climate Change and Sustainable Design and Construction SPD sets out that “it is recommended that as a general guide, there should be a distance of no less than 21 metres window to window.” It further states the need to consider other factors which may affect the distance. The proposed development would not meet this recommended distance guideline. However, this is a crude measurement and adhering rigidly to this distance would significantly impact upon the design and density of development which could be achieved within town centre locations. Indeed, the density and nature of development within Rugby Town Centre, together with the close proximity of buildings, is such that it would be entirely impractical to insist on the rigid application of this distance guideline. In such locations it is rather accepted that there will be a closer relationship between buildings with greater degrees of overlooking and less privacy that one might expect in a suburban location. It is also important to recognise that people have the ability to control their own degree of privacy through interior design solutions.
- 17.6. Having regard to the proximity between the southern elevation of the long wing of the proposed building and the Napier building, it is considered that the minimum 17.60 metre separation distance would be acceptable in this town centre location. There would still be some harm from a loss of privacy but it is considered that this would not be overly significant or detrimental.
- 17.7. Nonetheless, having regard to the proximity between the southern elevation of the short wing of the proposed building and the Napier building, it is considered that there would be a loss of privacy to 12 apartments in the Napier building. However, 4 of these apartments in the Napier building are located on the corner of the building meaning they have dual aspect windows to the eastern elevation serving the same room as the window to the northern elevation. It is considered that the perception of any loss of privacy to these apartments would therefore be reduced given that the windows to the eastern elevation would not be affected. A total of 8 apartments in the Napier building would therefore experience a significant and detrimental loss of privacy as a result of the proposed development.
- 17.8. In response to this, it is necessary to acknowledge that the applicant has reduced the size of this short wing from seven storeys to six storeys. This has reduced the impact to a degree but there would still be an impact from the remaining proposed apartment windows. Further consideration has been given to potential amendments which could be made to the scheme to offset this impact. One potential amendment would be for the proposed windows to be fixed non-opening obscure glazed windows or for the windows to be removed altogether. However, this would leave the bedrooms to the proposed apartments with no outlook at all thus creating an entirely unacceptable living environment for the occupiers. It would also result in a poor inactive external appearance that would be harmful to the visual amenities of the area.
- 17.9. Other possible solutions are more drastic. The L-shape design could be discarded with a rectangular block used instead. This would achieve a 17 metre separation distance but would mean that there would be a large gap between the buildings on North Street. This would result in poor enclosure and disrupt the close urban form which characterises the town centre. Furthermore, it would result in the removal of 10 apartments from the proposed scheme which could not be relocated elsewhere given design and site constraints. This reduction would be on top of 10 dwellings which have already been removed from the original scheme to address design and heritage concerns. As outlined in the report below, the scheme is already unviable. Any further reduction in the number of apartments would negatively impact upon viability to

the point where the scheme would simply not be delivered. Similar issues would arise if the height of this section of the building was reduced even more to try and mitigate some of the harm and limit the impact.

- 17.10. A further solution would be to move the entire southern block further north by 6.40 metres. However, this would again lead to a large gap between the buildings on North Street. Moreover, it would also significantly reduce the width of the proposed pedestrian street between the two blocks thus have a negative impact on visual amenities. On top of this the separation distance between the two proposed blocks would also reduce to lower levels and in turn cause new light, aspect and privacy issues.
- 17.11. Overall, it is considered that the proposed layout, form and scale of development strikes the right balance between the impact on privacy and other considerations including design and viability. Other solutions have been considered which would address the privacy concerns but in turn would create far greater issues of their own. In light of this the harm to the existing apartments in the Napier building must be considered and weighed against the benefits of the proposed development in the planning balance.
- 17.12. Regard has also been had to the privacy of the occupiers of the proposed apartments. In this respect the occupiers would know the relationship between their apartment and the Napier building prior to purchasing them. The occupiers would consequently be a self-selecting group who are aware of the privacy they would enjoy and thus be accepting of this. The same is true of the relationship with the McDonalds building which is located to the north of the northern block. This building contains first floor windows to the restaurant from which views of the windows to habitable rooms in the proposed apartments would be possible. However, these restaurant windows are angled away from the habitable room windows such there would not be overtly direct views. Coupled with a height and levels difference it is considered that this would not be of such detriment and significance to unduly harm the privacy of future occupiers. Finally, the distance between the habitable room windows in the northern and southern block is also considered to be acceptable. At the closest point this distance would be around 16 metres. However, this relationship would be over the newly proposed pedestrian street thus reducing the perception of proximity.
- 17.13. Aside from privacy, the potential impact on light and aspect to the apartments in the Napier building must be considered. The proposed development would be sited to the north of habitable room windows in the Napier building. Using the summer solstice (the maximum potential for loss of sunlight), the development would cause a loss of light to the north elevation habitable rooms between the early hours of the morning and later in the evening only. During the winter months the proposal would not cause any further loss of light. On balance, it is considered that this loss of light would not be significant and detrimental.
- 17.14. The light and aspect for future occupiers of the proposed apartments would be maximised through the use of floor to ceiling windows. Larger width windows would also be used to living areas with smaller windows to bedrooms. This would maximise the amount of light entering into the apartments and ensure this light reaches deeper into the apartments. The light and aspect to the apartments would therefore be acceptable.

18. Access, Parking Provision, Traffic Flows and Highway Safety

- 18.1. Section 9 of the Framework and policies HS5, D1 and D2 of the Local Plan set out the need to prioritise sustainable modes of transport and ensure transport impacts are suitably mitigated. A safe and suitable access to the site is also necessary.

- 18.2. The application site is located within a highly sustainable location within Rugby Town Centre. Future residents occupying the apartments would consequently be able to access a range of shops, facilities and services either on foot or by bicycle. There are several bus stops close to the site including two northbound stands and one southbound stand located immediately in front of the site on North Street. There are frequent bus services along these routes providing opportunities for sustainable travel to and from the wider area. A taxi rank is also located in front of the site with a further larger taxi rank around 85 metres to the south. Rugby Train Station is located approximately 0.7 miles away to the northwest (approximately a 14 minute walk or 4 minute cycle ride). Regular train services run from here to surrounding towns and cities including London and Birmingham.
- 18.3. It is evident that the site can be accessed via a range of different active and sustainable modes of transport. This means that future residents occupying the apartments would not need to rely on private cars to access the shops, facilities and services they would need. Furthermore, it means that staff working in the commercial units and customers using the commercial units would be able to access these without needing to rely on private cars.
- 18.4. The development would be a car free scheme and as such offers no on-site parking. However, it is proposed to create a car club in a nearby car park which would provide residents with a car they can hire for a specified period of time. A total of 214 cycle parking spaces would be provided within secure dedicated cycle stores contained within the ground floor of the blocks. A number of cycle stands for the public would also be provided on land to the front of the development on North Street and within the newly created public street.
- 18.5. A new public street is proposed to be created inbetween the two blocks providing access to the new commercial units and northern end of what would remain of the existing Rugby Central Shopping Centre. This would be a pedestrian only area and would contain new trees, amenity planting, raised planters, seating and a feature sculpture. It is envisaged that it would provide a place for outdoor seating connected with commercial uses such as coffee shops and cafes.
- 18.6. The existing service yard accesses for the current Rugby Central Shopping Centre off North Street would remain. These would give access to two repurposed service yards to allow for deliveries and servicing to the commercial units and apartments. No new vehicular access is proposed.
- 18.7. The applicant has submitted a Transport Statement and Technical Notes to assess the impacts of the proposed development on traffic flows and highway safety. It considers both the commercial and residential uses and the impacts that these could have.
- 18.8. In relation to the commercial development, it is necessary to take into account that there is an existing shopping centre on the application site at present. This would be demolished and replaced with new commercial floorspace which is around one third of the current amount of commercial floorspace. The proposed floorspace would consequently result in less trips than is currently the case. No new parking for the commercial units is proposed on the application site. Staff and visitors to the commercial units would continue to use the same existing parking options that they use now.
- 18.9. In relation to the commercial development, the Statement and Notes set out that a car free scheme would be appropriate in this location given the type of accommodation proposed together with the proximity to shops, services, facilities and public transport. It further notes that car ownership within the Newbold Ward is very low with 68% of households having no cars. This helps to demonstrate that owning a private car is not a necessity in this location. In reality, it contends that car ownership for a car free scheme would be much lower. It notes that the proposed dwellings would be "sold as "car-free", and so future residents would be a self-selecting group of those that have determined that they do not require a private vehicle and

instead want to live in close proximity to the high street facilities and public transport opportunities”.

- 18.10. The Residential and Commercial Travel Plans required by conditions 26 and 27 would further help to ensure that this car free scheme would be successful. It would specifically require details of measures to promote the use of sustainable transport choices to and from the development for all users. In addition, condition 34 would require a sustainable travel pack to be provided within each dwelling prior to occupation. This would make occupants aware of all of the sustainable transport options within the area that they could then access. Finally, the creation of a car club would provide occupants with access to a private car on the occasions that this is seen as necessary. It would specifically provide them with access to a short-term car rental service that gives them access to a locally parked car or cars which they can use by the minute, hour or day. Full details of this scheme would need to be secured through inclusion within a S106 Agreement.
- 18.11. Policy D2 of the Local Plan sets out that permission will only be granted for development incorporating adequate and satisfactory parking facilities. The supporting text notes that “less provision may be needed where there is good public transport provision, easy access to shops and services and opportunities for walking and cycling.” It emphasises the need for flexibility and taking account of the nature and setting of development including the need to revitalise an area. Further guidance is provided on what would normally be required for residential uses. However, it notes that it would be inappropriate to apply a standard to this form of development. Applications are to rather be considered on their own merits and according to the suitability of the location. It specifically states that zero or minimal parking close to major transport interchanges is not precluded. For the reasons outlined above, the provision of zero car parking for this scheme is considered to be acceptable and the scheme consequently complies with policy D2.
- 18.12. The Statement and Notes acknowledge that some residents would still want to own a private car. The vehicular trips from this and other vehicular demand generated by the proposed development has been calculated as 23 two-way vehicle trips during the morning peak and 24 two-way vehicle trips in the evening peak. As the proposed development is not proposing any on-site parking provision, the locations where residents and visitors would park would vary. The peak morning and evening trips would consequently begin and end at different locations. To assess the potential impact that could arise from such trips it was agreed with WCC Highways that the Rugby Central Multi-Storey Car Park would be used as the start and end point for these trips. This is the closest long stay car park to the site which offers a season pass so most likely to be used. It is also the car park which provides the best worst-case scenario for assessing the impact on the surrounding road network.
- 18.13. In terms of impact, the Statement and Notes have taken into account the existing amount of commercial floorspace within the shopping centre which would be demolished. The number of trips that would be associated with this amount of floorspace has then been calculated and “banked”. The proposed amount of commercial floorspace that would be provided in place of this is about a third of the amount of existing commercial floorspace. This means that the “banked” trips associated with the two-thirds of demolished commercial floorspace can be offset against the amount of residential trips to give a net number of trips arising from the proposed development. In doing this it shows that there would be between a minimum of -16 and maximum of -1 two-way vehicle trips during the morning peak and minimum of -61 and maximum of -55 two-way vehicle trips in the evening peak. As a result, even at the upper end of the range, the proposed development is expected to result in a net reduction of the number of trips on the network. The proposed development would consequently not have a severe impact on the local network.

- 18.14. Notwithstanding the above, it is noted that the applicant also owns the 550 space Rugby Central Multi-Storey Car Park. There are no planning restrictions on this car park which would prevent the applicant from providing a car parking space for each apartment at no cost. As a result, there is a risk that providing a car parking space at no cost could encourage additional private car use and trips beyond what has been calculated. The S106 Agreement would therefore include provisions to require the applicant to submit details setting out how this would be managed and controlled to ensure the development would be a truly car free scheme.
- 18.15. The Transport Statement includes details of a swept path analysis which shows that the two service yards can accommodate vehicles of a size that would be needed to service the commercial and residential development. The Traffic Regulation Order on part of North Street by the northern yard access also allows for larger service vehicles to park on the road to unload other than between Monday - Saturday 8am-9.30am and 4pm-6pm.
- 18.16. There are two bus stops on North Street in front of the application site at present. The applicant has sought to obtain permission in principle for the removal of the northmost bus stop and the replacement of this with a dedicated on-street loading bay. Stagecoach and WCC Highways have not objected to this. However, WCC Highways has made clear that they do not consider such provision to be necessary in terms of the safe and efficient operation of the highway. Essentially this proposal is entirely discretionary and is not required by WCC Highways. As such, if the developer wished to pursue this they would need to obtain separate permission from WCC Highways under S278 of the Highways Act 1980. Amendments would also need to be made to the Traffic Regulation Orders to change the waiting restrictions associated with the existing bus stops and proposed loading bay. WCC Highways has requested a discretionary financial contribution towards expedition of any required Traffic Regulation Order changes. This would need to be secured within a S106 Agreement. Condition 32 is also proposed to ensure that full details of the bus stop removal, reinstatement of the footway and potential relocation of the bus shelter is agreed prior to any works being carried out.
- 18.17. Overall, WCC Highways has considered all the submitted information and plans. They have raised no objection to the proposal subject to conditions. It is consequently considered that the proposal would have an acceptable impact on highway safety. The residual cumulative impacts on the road network would also not be severe. The provision of a car free scheme would be entirely appropriate and acceptable having regard to the nature and location of development. As a result, the proposal complies with the Framework and policies HS5, D1 and D2.

19. Air Quality

- 19.1. Paragraph 186 and 187 of the Framework and policy HS5 of the Local Plan set out the need to consider the impact of the proposal on air quality. Further detailed guidance is outlined in the Air Quality SPD.
- 19.2. The application site falls within the Rugby Air Quality Management Area (AQMA) which has been designated due to an excess of nitrogen dioxide primarily related to traffic congestion near the centre of Rugby and Dunchurch. An Air Quality Assessment (AQA) has therefore been submitted with the application.
- 19.3. Emissions from the demolition, earthworks and construction phase of development is assessed in the AQA. It sets out a series of mitigation measures which must be implemented during the construction phase to ensure that any dust generation and harmful emissions from construction site activities are not significant. Environmental Health are satisfied with this subject to securing compliance by condition 3.

- 19.4. The AQA notes that during the operational phase of development there would be no emissions from construction plant. This is because all heating, cooling and hot water for the development would be provided by electricity rather than combustion-based sources. Environmental Health are happy with this subject to condition 38.
- 19.5. Detailed dispersion modelling of operational traffic has been carried out assessing the effects of emissions from operational traffic on nearby receptors as well as an exposure assessment for future on-site receptors. The car parks and bus stops located in the area surrounding the proposed development have also been considered in the traffic modelling. The AQA demonstrates that exposure of future occupants to poor air quality is unlikely. No exceedances of the long or short-term Nitrogen Dioxide (NO₂) and Particulate Matter (PM₁₀ and PM_{2.5}) objectives were predicted. It further indicates that the impact of the operation phase on sensitive receptors is likely to be negligible, and therefore no mitigation measures are required.
- 19.6. An Air Quality Neutral Assessment was undertaken which demonstrates that emissions from the proposed development, particularly in regard to building operation and transport movements, would be no worse, if not better, than those associated with the current use. To quantify this, the AQA calculates damage costs. These are a way to value changes in air pollution, by estimating the cost to society of a change in emissions of different pollutants. The damage costs are fully offset by a number of embedded mitigation measures that would be incorporated into the proposed development. Such measures include a commitment to adhere to a Construction Environmental Management Plan, plant trees that help reduce the impact of emissions, only use electric heating, adopt a travel plan, support the use of public transport and support cycling and walking infrastructure. These would all be secured by conditions 3, 16, 18, 38, 26, 27, 34 and 41. Environmental Health has advised that they are satisfied with this. The proposed development would therefore be air quality neutral.
- 19.7. Overall, the proposed development would not give rise to emissions that would cause significant and detrimental harm to air quality. It has further been demonstrated that the proposed development would be air quality neutral. The proposed development consequently complies with the Framework, policy HS5 and the Air Quality SPD.

20. Noise and Overheating

- 20.1. Paragraph 174, 185 and 187 of the Framework and policies HS5 and SDC1 of the Local Plan set out the need to ensure that the proposed development would not be adversely affected by noise. It also sets out the need to ensure that noise arising from the proposed development would not adversely impact on the amenity of nearby noise-sensitive receptors. Furthermore, it sets out the need to consider the relationship and compatibility of proposed noise-sensitive receptors with existing businesses and sources of noise.
- 20.2. A Noise Report has been submitted with the application which considers the impact of existing noise on the residential amenity of future occupiers. The existing noise environment is dominated by road traffic noise. No significant industrial/commercial noise sources were identified by the noise survey. Plant was noted to be operational on parts of Rugby Central which would remain post-development. However, the model indicated that road traffic noise was more influential to the overall background noise level of the site. Similarly, activity noise associated with the service yards (to be retained) was not considered to dominate the local noise climate. A number of vehicles were observed to unload goods or collect waste during the day; however these events were short lived and did not significantly contribute to the average noise levels recorded.
- 20.3. A 3D noise model was created to assess the potential noise levels on each dwelling façade. The calculations from this were then used to determine appropriate mitigation measures. It

concludes that suitable internal ambient noise levels could be achieved if appropriate glazing and ventilation solutions are used. However, it notes that many dwellings within the proposed building would be exposed to high levels of noise, particularly those adjacent to North Street.

- 20.4. The report advises that suitable internal ambient noise levels can only be achieved to these apartments if windows are kept closed. The issue of how to cool apartments to acceptable levels without opening windows must therefore be considered to prevent overheating. This is particularly key in the summer months with a need to take into account increasing temperatures as a result of climate change. The report consequently advises that an overheating assessment will need to be carried out to identify a suitable ventilation strategy. This may necessitate the use of mechanical ventilation or cooling systems. Purge ventilation, to remove odour from things like cooking smells, would still be provided via openable windows. This also provides occupiers with a choice as to whether to open windows which from a residential amenity perspective is considered preferable to sealing all windows closed and forcing residents to live in an “acoustic prison”. On balance, Environmental Health has advised that are satisfied with this approach subject to condition 10.
- 20.5. The potential for noise from ground floor commercial units to residential apartments above is acknowledged. These units would be used for purposes falling under Class E (Commercial, Business and Service) and a Sui Generis bar or public house. It is particularly difficult to predict the noise levels for Class E uses given that this covers a broad range of uses from shops to offices to nurseries to indoor sport and recreation to food and drink outlets (where this is mostly consumed on the premises). The location of these different uses and end users is unknown at this stage. The noise report sets out a minimum airborne attenuation performance that should be achieved for the dividing elements between residential and these non-residential areas. However, it further advises that a detailed assessment would be required once an operator has been identified and potential noises issues (such as music and customer activity) are known. Environmental Health are satisfied with this approach subject to condition 31 which ensures this would be undertaken.
- 20.6. Aside from the impact of existing noise on future occupiers, the assessment considers the potential impact of noise from fixed plant and equipment installed as part of the proposed development. It therefore recommends that the rating level of fixed plant noise sources should not exceed the prevailing background sound level when measured at the nearest existing sensitive receptors. The cumulative effect of noise from all externally terminating plant should also be specified so that the rating level is less than or equal to the lowest prevailing background noise level. Environmental Health are satisfied that this would ensure noise from the proposed development would not have a detrimental impact on future occupiers. Condition 43 is proposed to ensure compliance with these limits.
- 20.7. The Framework sets out that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. It is therefore necessary to consider the relationship and compatibility of future occupiers with existing businesses. As this is a town centre location there are numerous existing businesses and different uses within close proximity to the application site. The most notable are McDonalds (drive-thru and restaurant), The Courthouse (pub and restaurant), Cemex (offices) and Natwest (bank). There are also retail shops within what will remain of Rugby Central Shopping Centre together with the service yards. The noise emanating from these different uses has been assessed within the Noise Report.
- 20.8. It has been found that the noise from these different businesses can be mitigated through the use of appropriate glazing and ventilation within the apartments. This would ensure that the noise emanating from existing businesses and facilities would not harm resident’s amenity if windows are kept closed. However, if a future occupier elected to open a window and was

exposed to noise this could lead to noise complaints being made to the Council. That could then lead to pressure for restrictions to be placed on existing businesses such that unreasonable burdens and restrictions might be placed on them.

- 20.9. Paragraph 009 of the Noise section of PPG sets out that the applicant needs “to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. Adopting this approach may not prevent all complaints from the new residents/users about noise or other effects, but can help to achieve a satisfactory living or working environment, and help to mitigate the risk of a statutory nuisance being found if the new development is used as designed (for example, keeping windows closed and using alternative ventilation systems when the noise or other effects are occurring).”
- 20.10. In light of the advice in the PPG, and assurances that the noise from existing businesses can be mitigated, it is considered that the potential for existing businesses to have restrictions placed upon them as a result of this development is low. It is also important to recognise the reality that future occupants would take account of the location of the site and potential for noise before occupying apartments. It would be evident to potential occupiers that the site is located in a dense urban area within the town centre, opposite bus stops, a taxi rank, on-street loading area, busy roads and existing businesses. The presence of noise would consequently be expected. Potential occupants would need to weigh up whether this type of environment and restrictions on opening windows is acceptable to them before moving in. These factors ultimately combine to further reduce the potential for occupants to raise noise complaints.
- 20.11. Ultimately, it is considered that the proposed development would not be adversely affected by noise subject to appropriate mitigation. Noise arising from the proposed commercial units would not adversely impact on the amenity of proposed noise-sensitive receptors or nearby noise-sensitive receptors subject to conditions. On this basis, the relationship and compatibility of proposed noise-sensitive receptors with existing and proposed businesses and sources of noise is considered to be acceptable. As a result, the proposal complies with the Framework and policies HS5 and SDC1 of the Local Plan.

21. Contamination

- 21.1. Paragraphs 174, 183 and 184 of the Framework sets out the need to ensure a site is suitable for its proposed use taking account of risks arising from contamination.
- 21.2. A Phase 1 Geotechnical and Geoenvironmental Assessment has been submitted with the application. This is a desk study and is the first stage in the site investigation process. It is used to establish the geology, hydrology, history and environmental setting and sensitivity of the site and to identify potential sources, pathways and receptors to identify likely sources of contamination and risks. In this respect, the assessment identifies possible sources of contamination within made ground on site, migrating of off-site sources, the presence of compounds aggressive to concrete being present within both the made ground and natural stratas, and sources of hazardous ground gases being present within made ground.
- 21.3. The Assessment sets out a need to undertake a Phase II Geotechnical and Geoenvironmental intrusive ground investigation. This could involve digging trial pits, sinking boreholes and obtaining samples for laboratory analysis. The Phase 1 Assessment sets out a minimum scope of what the ground investigation should assess. The data collected would then be used to analyse the risk posed by the conditions and make recommendations regarding the nature and extent of any remediation required.
- 21.4. Environmental Health has scrutinised the assessment and ultimately raise no objection to the proposed development. However, they advise that condition 6 would be necessary requiring

the submission of an investigation and risk assessment including a remediation scheme and measures to report unexpected contamination found on the site. It is therefore considered that this would ensure that contaminated land does not affect the health of the future occupiers of the proposed development. As a result, the proposal complies with the Framework.

22. Flood Risk and Drainage

- 22.1. Paragraphs 159-169 of the Framework and policies SDC5 and SDC6 of the Local Plan set out the need to consider the potential impact of flooding on new development whilst ensuring that flood risk is not increased elsewhere as a result of it. Sustainable drainage systems (SuDS) should also be incorporated into major developments where feasible.
- 22.2. A Flood Risk Assessment and Below Ground Drainage Strategy has been submitted with the application. The report establishes that the application site falls within flood zone 1 (lowest risk) and therefore passes the requirements of the sequential and exception tests outlined within the Framework and policy SDC5. There is also only a low risk of flooding from tidal, fluvial, surface water, overland flow, groundwater sources, artificial drainage and infrastructure sources.
- 22.3. Surface water run-off is proposed to be dealt with by both infiltration through permeable paving and a below ground attenuation tank designed for storm events with an intensity up to a 1 in 100 year event plus 40% allowance for climate change. It would then be discharged into the public sewer network using flow control devices to achieve a 5 litre/second run-off rate designed with a 40% allowance for climate change. A petrol interceptor would also be provided downstream of the attenuation tank to treat water prior to discharge from the site. In addition, sumps would be included on all chambers upstream of the attenuation tank to capture silts and solids. For storm events with greater intensities than the 1 in 100 year event plus 40% allowance for climate change in which flooding occurs, once the on-site drainage system reaches capacity surface water would follow exceedance routes across the site. These flows would generally be away from buildings and towards areas like localised low points within the site boundary.
- 22.4. WCC Flood Risk Management has considered the assessment and proposed drainage strategy. They have raised no objection to the proposal subject to conditions 28 and 29 requiring that the drainage scheme is carried out in accordance with the approved strategy and a verification report and site-specific maintenance plan has been approved by the Council. The impact on flood risk and drainage is therefore considered to be acceptable. As a result, the proposal complies with the Framework and policies SDC5 and SDC6.

23. Ecology

- 23.1. Paragraphs 174 and 180 of the Framework and policy NE1 of the Local Plan set out the need to protect and enhance biodiversity including protected habitats and species.

Habitats

- 23.2. A Preliminary Ecology Appraisal has been submitted with the application. It identifies that the site comprises of a building and areas of hardstanding. No vegetation or notable habitats are present within or directly adjacent to the site. It considers the site to be of negligible intrinsic ecological value. The loss of the building and areas of hardstanding are consequently not deemed to be a significant ecological constraint.
- 23.3. Policy NE1 of the Local Plan sets out that development will be expected to deliver a net gain in biodiversity. WCC Ecology has accepted that the proposed inclusion of planting within the

scheme, where previously there was none, would result in a clear net gain for biodiversity. Condition 41 is proposed to ensure this is delivered.

Species

- 23.4. The Preliminary Ecology Appraisal identified that the existing building on the site is of moderate suitability for roosting bats. This is due to the presence of several potential roosting features. A Bat Survey Report has therefore been submitted with the application. It advises that no evidence of bats or roosting activity were identified, and no bats were recorded emerging during the dusk emergence bat surveys. The overall low levels activity (peak count of three bat passes) indicates that roosting activity, or high conservation status roosts such as maternity or mating roosts, are not likely be present in the immediate vicinity of the building. On balance, WCC Ecology are satisfied with the survey undertaken. However, they have requested that a further survey is carried out if the demolition of buildings on the site has not commenced by April 2024. Condition 42 is proposed to require this. Condition 7 would also require bat boxes to be erected within the development. Informative 5 is further proposed to advise the applicant of the need to carefully consider the placement of external lighting.
- 23.5. The Appraisal advises that no birds were observed during a survey on the site and no nests were identified within the buildings. However, it notes that the areas identified as potential access points for bats may also be accessed by some bird species. It recommends that any demolition work should be undertaken outside the bird nesting season. However, if this is not feasible then a pre-commencement check for nesting birds should be undertaken before demolition commences. WCC are satisfied with this approach subject to condition 3.
- 23.6. The Appraisal advises that the site and the immediate surrounding area does not offer suitable habitat for badgers, reptiles, amphibians or other notable/protected species. WCC Ecology are satisfied with this conclusion.

Ecology Conclusions

- 23.7. It has been found that the findings of the ecological investigations are acceptable and form a robust basis for considering the ecological impacts arising from the proposed development. The site is currently of negligible intrinsic ecological value and the proposed development would result in a net gain for biodiversity. The potential impact on species could be mitigated against through the use of planning conditions. It is consequently considered that the proposed development would not have an adverse impact upon habitats and species whilst ensuring a net biodiversity gain. As a result, the proposal complies with the Framework and policy NE1.

24. Trees

- 24.1. Paragraphs 131 and 174 of the Framework and policies NE3 and SDC2 of the Local Plan set out the importance of incorporating features such as trees and hedgerows into the proposed development.
- 24.2. The proposed development would incorporate a new pedestrian street inbetween the two blocks providing access to the new commercial units and northern end of what would remain of the existing Rugby Central Shopping Centre. This would be a pedestrian only area and would contain new trees, amenity planting, raised planters, seating and a feature sculpture. The potential for trees to be planted in a continuous line through the centre of this street was explored. This was deemed to be unfeasible due the location of flood risk attenuation tanks in the middle section of the street.

- 24.3. The proposed development blocks fronting onto North Street would also be set back from the existing build line. This set back would allow for the creation of an enlarged footway on North Street. For the northern block the footway would be enlarged by around 2.35 metres to provide a combined width of 5.60 metres. The southern block already has a large pedestrian footway in front of it. The footway here enlargement here would consequently taper off from around 3.30 metres wide to around 1.20 metres wide. This would provide a combined footway width of 9.10 to 6.55 metres. The enlargement of the pedestrian footway means that there would be sufficient space for the introduction of tree planting along this section of North Street. A total of six heavy standard trees are proposed with a height of between 4.25-6m. There would be 3 Silver Leaved Whitebeam and 3 Fastigate Hornbeam trees.
- 24.4. Aside from the public areas, the proposed roof top gardens would contain specimen trees together with amenity planting.
- 24.5. The Council's Arboricultural Officer and WCC Ecology have considered the number of trees being proposed together with their location in the scheme, type of species and size. They are ultimately satisfied that the proposed trees would be acceptable. Indeed, the proposed trees would help to soften the development and create attractive natural visual features within this urban landscape. Moreover, the proposed introduction of trees would have a highly positive impact on the public realm on this key corridor through the town centre. Condition 41 is proposed to ensure that the trees are delivered, maintained and then replaced (if necessary). The proposal would consequently comply with the Framework and policies SDC5 and SDC6.

25. Health

- 25.1. Section 8 of the Framework and policies HS1 and HS2 of the Local Plan set out the need to achieve healthy places and ensure development would not have a significant adverse impact on wellbeing.
- 25.2. Policy HS1 sets out that potential for creating healthy, safe and inclusive communities will be taken into account when considering all development proposals. It states that support will be given to proposals which provide and contribute to an extensive list of considerations which overlap with issues and policies considered elsewhere in this report. When considered collectively in the round, it is clear that the proposal complies with policy HS1 and maximises the potential this site has to offer towards creating healthy, safe and inclusive communities.
- 25.3. The Health Impact Assessment Screening Report submitted with the application concludes that the proposal would not generate adverse impacts on health and wellbeing. Any potential impacts can be mitigated and are therefore deemed to not be significant. As a result, the proposal complies with the Framework and policy HS2.

26. Fire Safety

- 26.1. Planning applications for certain high-rise residential buildings are required by legislation to be accompanied by a Fire Statement. These buildings include those that contain two or more dwellings and are 18 metres or more in height or are 7 or more storeys. The proposed development falls within this category and a Fire Statement and Fire Safety Strategy Report has consequently been submitted.
- 26.2. The legislation intends to ensure planning applications fully consider integrating fire safety at the land use planning stage. The level of information required to be provided at the planning stage is not intended to be as detailed as that required by building regulations or the Fire Safety Order.

- 26.3. The Health and Safety Executive have scrutinised the Fire Statement and advised that they are satisfied with the fire safety design to the extent that it affects land use planning. In addition, Warwickshire Fire and Rescue Service has advised that they have no objection to the proposed development subject to the inclusion of informative 3.
- 26.4. In accordance with the advice from the Health and Safety Executive and Warwickshire Fire and Rescue Service, it is considered that the fire safety design to the extent that it affects land use planning is acceptable.

27. Climate Change, Sustainable Design and Construction

- 27.1. Policies SDC1 and SDC4 of the Local Plan sets out support for the enhanced energy efficiency of buildings and need for non-residential development over 1,000 square metres to achieve a minimum BREEAM very good rating. Further details on this are set out within the Climate Change and Sustainable Design and Construction SPD. This is consistent with section 14 of the Framework which indicates a need for the planning system to support the transition to a low carbon future to help tackle climate change.
- 27.2. An Energy and Sustainability Statement, updated to respond to the recently adopted Climate Change and Sustainable Design and Construction SPD, has been submitted with the application. It particularly considers the impact of the development on a broad range of environmental considerations and sets out how these can be minimised and mitigated.
- 27.3. In respect of carbon emissions, the development would reduce energy demand through providing a well-insulated envelope which is both airtight and thermal bridge free. High performance glazing would provide a positive energy balance whilst mechanical ventilation with heat recovery would maintain good air quality with minimal heat loss. Energy efficient building systems such as LED lighting and low-power fans and pumps would further drive down regulated energy use. Robust quality assurance, commissioning and handover procedures on site would further drive down energy use. The remaining energy demand would be met through electrical sources. The development would generate hot water through efficient air-source heat pumps and space heating would be provided by electric panel heaters. Condition 20 would ensure that this is delivered.
- 27.4. In respect of materials, all timber used in the development would be from a responsible or sustainable source, using certified FSC or PEFC sources. To ensure responsible and sustainable procurement, materials would be specified in line with a documented sustainable procurement plan. This would include the use of certification schemes such as ISO14001 and BES 6001. Materials that are durable and resilient would be specified to maximise their lifespan and avoid the need for disposal and replacement. On top of this, a Resource Management Plan would set targets for resource efficiency and procedures for waste management. Moreover, the compact and high density nature of the development (taking the form of 2 blocks for 200 dwellings) on a brownfield site is such that this would result in an efficient and economic use of materials in construction (particularly compared to the impact that would arise from delivering 200 detached dwellings on a greenfield site).
- 27.5. Owing to the town centre location and proximity to public transport, the proposed development would be a car free scheme. No car parking is proposed on the site. Future occupiers would be aware of this when purchasing an apartment. They would be a self-selecting group of those that have determined that they do not require a private vehicle and instead want to live in close proximity to the high street facilities and public transport opportunities. The proposed creation of a car club would further reduce the need to own a private car. Car clubs are short-term car rental services that would provide residents with access to a locally parked car or cars which they can use by the minute, hour or day. This would be secured within a S106 Agreement for

the development. A high amount of secure cycle parking within the blocks together with sustainable travel packs and Travel Plan would further support the use of active and public transport. These would be secured by condition 18, 26, 27 and 34. Furthermore, the town centre location means that the commercial units would be highly accessible to residents of the Borough by active and public transport options. Public cycle stands are proposed outside the commercial units to encourage trips by cycling. These would be secured by condition 16. All of this would help to maximise and take advantage of low carbon sustainable transport options.

- 27.6. A BREEAM pre-assessment has been submitted in relation to the proposed commercial units. This sets out a pathway for how the commercial units could achieve the required a BREEAM very good rating. The development is shown to be on track to meeting this target.
- 27.7. As a result of the above, the proposal complies with the Framework, policies SDC1 and SDC4 of the Local Plan and the Climate Change and Sustainable Design and Construction SPD.

28. Broadband

- 28.1. Policy SDC9 of the Local Plan sets out the need for new developments to facilitate and contribute towards the provision of broadband infrastructure. Condition 39 stipulates that no dwelling shall be occupied until broadband infrastructure at a minimum of superfast speed has first been installed and made available for use by the occupants of that dwelling. As a result, the proposal complies with policy SDC9.

29. Water Consumption

- 29.1. Policy SDC4 of the local plan stipulates that all new dwellings shall meet the building regulations requirement of 110 litres of water per person per day. This would be secured via condition 40. As a result, the proposal complies with policy SDC4.

30. Viability, Affordable Housing, Infrastructure and Planning Obligations

- 30.1. Paragraphs 55, 57 and 58 of the Framework, policies DS5, HS4, D3 and D4 of the Local Plan and the Planning Obligations SPD set out the need to consider whether financial contributions and planning obligations could be sought to mitigate against the impacts of a development and make otherwise unacceptable development acceptable. Policy H2 of the Local Plan sets a target of 20% affordable housing provision on previously developed sites of the size proposed here. Further details are provided in the Housing Needs SPD.

Viability

- 30.2. Viability assessment is a process of evaluating whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. Paragraph 58 of the Framework allows for viability assessments to be submitted where an applicant considers the scheme would not be viable if they have to make all the contributions expected from their development. The weight to be given to viability assessments is a matter for decision makers who must have regard to the circumstances of the case. Detailed guidance on viability assessments is outlined in the PPG.
- 30.3. Policy D4 of the Local Plan sets out that the effects of obligations on the financial viability of development can be relevant when considering the type and amount of contributions being requested from developers. Policy DS5 of the Local Plan also acknowledges that viability can influence contributions being sought. The Planning Obligations SPD and Housing Needs SPD outline the need for a viability assessment where a scheme is considered to be unviable by the applicant.

- 30.4. The applicant has submitted a Financial Viability Assessment for this planning application. It contends that the build costs of constructing the proposed development would be greater than the expected value of sales. The scheme would therefore result in a deficit even if no affordable housing and planning obligations are required. However, unlike most sites, the applicant in this instance is both the landowner and developer and therefore has a unique set of decision-making criteria. The applicant intends to deliver the proposed development as part of its asset management strategy, in the anticipation of market conditions improving through the life of the planning permission and build process, and to assist in creating wider benefits for Rugby town centre through the regeneration process.
- 30.5. The Council appointed an independent viability consultant to scrutinise and review the Financial Viability Assessment submitted by the applicant. This led to a number of queries being raised with the applicant which were duly addressed. The independent consultant then confirmed that the methodology and calculations contained in the Financial Viability Assessment are sound and robust. Their own calculations confirmed that the proposed development is not viable and would result in a significant deficit even if no affordable housing and planning obligations are required.
- 30.6. The independent viability consultant then undertook a sensitivity analysis looking at the various impacts of providing all or some of the affordable housing and requested planning obligations. The inclusion of these significantly increased the deficit and made the proposed development even more unviable. The consultant advised that in light of this the scheme cannot support any affordable housing and planning obligations.
- 30.7. Furthermore, the independent viability consultant considered whether certain design changes could be made to establish whether this could make the scheme more viable. It was again confirmed that even with design changes, the proposed development is not viable and would result in a significant deficit even if no affordable housing and planning obligations are required.
- 30.8. In summary, the scheme is not viable even if no affordable housing is provided and no planning obligations are secured.

Viability Review Mechanism

- 30.9. At the application stage, the viability assessment is based upon presumed costs and values. Actual costs are generally unknown until after the scheme is built. Any subsequent reduction in planning requirements at the application stage allows for a competitive return to a developer and it can reasonably lower the development risk in order to bring a site forward.
- 30.10. It is within this context that the PPG advises that “Where contributions are reduced below the requirements set out in policies to provide flexibility in the early stages of a development, there should be a clear agreement of how policy compliance can be achieved over time ... Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities’ ability to seek compliance with relevant policies over the lifetime of the project.”
- 30.11. A viability review mechanism therefore provides the opportunity to determine whether the required returns have been exceeded and whether planning requirements could, in fact, be met. They are based upon an accurate assessment of viability at the point of delivery using the same methodology as the original assessment but based on current market conditions and the most reliable data available, including evidenced build costs and actual sale/rental values of completed units.
- 30.12. In this instance, the independent viability consultant undertook a sensitivity analysis, which demonstrates scheme performance in the event that sales values and costs change. This

analysis indicates that the proposed development could become viable if there are favourable movements in costs and values.

- 30.13. Condition 1 proposes that the applicant would have three years to implement their permission. Demolition and construction on the site would then take place over a number of years post implementation of the permission. Over such a period there is clearly potential for construction costs and sales value to change. As such, an early and late stage review mechanism to essentially re-run the viability assessment again post-permission would be essential. The early stage viability review would be required if the permission has not be implemented within two years of permission being granted. A late stage viability review would be required following the sale of 75% of units.
- 30.14. The viability review mechanism would be secured within a S106 Agreement. It would then allow either actual or updated predictions of sales values and build costs of the development to be compared against the assumptions made in the application viability assessment. This would confirm whether the scheme's viability has improved over the passage of time. In the event that it finds that the scheme has become viable since the original permission, the landowner/developer would become liable for additional developer contributions. However, it is important to note that if it finds that the viability of the development worsens, the landowner/developer cannot further reduce their contributions.

Affordable Housing

- 30.15. Policy H2 of the Local Plan sets a target of 20% affordable housing provision on previously developed sites of the size proposed here. Based on the 200 dwellings proposed, this equates to a need for 40 affordable dwellings. However, the policy sets out that "The target levels will be expected to be provided unless the local planning authority is satisfied by robust financial viability evidence that development would not be financially viable at the relevant target level. Such evidence will be required to be submitted with the planning application to justify any reduced levels of affordable housing provision proposed for assessment using an open-book approach and may be subject to independent assessment (e.g. by the District Valuer Services or equivalent)."
- 30.16. As outlined above, a Financial Viability Assessment has been submitted with the application which has been scrutinised by an independent viability consultant. It has been found and accepted that the proposed development would not be viable even if no affordable housing is provided and no planning obligations are secured. Specifically, it is accepted that the proposed development would not be financially viable at the 20% affordable housing target level. Moreover, it has been demonstrated that the proposed development would still be unviable even at 0% affordable housing.
- 30.17. The proposed development would therefore comply with policy H2 because it has satisfactorily been demonstrated by robust financial viability evidence that development would not be financially viable at the target of 20% affordable housing. However, the proposed viability review mechanism would allow this to be re-assessed at a later stage. If it is then found that the scheme is viable, the potential for on-site affordable housing provision or off-site affordable housing contributions can be assessed together with other planning obligations and the views of relevant technical consultees.

Infrastructure and Planning Obligation Requests

- 30.18. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) makes it clear that these obligations should only be sought where they are: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. If a requested

planning obligation does not comply with all of these tests, then it is not possible for the Council to take this into account when determining the application. It is within this context that the Council has made and received a number of requests for planning obligations as detailed below. Unless otherwise specified, it is considered that all these requests meet the necessary tests and are therefore CIL compliant.

- 30.19. **Education:** The proposed development would result in more children moving into this area of Rugby who would need a place within local schools. WCC has calculated the number of children that would be likely to arise from this development across each education provision stage. They have then looked at whether there is capacity within existing education settings to accommodate these children. They have advised that there would be no capacity for early years/pre-school, primary school, secondary, post-16, secondary and post-16 SEND. The proposed children arising from this development would therefore have a negative impact on education provision unless financial contributions are made towards additional provision across each education provision stage.
- 30.20. **NHS Coventry and Warwickshire Integrated Care Board (ICB):** The ICB has provided evidence that primary care facilities in the locality are already nearly at capacity for their list sizes and will be over capacity by 2031. In order to support the additional growth anticipated from the proposed housing development, the ICB has requested developer contributions by way of improvement works which would be for the primary care and healthcare estate within the area of the planned development. The ICB has advised that if improvement works are not completed and local practices reach maximum capacity, they would be forced to close their lists to new patients. In this case, the new population arising from this development would experience issues gaining access to primary medical care services.
- 30.21. **UHCW NHS Trust:** UHCW has provided evidence contending that the proposed development would place an increased demand on hospitals within the area. A financial contribution has therefore been sought to alleviate a perceived funding gap created by future occupants who would need to access acute care and accident and emergency care services at the UHCW hospitals. On 13th February 2023 a High Court judgment (R (University Hospitals of Leicester NHS Trust) v Harborough District Council [2023] EWHC 263 (Admin)) was published which examined the legality of such requested contributions to NHS Trusts. It found that Harborough District Council had acted lawfully in granting planning permission without requiring a requested financial contribution from the Trust to its hospitals. The legal representatives of UHCW have advised that they are still requesting the contribution made for this development in spite of the High Court judgment. They have advised that the court case was case specific and that they will be providing a formal response explaining their position in due course. In the meantime the Council is also seeking legal advice to fully understand the implications of this decision and whether such requests can continue to be viewed as CIL compliant.
- 30.22. **Play and Open Space:** Financial contributions towards play and open space facilities within the vicinity of the site would be sought in the event that the viability review mechanism appraisal shows that the scheme is viable.
- 30.23. **Libraries:** The proposed development would have an impact on Rugby library owing to new occupants using the facilities there. To offset this impact WCC has requested a financial contribution to improve, enhance and extend the facilities and services of Rugby library. This would include purchase of additional stock, targeted collections, additional seating/study spaces or related facilities, improved family facilities and targeted promotions to inform new residents of services available to them.
- 30.24. **Road Safety:** WCC has advised that a financial contribution is necessary to support road safety initiatives within the community associated with the proposed development. Road

safety initiatives include road safety education for schools and training/education for other vulnerable road users within the area.

- 30.25. **Traffic Regulation Order Changes:** WCC advise that a financial contribution would be required to expedite any required Traffic Regulation Order changes to waiting restrictions if the applicant intends to implement a discretionary on-street loading bay.
- 30.26. **WCC Monitoring and Administration:** WCC advise that they require a monitoring fee for the monitoring and administration of County Council obligations, due upon signing of the agreement.
- 30.27. As outlined above, a Financial Viability Assessment has been submitted with the application which has been scrutinised by an independent viability consultant. It has been found and accepted that the proposed development would not be viable even if no affordable housing is provided and no planning obligations are secured.
- 30.28. The implication of the above is that if none of the requested financial contributions are made there would be a significant and detrimental impact on key services and infrastructure. The applicant is mindful of this and despite the proposed development not being viable has nonetheless agreed to pay a without prejudice financial contribution towards this.
- 30.29. The two biggest priorities are considered to be health and education and so the financial contribution would be used towards this. In respect of education, WCC has advised that in light of the viability concerns they are willing to seek contributions in respect of secondary provision alone. The financial contribution offered by the applicant would consequently amount to 100% of the total amount requested by the NHS Coventry and Warwickshire ICB, UHCW NHS Trust (providing it is found to be CIL compliant after legal advice) and WCC in respect of secondary education. There would consequently be no significant and detrimental impact upon these health and secondary education services and facilities arising from this development despite the viability issues.
- 30.30. Notwithstanding this, the proposed development would still cause significant and detrimental impacts on the non-secondary stages of education provision, play and open space, libraries, road safety funding and the WCC monitoring and administration funding. This harm would need be weighed up against the benefits in the planning balance. The contribution towards Traffic Regulation Order changes would not be impacted because this is discretionary and for the applicant to pay only if they choose to pursue the delivery of an on-street loading bay.
- 30.31. The proposed viability review mechanism would ensure that this can be re-assessed at a later stage. If it is then found that the scheme is viable, the potential for financial contributions towards these services and infrastructure can be assessed together with affordable housing provision and the views of relevant technical consultees.

Heads of Terms (Adjusted in Line with Viability Issues)

- 30.32. In summary, the contributions required for this proposal have been highlighted as per the table below:

Obligation	Requirement	Trigger
Secondary Education	£368,655 financial contribution towards an increase in secondary school capacity or the	Before first occupation.

	provision of enhanced facilities within 3 miles of the development.	
NHS Coventry and Warwickshire Integrated Care Board	£111,005 financial contribution towards improvement works for the primary care and healthcare estate within the area of the planned development.	Before first occupation.
UHCW NHS Trust (if found to be CIL compliant following legal advice)	£280,759 financial contribution towards alleviation of funding gap created by future occupants who would need to access acute care and accident and emergency care services at the UHCW hospitals St Cross, Rugby and University Hospital, Coventry.	Before first occupation.
Traffic Regulation Order	£6,000 financial contribution towards expedition of any required Traffic Regulation Order changes to waiting restrictions for a discretionary on-street loading bay on North Street.	Discretionary – to apply only if the applicant intends to carry out this work.
Public Realm and Pedestrian Street	Free public access, free of restraint to the pedestrian street to be secured in perpetuity. Maintenance and management plan for the pedestrian street, public realm and landscaping.	Before first occupation.
Car Free Development and Car Club	Measures to secure a car free development. Creation of a car club, i.e. a short-term car rental service that would provide residents with access to a locally parked car or cars which they can use by the minute, hour or day.	Before first occupation.
Shopping Centre Engagement Strategy	An engagement strategy and marketing strategy to discuss future options and support for existing	Prior to demolition commencing.

	commercial occupiers in the part of the shopping centre to be demolished.	
Viability Review Mechanism	Early and late stage viability review requiring the submission of a viability assessment and to then secure additional financial contributions and/or affordable housing if viability is found to have improved.	Early stage - if the permission has not been implemented within two years of permission being granted. Late stage - following the sale of 75% of units.
RBC Monitoring Fee	Financial contribution to cover the Borough Council's costs in the monitoring and administration of obligations (including public realm, viability review mechanism, car club and shopping centre engagement strategy). £500 for each obligation which only seeks a monetary contribution 5% of the total financial contribution per obligation where additional ongoing monitoring is required over and above just a monetary contribution.	Upon signing of the agreement.

30.33. If the committee resolves to approve the proposal, this will be subject to the completion of an agreement by way of a section 106 covering the aforementioned heads of terms.

Heads of Terms (If the Scheme was Viable)

30.34. In summary, the contributions required for this proposal if the scheme was viable has been highlighted as per the table below:

Obligation	Requirement	Trigger
Education	£961,407 financial contribution towards increasing the capacity or the provision of enhanced education facilities across all provision stages.	Before first occupation.

NHS Coventry and Warwickshire Integrated Care Board	£111,005 financial contribution towards improvement works for the primary care and healthcare estate within the area of the planned development.	Before first occupation.
UHCW NHS Trust (if found to be CIL compliant following legal advice)	£280,759 financial contribution towards alleviation of funding gap created by future occupants who would need to access acute care and accident and emergency care services at the UHCW hospitals St Cross, Rugby and University Hospital, Coventry.	Before first occupation.
Traffic Regulation Order	£6,000 financial contribution towards expedition of any required Traffic Regulation Order changes to waiting restrictions for a discretionary on-street loading bay on North Street.	Discretionary – to apply only if the applicant intends to carry out this work.
Public Realm and Pedestrian Street	Free public access, free of restraint to the pedestrian street to be secured in perpetuity. Maintenance and management plan for the pedestrian street, public realm and landscaping.	Before first occupation.
Car Free Development and Car Club	Securing a car free development and creation of a car club, i.e. a short-term car rental service that would provide residents with access to a locally parked car or cars which they can use by the minute, hour or day.	Before first occupation.
Shopping Centre Engagement Strategy	An engagement strategy and marketing strategy to discuss future options and support for existing commercial occupiers in the part of the shopping centre to be demolished.	Prior to demolition commencing.

Viability Review Mechanism	Early and late stage viability review requiring the submission of a viability assessment and to then secure additional financial contributions and/or affordable housing if viability is found to have improved.	Early stage - if the permission has not been implemented within two years of permission being granted. Late stage - following the sale of 75% of units.
Off-Site Play and Open Space	£387,398 financial contribution towards off-site improvements and maintenance.	Before first occupation of 50% of units.
Road Safety	£10,000 financial contribution towards support road safety initiatives within the community associated with the proposed development.	Before first occupation.
Libraries	£2,147 financial contribution to support increased demand of facilities at Rugby library.	Before first occupation.
RBC Monitoring and Administration	Financial contribution to cover the Borough Council's costs in the monitoring and administration of obligations (including public realm, viability review mechanism, car club and shopping centre engagement strategy). £500 for each obligation which only seeks a monetary contribution 5% of the total financial contribution per obligation where additional ongoing monitoring is required over and above just a monetary contribution.	Upon signing of the agreement.
WCC Monitoring and Administration	Financial contribution to cover the County Council's costs in the monitoring and administration of County Council obligations.	Upon signing of the agreement.

	£1,000 + (5 hours x £40 Officer time x Number of triggers).	
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30.35. In relation to any financial contributions or commuted sums sought through a s.106 agreement, the financial contributions or commuted sums set out in this report will be adjusted for inflation for the period from resolution to grant to completion of the s.106 agreement. In addition, any financial contributions or commuted sums sought through a s.106 agreement will be subject to indexation from the completion of the s.106 agreement until the date that financial contribution or commuted sum falls due. Interest will be payable on all overdue financial contributions and commuted sums.

31. Planning Balance and Sustainability of Development

31.1. Policy GP1 of the Local Plan outlines that the Council will determine applications in accordance with the presumption of sustainable development set out in the Framework. Paragraph 11 of the Framework sets out that for decision-taking this has two parts. The first part (paragraph 11(c)) outlines that this means “approving development proposals that accord with an up-to-date development plan without delay”. The Local Plan was adopted in June 2019 and is considered to be an up-to-date development plan.

31.2. A straightforward neutral balancing exercise must therefore be carried out to weigh up whether the identified harm caused by the proposed development would be outweighed the benefits. This should take account of the economic, social and environmental objectives which are necessary to achieve sustainable development.

Economic

31.3. From an economic perspective, the proposed development represents a substantial direct investment into the town centre. It would be the first major town centre development in a number of years amidst a climate where town centre growth has stagnated and declined. The Rugby Regeneration Strategy acknowledges this and identifies this application as a key priority project which needs to be delivered. It recognises that the commencement of this project would be a significant statement to the wider development and investor market. It further sets out that supporting the commencement of this development is critical to creating momentum and driving wider investment across the town centre. Critically, this scheme has the potential to show what is possible and capable of being delivered. In doing this it is hoped that it would act as a catalyst for regeneration. The potential spinoff to deliver greater economic benefits is consequently extremely significant.

31.4. The creation of new commercial units would help to attract new businesses into this area. It would particularly help to increase the vitality and viability of the town centre and drive more footfall to other commercial businesses. The creation of 200 apartments within the town centre would also result in new household spending within the Borough. It is expected there would be a benefit to town centre businesses from this development of more than £1.5 million per year. Such expenditure would clearly have a significant and positive impact on the local economy and prosperity of the Borough. It would further help to increase the viability of local retail uses, services and businesses. On top of this, the commercial units would provide and secure employment opportunities for around 98 people.

31.5. The size and nature of the development is such that it would support construction jobs and associated in-direct jobs. On top of that, the applicant has calculated that the scheme would result in a total of 21 new construction jobs being created by the development.

31.6. It is considered that these economic benefits should be afforded significant weight in favour of the proposed development.

Social

31.7. From a social perspective, there is a significant need for new housing within the Borough. The provision of 200 windfall dwellings would consequently make a significant contribution towards ensuring the Council's current five-year housing land supply position is maintained. It would also be consistent with the Government's objective of significantly boosting the supply of homes. This is a matter which carries significant weight in favour of the proposed development.

31.8. The existing shopping centre is of its time and detracts from the creation of a place with a strong character and identity. The number of vacant units also speaks of an area which is in decline and needs to be repurposed into a place which better meets the needs of current and future communities. The proposed development consequently offers a significant opportunity to create a high quality scheme which addresses this. It would result in the creation of a well-designed, attractive and safe built environment which would enhance the appearance of the town centre. At the same time, the proposed contraction in the amount of traditional retail floorspace and replacement with floorspace that can diversify the retail offer and therefore generate footfall in the core area is highly welcomed.

31.9. The potential impacts on health have been considered and found to be acceptable. In accordance with the advice from the Health and Safety Executive and Warwickshire Fire and Rescue Service, it is considered that the fire safety design to the extent that it affects land use planning is acceptable. The provision of broadband to all properties would also ensure that future occupants can stay connected online.

31.10. The proposed development would give rise to a loss of privacy at 8 apartments within the Napier building. This would arise because one of the proposed elevations within the development with habitable room windows would be located 10.80 metres away from habitable room windows within the Napier building. Potential amendments to the design have been considered but discounted owing to site constraints, visual impacts and the impact on commercial viability. This impact must therefore be noted and is a matter which carries significant weight against the proposed development.

31.11. An independently verified viability assessment has confirmed that the proposed development would not be viable even if no affordable housing is provided and no planning obligations are required. The impact on health services and secondary education would nonetheless be fully mitigated through a developer contribution to this.

31.12. However, due to the non-viability of the scheme, it would not be able to provide any affordable housing. There would also still be significant and detrimental impacts on the non-secondary stages of education provision, play and open space, libraries, road safety funding, RBC monitoring and administration funding and the WCC monitoring and administration funding. In respect of the non-secondary stages of education provision, WCC has advised that they recognise the scheme is not viable and have accepted an impact for these stages on the basis that it would allow the benefits of the scheme to be realised. Any demand for these stages of provision would therefore, with their blessing, need to be met by WCC funding. The same is true for the requested library, road safety and monitoring contributions (acknowledging that the contributions requested for these are substantially smaller than the education request). The lack of play and open space contributions would place further pressure on existing play facilities and open space within the area.

Environmental

- 31.13. From an environmental perspective, the potential adverse impacts of the proposed development in relation to heritage, archaeology, highway safety, traffic flows, parking provision, air quality, noise, overheating, contamination, flood risk, drainage, ecology, trees, carbon emissions and water consumption have all been considered. There would be no adverse impacts in some instances. However, in other instances where potential adverse impacts are identified, it would be possible to mitigate against this impact through a number of different measures and strategies. In relation to ecology and trees, there would be a benefit of minor weight arising from a small net biodiversity gain and the planting of new trees where there are currently none. This mitigation and the benefits could be secured through conditions and a S106 Agreement.
- 31.14. In regard to heritage assets, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the decision maker to give special regard to the desirability of preserving a listed building and its setting. Section 72 of the same Act places a duty on the decision maker to give special attention to the desirability of preserving and enhancing the character of a Conservation Area. In relation to the Rugby Town Conservation Area this impact would moderate beneficial to the setting and minor beneficial impact to its significance.
- 31.15. However, in the case of the Grade II* listed Church of St Andrew, there would be a minor adverse impact on its setting as a result of the spire becoming less apparent in certain glimpsed views across the site from the northwest and west. This would correspond to a negligible adverse impact on its significant. It is judged that the proposal would result in 'less than substantial' harm to this asset. This 'less than substantial' harm, does not result in a 'less than substantial' objection and attracts considerable importance and weight, as clarified in the Barnwell judgement of February 2014.
- 31.16. In accordance with policy SDC3 of the Local Plan and paragraph 202 of the Framework, the identified harm above should be weighed against the public benefits of the proposal. Paragraph 199 of the Framework states that "great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance". This gives rise to a strong presumption against planning permission being granted. However, the scheme offers a number of economic, social and environmental benefits as detailed in sections 31.3 - 31.13 above. On balance, it is considered that whilst having regard to Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, policy SDC3 of the Local Plan, and the Framework, the benefits of the scheme, as described above, are sufficient to clearly and demonstrably outweigh the harm to the identified heritage asset.

Conclusion

- 31.17. On balance, it is concluded that the benefits of the proposed development are sufficient to clearly and demonstrably outweigh the harm to the privacy of apartments in the Napier building, harm to a designated heritage asset and harm to non-secondary stages of education provision, play and open space, libraries, road safety funding, RBC monitoring and administration funding and the WCC monitoring and administration funding.
- 31.18. The proposed development would result in the redevelopment of a shopping centre which is of its time. It has the potential to act as a catalyst for wider regeneration and would help to reverse the decline and fragility of the town centre. The submitted scheme consequently represents a significant opportunity to realise the potential of this site which is in a prominent and highly sustainable location. Refusal of the scheme would invariably result in the shopping centre remaining unchanged with associated high levels of vacant units. None of the economic and social benefits would then be realised. The harm that would arise from not realising these

benefits is cumulatively considered to be greater than the harm which has been identified above.

31.19. Overall, it is considered that the proposal would be a sustainable development and consequently accords with policy GP1 of the Local Plan. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, and having regard to material considerations including the Framework, it is considered that the application should be approved without delay in accordance with paragraph 11(c) of the Framework.

32. Recommendation:

32.1. (1) Planning application R22/0657 be approved subject to:

- a) The conditions and informatives set out in the draft decision notice appended to this report; and
- b) The completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.

(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.

(3) The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

DRAFT DECISION

REFERENCE NO:
R22/0657

DATE APPLICATION VALID:
04-Jul-2022

APPLICANT:

Karenor Partners Limited, 128 Loudoun Road, London, NW8 0ND

AGENT:

Peter Keenan, Q+A Planning Ltd, One Mortimer Street (Second Floor), London, W1T 3JA

ADDRESS OF DEVELOPMENT:

Part of the existing Rugby Central Shopping Centre, North Street, Rugby, CV21 2JR

APPLICATION DESCRIPTION:

Demolition of part of Rugby Central Shopping Centre and the erection of a mixed-use development scheme in two separate blocks, both 7 storeys in height providing commercial floorspace within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and sui generis floorspace (bar or public house) on the ground floor and residential (Class C3) on the upper floors together with new public realm, hard and soft landscaping, roof top amenity space, cycle storage, refuse storage, plant rooms, a replacement shop front for Unit 3a Manning Walk, revised servicing arrangements, associated infrastructure and works.

CONDITIONS:

CONDITION 1:

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

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 hereby approved shall not be carried out other than in accordance with the plans and documents detailed below.

<u>Plan Description</u>	<u>Plan No.</u>	<u>Date Received</u>
Site Location Plan	21524-200-P-00	04-07-22
Proposed Site Plan	21524-0300-P-03	23-02-23
Elevations - Existing and Proposed Street Scene - North Street	21524-0304-P-03	26-01-23
Elevations - Manning Walk - Proposed	21524-0315-P-02	20-01-23
Elevations - Proposed Bay Elevations - Block A - Type 01	21524-0307-P-02	20-01-23
Elevations - Proposed Bay Elevations - Block A - Type 02	21524-0308-P-02	20-01-23
Elevations - Proposed Bay Elevations - Block B - Type 01	21524-0309-P-02	20-01-23
Elevations - Proposed Bay Elevations - Block B - Type 02	21524-0310-P-02	20-01-23
Elevations - Proposed Elevations - Block A	21524-0305-P-04	23-02-23
Elevations - Proposed Elevations - Block B	21524-0306-P-03	26-01-23
Floor Plans - Proposed Ground Floor	21524-0301-P-04	23-02-23
Floor Plans - Proposed Levels 01-05	21524-0302-P-04	23-02-23
Floor Plans - Proposed Level 06	21524-0322-P-04	23-02-23
Floor Plans - Proposed Roof	21524-0303-P-04	23-02-23
Proposed Section	21524-0311-P-02	20-01-23
Hard Landscape Proposals - Roof Garden	W2559-1003-C	20-01-23
Hard Landscape Proposals - Rugby Central	W2559-1001-D	20-01-23
Soft Landscape Proposals - Roof Garden	W2559-1004-C	20-01-23

Soft Landscape Proposals - Rugby Central	W2559-1002-D	20-01-23
Highway Tracking Plan - Swept Path Analysis - 7-5 Tonne Panel Van	21160-TR001	18-07-22
Highway Tracking Plan - Swept Path Analysis - FTA Design Articulated Vehicle	21160-R002	18-07-22
Refuse Strategy - Block A	21524-0320-P-04	23-02-23
Refuse Strategy - Block B	21524-0321-P-04	23-02-23
Demolition Plan	21524-0202-P-00	04-07-22
Demolition Plan Manning Walk	21524-0314-P-00	04-07-22

<u>Document Description</u>	<u>Reference</u>	<u>Date Received</u>
Air Quality Assessment	RBC-CDL-XX-XX-RP-AQ-40201-P02	04-07-22
Archaeological Assessment	N/A	04-07-22
Bat Survey Report	P22-018	04-07-22
Design and Access Statement	21524-8006-00	04-07-22
Design and Access Statement Addendum	21524-8009-02	20-01-23
Energy and Sustainability Statement	1032054-CDL-XX-XX-RP-SY-70220-P01	04-07-22
Fire Safety Strategy Report	FSE2218-01	04-07-22
Fire Statement	FSE2221-01	10-08-22
Flood Risk Assessment - Email Note	N/A	16-08-22
Flood Risk Assessment and Below Ground Drainage Strategy	RBC-CDL-XX-XX-RP-C-10250-P03	06-09-22
Framework Travel Plan	N/A	04-07-22
Health Impact Assessment Screening Report	N/A	04-07-22
Heritage Statement	N/A	04-07-22
Highways Technical Note - Response to WCC Highways Comments	TN02	22-11-22
Highways Technical Note - Trip Generation Assessment	TN03	15-02-23
Noise Report	RBC-CDL-XX-XX-RP-AS-45200-P02	04-07-22
Phase 1 Geotechnical and Geoenvironmental Assessment	RBC-CDL-XX-XX-RP-GE-60201-A	04-07-22
Planning Statement	N/A	04-07-22
Preliminary Ecological Appraisal	P22-018-A	04-07-22
Transport Statement	N/A	04-07-22
Waste Strategy Design Note	21524	18-07-22

CONDITION 3:

No demolition or development shall commence, including any groundworks, site clearance and construction work, until a Construction Environmental Management Plan and Protected Species Method Statement has been submitted to and approved in writing by the Local Planning Authority. This shall have regard to the Air Quality Assessment (RBC-CDL-XX-XX-RP-AQ-40201-P02, received 04-07-22) and shall include details relating to:

- a. Measures to reduce mud deposition, debris and obstacles offsite and on the highway from vehicles leaving the site during the demolition and construction phase;
- b. Heavy goods vehicle and construction traffic routing plan (including details of any temporary signage);
- c. Timing of heavy goods vehicle movements during the demolition and construction phase;
- d. A named point of contact for overseeing demolition and construction works and site management together with their contact details (including out of hours);
- e. Demolition and construction site access location and control (having regard to the town centre location with associated higher number of pedestrians and the bus stops located along North Street);
- f. The location, layout and design of temporary site compounds (including any temporary hoarding panel details, perimeter screens, protective fencing, cabins, buildings, structures, areas for loading/unloading and storing of plant, materials and deliveries used in constructing the development (including swept paths), temporary lighting and signage);
- g. The parking of vehicles of site operatives and visitors;
- h. Days and hours of work and deliveries;
- i. Non-Road Mobile Machinery (NRMM) controls;
- j. Control of noise and vibration emissions from demolition and construction activities, including groundworks and the provision of infrastructure, together with arrangements

to monitor noise emissions from the development site during the demolition and construction phase;

- k. Control of dust, including arrangements to monitor dust emissions from the development site during the construction phase; and
- l. Pre-commencement checks, reasonable avoidance measures and the timing of works in relation to bats and birds (as advised by a suitably qualified ecologist);

Demolition and development, including any groundworks, site clearance and construction work, shall not be carried out other than in accordance and compliance with the approved Construction Environmental Management Plan and Protected Species Method Statement.

REASON:

In the interests of health and safety, highway safety, traffic flows, residential amenity, amenities of the area, protection and operation of existing commercial businesses within the area, air quality and visual amenities. To ensure that bats and birds are not harmed by the development.

CONDITION 4:

No demolition or development shall commence, including any groundworks, site clearance and construction work, until:

- a) A Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.
- b) The programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken and a report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to and approved in writing by the Local Planning Authority.
- c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

Any demolition, the development hereby approved, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with the approved documents.

REASON:

To ensure that heritage assets are not lost or harmed by the development.

CONDITION 5:

Notwithstanding any indication of the approved plans, no development shall commence, including any groundworks, site clearance, demolition and construction work, until full details of earthworks (including cut and fill), the finished floor levels of all buildings and ground levels (including all hard surfaced areas and landscaped areas) have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include: levels of adjoining buildings, land and roads; the proposed grading and contours; cross-section plans at a suitable scale showing the relationship of North Street with the buildings hereby approved; details of any retaining walls and under buildings; and a schedule of implementation. No groundworks, construction work and development shall be carried out other than in accordance with the approved details and schedule.

REASON:

To ensure a satisfactory external appearance in the interests of visual amenity and in the interests of highway safety.

CONDITION 6:

Having regard to the recommendations set out at section 6.2 of the Phase 1 Geotechnical and Geoenvironmental Assessment, no development, other than that required to be carried out as part of an approved scheme of remediation, shall commence until parts (a) to (d) below have been complied with. If unexpected contamination is found after development has begun, development shall be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition (d) below has been complied with in relation to that contamination.

(a) An investigation and risk assessment shall be completed 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. The contents of the scheme shall be subject to approval in writing by the Local Planning Authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report shall be subject to approval in writing by the Local Planning Authority. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to human health, existing or proposed property and buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
- (iii) an appraisal of remedial options, and proposal of the preferred option(s) to be conducted in accordance with UK Government and the Environment Agency's Land Contamination Risk Management (LCRM) 8th October 2020.

(b) 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 and subject to approval in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works. 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 and subject to approval in writing by the Local Planning Authority.

(d) In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition (a) and where remediation is necessary a remediation scheme shall be prepared in accordance with the requirements of condition (b) which shall be subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to approval in writing by the Local Planning Authority in accordance with condition (c).

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 offsite receptors.

CONDITION 7:

No above ground development shall commence until full details of integrated bat and bird boxes or bricks have been submitted to and approved in writing by the Local Planning Authority. No dwelling within a development block shall be occupied until the approved integrated bat and bird boxes or bricks for that block have first been provided in accordance with the approved details. The approved integrated bat and bird boxes or bricks shall thereafter be retained in perpetuity.

REASON:

To ensure that protected species are not harmed by the development.

CONDITION 8:

No above ground development shall commence until full details of all external lighting, including the floor panel lighting, tree uplighting, wall lighting and street light columns shown on the Hard Landscape Proposals - Rugby Central (W2559-1001-D, received 20-01-23) has been submitted to and approved in writing by the Local Planning Authority. The details shall include full details of the type, design, material finish, location, angle, fall, spread and intensity of the lighting together with a lighting assessment which sets out a strategy and measures to minimise the impact of lighting to sensitive receptors. No external lighting shall be erected and installed other than in accordance with the approved details.

REASON:

To ensure a satisfactory external appearance, in the interests of safety, to prevent unnecessary light pollution, in the interests of the visual and residential amenities of the locality and to ensure that protected species are not harmed by the development.

CONDITION 9:

No above ground development shall commence until full details of sound insulation for the top floor dwellings have been submitted to and approved in writing by the Local Planning Authority. The details shall include measures to ensure that the dwellings beneath the roof gardens and rooftop access routes are provided with a maximum impact sound insulation of 62dB L'nT,W. No top floor dwelling with a development block shall be occupied until the sound insulation measures for that block have first been provided in accordance with the approved details. The approved sound insulation measures shall subsequently be maintained in perpetuity.

REASON:

In the interests of residential amenity

CONDITION 10:

No above ground development shall commence until a Noise Attenuation Scheme and Overheating Assessment has been submitted to and approved in writing by the Local Planning Authority. The scheme and assessment shall have regard to the Noise Report (RBC-CDL-XX-XX-RP-AS-45200-P02, received 04-07-22) and shall comply with the associated environmental noise mitigation recommendations detailed in section 7.0. The Noise Attenuation Scheme shall include full details and specifications of the façade, windows, glazing, ventilation, internal floors and internal walls. The Overheating Assessment shall include full details and calculations demonstrating what measures will be incorporated into the design of the buildings to ensure overheating caused by variations in the climate, particularly in the summer with allowances for climate change, will not occur. Any proposed mitigation measures must ensure that the internal noise climate for each dwelling achieves the recommended internal noise levels outlined in figure 7-1. No dwelling shall be occupied until

the approved noise attenuation scheme, and mitigation measures for noise attenuation and overheating, have been implemented in full for that dwelling. The approved noise attenuation scheme, and mitigation measures for noise attenuation, ventilation and overheating, shall subsequently be maintained in perpetuity.

REASON:

To protect the residential amenity of future occupiers and to ensure future occupiers do not overheat.

CONDITION 11:

No above ground development shall commence until full details of the colour, finish, pattern and texture of all new materials to be used on all external surfaces (including bricks, fretwork panels, cladding, windows, shopfronts, doors, metal railings, parapet capping and soldier course), together with samples, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON:

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

CONDITION 12:

No above ground development shall commence until full details, including illustrative visualisations, plans and cross-section plans at a close scale, showing: the reveal depths of all windows, shopfront glazing, doors, panels, cladding, brickwork panels, shopfront signage zones; the pattern, bond and projection depth of any brickwork patterns, recessed brickwork detailing, soldier courses, string courses; parapet cladding; any permanent or retractable canopies or awnings; and metal railings; have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON:

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

CONDITION 13:

Notwithstanding the submitted details, no above ground development shall commence until full details of the finish and appearance of the remaining elevations of Rugby Central Shopping Centre and Multi-Storey Car Park to the north-west of the site have been submitted to and approved in writing by the Local Planning Authority. These details shall include a detailed site plan, elevation plans, material plans plan for all external surfaces (together with samples and colours) and illustrative visualisations together with a programme specifying the timing for the implementation and completion of the works. The development shall not be carried out other than in accordance with the approved details and the programme for the implementation and completion of the works.

REASON:

In the interests of the vitality and viability of existing shops and the town centre. To ensure a satisfactory external appearance and in the interests of the visual amenities of the locality.

CONDITION 14:

No above ground development shall commence until a Shop Front and Advertisement Design Code for the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The Code shall set out parameters for: an appropriate design approach including general principles; palette of appropriate materials and colours; signage

type, lettering, form, style and location; lighting; blinds and canopies; and security measures. The Code shall be accompanied by illustrations of what is and isn't acceptable and shall set out how it will achieve a consistent, harmonious and high quality streetscene. The Code shall set out how restrictions, such as lease agreements or clauses in the title deeds, will be placed on the commercial units and future occupiers of the commercial units to ensure they must comply with the parameters set out within the Shop Front and Advertisement Design Code. No work or development on the shopfront of a commercial unit shall commence until full details of the shopfront, setting out how they comply with the Shop Front and Advertisement Design Code, have been submitted to and approved in writing by the Local Planning Authority. No work or development on the shopfront of a commercial unit shall be carried out other than in accordance with the approved details.

REASON:

in the interests of the visual amenities of the area.

CONDITION 15:

Notwithstanding the submitted details, no above ground development shall commence until full details of all areas of heatacing, including the space between the two blocks hereby approved, highway surfaces, footways, footpaths, verges and parking areas have been submitted to and approved in writing by the Local Planning Authority. The details shall include materials (together with samples where appropriate), construction, levels and drainage. The development shall not be used or occupied until all areas of hard surfacing have first been provided in accordance with the approved details.

REASON:

To ensure a satisfactory external appearance in the interests of visual amenity and in the interests of highway safety and traffic flows.

CONDITION 16:

No above ground development shall commence until full details of public rubbish bins, together with the display board, wayfinding/information board, anti-terror retractable bollards, anti-terror seating with rests, cast iron tree grille and guards, iron railings set within raised planting areas, sculpture, cycle stand and concrete and hardwood feature bench with back and armrests, as shown on the Hard Landscape Proposals - Rugby Central Plan (W2559-1001-D, 20-01-23), has first been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include floor and elevation plans, materials (together with samples where appropriate) and colour finishes. The development shall not be used or occupied until these items have first been provided in accordance with the approved details and shall subsequently be retained and maintained in perpetuity.

REASON:

In the interests of the visual amenity of the area, keeping the public safe, reducing crime and the fear of crime, improving and protecting health and wellbeing and highway safety.

CONDITION 17:

No above ground development shall commence until full details of the maintenance access areas (including any required railings), smoke shafts, ventilation and smoke extract, automatic roof vents (AOV), lift overrun, enclosure for buffer vessels, pumps and controls, outdoor units, hatch access, as shown on the Floor Plans - Proposed Roof (21524-0303-P-03, received 10-02-23), together with measures for acoustically treating any noise generating equipment, has first been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include floor and elevation plans, materials (together with samples where appropriate) and colour finishes. The development shall not be carried out other than in accordance with the approved details.

REASON:

In the interests of residential amenity and the visual amenity of the area.

CONDITION 18:

No above ground development shall commence until full details of the double stack cycle storage system to be used in the cycle storage rooms within block A and block B, as shown on the Floor Plans - Proposed Ground Floor (21524-0301-P-03, received 26-01-23), have first been submitted to and approved in writing by the Local Planning Authority. The details shall include technical floor and elevation plans of the storage system to be used, locking and security mechanism and upper rack fold down with gas-strut assist, together with evidence to demonstrate that this will achieve 106 cycle spaces within block A and 108 cycle spaces within block B. No dwelling within a block shall be occupied until the double stack cycle storage system, cycle store area, bins and bin storage area has first been provided in accordance with the approved double stack cycle storage system details, Floor Plans - Proposed Ground Floor (21524-0301-P-03, received 26-01-23), Refuse Strategy - Block A (21524-0320-P-03, received 26-01-23) and Refuse Strategy - Block B (21524-0321-P-03, received 26-01-23). The double stack cycle storage system and cycle store areas shall be permanently retained for the purpose of cycle parking by the occupiers of the dwellings and their visitors. The bins and bin storage areas shall be permanently retained for the purpose of refuse and recycling disposal and collection.

REASON:

In the interests of promoting active and sustainable transport measures, to ensure satisfactory bin storage and collection facilities are provided and to ensure the proper development of the site.

CONDITION 19:

No above ground development shall commence until full details of the DNO Substation, Sectional GRP Water, commercial bin storage areas, stepped and raised access platforms to the rear of unit 10, unit 11 and the comms room, as shown on the Floor Plans - Proposed Ground Floor (21524-0301-P-03, received 26-01-23), Refuse Strategy - Block A (21524-0320-P-03, received 26-01-23) and Refuse Strategy - Block B (21524-0321-P-03, received 26-01-23), have first been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include floor and elevation plans, materials (together with samples where appropriate) and level details of the structure (together with levels of the land adjacent to the structure). The development shall not be carried out other than in accordance with the approved details. No commercial unit shall be used or occupied until the bins and bin storage area for that unit have first been provided in accordance with the approved details, Refuse Strategy - Block A (21524-0320-P-03, received 26-01-23) and Refuse Strategy - Block B (21524-0321-P-03, received 26-01-23). The bins and bin storage areas for the commercial units shall be permanently retained for the purpose of refuse and recycling disposal and collection.

REASON:

In the interests of the visual amenity of the area, to ensure satisfactory bin storage and collection facilities are provided and to ensure the proper development of the site.

CONDITION 20:

No above ground development shall commence until an Energy Statement has been submitted to and approved in writing by the Local Planning Authority. The Energy Statement shall have regard to the Energy and Sustainability Statement (1032054-CDL-XX-XX-RP-SY-70220-P01, received 04-07-22) and Rugby Borough Council Climate Change and Sustainable Design and Construction SPD (January 2023). It shall include full details, supported by calculations, demonstrating what measures will be incorporated into the design of the buildings to reduce carbon emissions and deliver a reduction in the demand for energy. This shall

include full details of the measures to achieve a well-insulated envelope which is both airtight and thermal bridge free and high-performance glazing which provides a positive energy balance. It shall also include technical details of the air-source heat pumps and mechanical ventilation with heat recovery, together with floor and elevation plans, the number and position of these on the building, measures for acoustically treating the noise arising from them, and the location of any associated external servicing such as ducting, pipes, cabling, vents and louvres. Block A and Block B shall not be used or occupied until: the approved details and measures for that block have first been provided in accordance with the approved details; an independent verification report submitted by a suitably qualified independent surveyor (or equivalent) verifying and providing evidence that the approved details and measures for that block have been provided; and a post-construction certificate confirming that the commercial units within that block achieve a minimum very good BREEAM rating, has been submitted to and approved in writing by the Local Planning Authority.

REASON:

To reduce carbon emissions and energy demands. In the interests of air quality, residential amenity and the visual amenities of the area.

CONDITION 21:

No above ground development shall commence until a Resource Management Plan (RMP) and Sustainable Procurement Plan (SPP) has been submitted to and approved in writing by the Local Planning Authority. The RMP and SPP shall have regard to the Energy and Sustainability Statement (1032054-CDL-XX-XX-RP-SY-70220-P01, received 04-07-22) and Rugby Borough Council Climate Change and Sustainable Design and Construction SPD (January 2023). The RMP shall set targets for resource efficiency and procedures for waste management and recycling. The SPP shall set out measures to ensure materials are procured in a responsible and sustainable manner, including the use of certification schemes such as ISO14001 and BES 6001. The development shall not be implemented other than in accordance with the approved RMP and SPP.

REASON:

To reduce carbon emissions and energy demands.

CONDITION 22:

No above ground development shall commence until full details of all boundary treatments, including any walls, retaining walls, fences, railings, service yard gates, have been submitted to and approved in writing by the Local Planning Authority. The details shall include elevation plans, position, materials, appearance and height. The development shall not be carried out other than in accordance with the approved details. Block A and Block B shall not be used or occupied until any boundary treatment associated with that block has first been provided in accordance with the approved details.

REASON:

In the interest of visual amenities.

CONDITION 23:

The development hereby approved shall not be occupied and used until full details of the location or removal of the two existing green cabinets, two existing post boxes and existing refuse bin on North Street in front of Block A have been submitted to and approved in writing by the Local Planning Authority. Block A shall not be used or occupied until the cabinets, post boxes and refuse bin have been located or removed in accordance with the approved details.

REASON:

In the interest of visual amenities.

CONDITION 24:

The development hereby approved shall not be occupied and used until a Waste Management Strategy (WMS) has been submitted to and approved in writing by the Local Planning Authority. The WMS shall have regard to the Waste Strategy Design Note (21524, received 18-07-22) and shall clearly set out arrangements for the collection of residential and commercial waste including the frequency of collections, company responsible and access arrangements to the residential refuse stores. No apartment or commercial unit shall be occupied until the WMS has been established and brought into operation in accordance with the approved details. The WMS shall thereafter be operated in accordance with the approved details in perpetuity.

REASON:

To ensure satisfactory bin storage and collection facilities are provided and to ensure the proper development of the site.

CONDITION 25:

The development hereby approved shall not be occupied and used until a Roof Garden Management and Implementation Plan (RGMIP) has been submitted to and approved in writing by the Local Planning Authority. The RGMIP shall identify the exact areas to which it relates on a layout plan and floor plan. It shall include details of a long-term management plan of no less than 30 years, the body/organisation responsible for the implementation of the plan together with relevant legal and funding mechanisms, details and timings of maintenance, provisions for ongoing monitoring and remedial measures. The approved RGMIP and associated details shall be implemented in full.

REASON:

To ensure the proper development and operation of the site, in the interests of the visual amenities of the area and to protect the residential amenity of future occupiers.

CONDITION 26:

The residential apartments hereby approved shall not be occupied until a detailed Residential Travel Plan (RTP) has been submitted to and approved in writing by the Local Planning Authority. The RTP shall have regard to the Framework Travel Plan (received 04-07-2022) and shall include details of measures to promote the use of sustainable transport choices to and from the development hereby approved. No dwelling shall be occupied until the RTP and approved measures have been implemented in full. The RTP and approved measures shall thereafter be implemented in full at all times in perpetuity.

REASON:

In the interests of highway safety, traffic flows, reducing demand for car parking provision, reducing vehicular emissions, improving air quality and promoting the use of sustainable transport.

CONDITION 27:

The commercial units hereby approved shall not be occupied and used until a detailed Commercial Travel Plan (CTP) has been submitted to and approved in writing by the Local Planning Authority. The CTP shall relate to the commercial units to be used for purposes falling within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Sui Generis Use Class (Bar or Public House). The CTP shall have regard to the Framework Travel Plan (received 04-07-2022) and shall include details of measures to promote the use of sustainable transport choices to and from the development hereby approved for all staff and users. No commercial unit shall be occupied and used until the CTP and approved measures have been implemented in full. The CTP and approved measures shall thereafter be implemented in full at all times in perpetuity.

REASON:

In the interests of highway safety, traffic flows, reducing demand for car parking provision, reducing vehicular emissions, improving air quality and promoting the use of sustainable transport.

CONDITION 28:

The development hereby approved shall be constructed and carried out in accordance with the approved Flood Risk Assessment and Below Ground Drainage Strategy (RBC-CDL-XX-XX-RP-C-10250-P03, received 06-09-22) and Flood Risk Assessment - Email Note (N/A, received 16-08-22). The development and associated flood risk and drainage scheme shall limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus 40% for climate change) critical rain storm to 5l/s.

The development shall not be occupied and used until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment and Below Ground Drainage Strategy (RBC-CDL-XX-XX-RP-C-10250-P03, received 06-09-22) and Flood Risk Assessment - Email Note (N/A, received 16-08-22) has been submitted to and approved in writing by the Local Planning Authority. The Verification Report shall be carried out and submitted by a suitably qualified independent drainage engineer and shall include:

- (a) Demonstration that any departure from the agreed design is in keeping with the approved principles;
- (b) Any As-Built Drawings and accompanying photos;
- (c) Results of any performance testing undertaken as a part of the application process (if required/necessary);
- (d) Copies of any Statutory Approvals (such as Land Drainage Consent for Discharges); and
- (e) Confirmation that the system is free from defects, damage and foreign objects.

REASON:

To prevent an increased risk of flooding and ensure that the development is provided with a satisfactory means of drainage.

CONDITION 29:

The development hereby approved shall not be occupied and used until full details of a site-specific maintenance plan for the flood risk and drainage scheme for the application site has been submitted to and approved in writing by the Local Planning Authority. The maintenance plan shall include: (i) the name of the party responsible for maintenance together with a contact name, address, email address and phone number; (ii) plans showing the locations of features requiring maintenance and how these should be accessed; and (iii) details on how each surface water feature shall be maintained and managed for the lifetime of the development. The maintenance plan shall be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance. The flood risk and drainage scheme shall thereafter be operated, managed and maintained in accordance with the approved maintenance plan in perpetuity.

REASON:

To prevent an increased risk of flooding by ensuring that the surface water drainage features are maintained in perpetuity.

CONDITION 30:

No commercial unit in Block A shall be occupied until space has been provided within the site for the manoeuvring and loading/unloading of vehicles in accordance with the Refuse Strategy - Block A (21524-0320-P-04, received 23-02-23). No commercial unit in Block B shall be occupied until space has been provided within the site for the manoeuvring and

loading/unloading of vehicles in accordance with the Refuse Strategy - Block B (21524-0321-P-04, received 23-02-23).

REASON:

In the interests of highway safety and traffic flows.

CONDITION 31:

No commercial unit to the ground floor of the development to be used within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Sui Generis Use Class (Bar or Public House) shall be occupied until a Further Detailed Noise Assessment and Noise Attenuation Scheme for that unit has been submitted to and approved in writing by the Local Planning Authority. The assessment and scheme shall have regard to the Noise Report (RBC-CDL-XX-XX-RP-AS-45200-P02, received 04-07-22) and shall particularly demonstrate consideration of section 8.0 relating to the associated impact from ground floor commercial operations. As a minimum they should show mitigation measures to achieve a minimum airborne attenuation performance of 60 dB DnT,w for the dividing elements between residential and non-residential areas. The assessment and scheme shall assess the predicted noise levels that could adversely affect noise sensitive receptors and consider nearby commercial receptors. They shall have regard to noise from any new air handling or extraction plant, patrons and music. The assessment and scheme shall also detail any outdoor seating areas associated with the commercial unit, including the location, number of chairs and tables, hours and days of use and how these areas will be managed. They shall further demonstrate regard to BS8233:2014, BS4142:2014+A1: 2019, the World Health Organisation (WHO) "Guidelines for Community Noise and the ProPG: Planning and Noise Guidance May 2017. The assessment and scheme shall include recommendations for any necessary acoustic mitigation works, to protect the residents both inside their dwellings and the external amenity spaces. They shall also set out a commitment to ensure tenancy agreements incorporate a clause that potential operators assess and provide a suitable scheme of noise mitigation measures such that residential areas are not adversely affected prior to using a commercial unit. No commercial unit shall be occupied until the approved noise attenuation scheme, and mitigation measures for noise attenuation, have been implemented in full for that commercial unit. The approved noise attenuation scheme, and mitigation measures for noise attenuation, shall subsequently be maintained in perpetuity.

REASON:

To protect the residential amenity of future occupiers and in in the interests of the visual amenities of the area.

CONDITION 32:

No works to remove the North Street Stand G bus stop and shelter shall commence until full details of the removal of the North Street Stand G bus stop and shelter, the consolidation of the existing bus services to North Street Stand G into an existing bus stop and shelter, the relocation of the existing bus shelter (if required by the Highway Authority) or provision of a new bus shelter at an existing stop (if required by the Highway Authority), and the creation of a loading bay adjacent to the site frontage, have been submitted to and approved in writing by the Local Planning Authority. The details shall include full layout plans clearly showing the proposed changes and how these would be demarcated on the ground together with any on-street signage. Any works to remove the North Street Stand G bus stop and shelter shall only be carried out in accordance with the approved details.

REASON:

In the interests of improving the public realm and visual amenities of the area, reducing street clutter, traffic flows and highway safety.

CONDITION 33:

No dwelling within a block hereby approved shall be occupied until the roof garden for that block has first been provided, laid out and made accessible for all residents of that block in accordance with the Hard Landscape Proposals - Roof Garden W2559-1003-C, received 20-01-23). The roof garden shall thereafter remain free and accessible at all times without restriction for all occupiers of that block and their guests in perpetuity.

REASON:

To protect the residential amenity of future occupiers and in the interests of the visual amenities of the area.

CONDITION 34:

No dwelling hereby approved shall be occupied until a sustainable travel pack has first been provided within that dwelling for the occupiers.

REASON:

In the interests of promoting sustainable transport measures, traffic flows, air quality and reducing carbon emissions.

CONDITION 35:

The buildings hereby approved shall not be used or occupied until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be used or occupied until the approved scheme has first been provided in accordance with the approved details.

REASON:

In the interests of fire safety.

CONDITION 36:

No commercial unit to the ground floor of the development shall be occupied until a Commercial Unit Use Class Plan has been submitted to and approved in writing by the Local Planning Authority. The Commercial Unit Use Class Plan shall clearly identify which commercial units will be used for purposes falling within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Sui Generis Use Class (Bar or Public House).

REASON:

To protect residential amenity and the vitality and viability of the town centre.

CONDITION 37:

No commercial unit to the ground floor of the development shall be occupied until a Litter Management Scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the regularity of litter picking, existing and proposed bin provision and associated signage. The approved scheme shall be complied with thereafter in perpetuity.

REASON

In the interests of the general amenity of the area.

CONDITION 38:

The on-site measures relating to air quality to meet the mitigation requirements of policy HS5 as detailed in the supporting statement titled Air Quality Assessment (RBC-CDL-XX-XX-RP-AQ-40201-P02, received 04-07-22) shall be implemented prior to the buildings hereby

approved being occupied and used and shall thereafter be maintained in perpetuity. This shall include all heating, cooling and hot water being provided by electricity only.

REASON:

In the interests of air quality.

CONDITION 39:

Prior to the first occupation of each dwelling, broadband infrastructure at a minimum of superfast speed, shall be provided to that dwelling to allow broadband services to be provided.

REASON:

To provide broadband connectivity for future occupiers.

CONDITION 40:

The dwellings hereby approved shall incorporate measures to limit water use to no more than 110 litres per person per day within the home in accordance with the optional standard 36 (2b) of Approved Document G of the Building Regulations 2010 (as amended).

REASON:

In the interests of sustainability and water efficiency.

CONDITION 41:

The Rugby Central soft landscaping scheme, as detailed on the hereby approved Landscape Plan - Soft Landscape Proposals - Rugby Central (W2559-1002-D, received 20-01-23), shall be implemented no later than the first planting season following first occupation of the development.

The Roof Garden soft landscaping scheme for the Roof Garden North (Block B), as detailed on the hereby approved Landscape Plan - Soft Landscape Proposals - Roof Garden (W2559-1004-C, received 20-01-23), shall be implemented no later than the first planting season following the first occupation of a dwelling within Block B.

The Roof Garden soft landscaping scheme for the Roof Garden South (Block A), as detailed on the hereby approved Landscape Plan - Soft Landscape Proposals - Roof Garden (W2559-1004-C, received 20-01-23), shall be implemented no later than the first planting season following the first occupation of a dwelling within Block A.

If within a period of 10 years from the date of planting, any tree/shrub/hedgerow is removed, uprooted, destroyed or dies, (or becomes in the opinion of the Local Planning Authority seriously damaged or defective), another tree/shrub/hedgerow of the same species and size originally planted shall be planted at the same place.

REASON:

To ensure the proper development of the site and in the interest of visual amenity and residential amenity of future occupiers. To protect and enhance biodiversity.

CONDITION 42:

If the development hereby approved (including demolition) has not commenced by 30th April 2024, a further bat survey of the site shall be submitted to and approved in writing by the Local Planning Authority. The bat survey shall include appropriate activity surveys and must be carried out in accordance with BCT Bat Surveys for Professional Ecologists – Good Practice Guidelines. It shall also include a detailed mitigation plan including a schedule of works and timings. The mitigation plan shall thereafter be implemented in full in accordance with the approved details.

REASON:

To ensure that protected species are not harmed by the development.

CONDITION 43:

Full details of any refrigeration or airhandling plant, flues or other equipment to be located externally to the building, to include proposed measures for acoustically treating such equipment, shall be submitted to and approved in writing by the Local Planning Authority prior to such plant being installed. Equipment shall then be installed in accordance with the approved details.

REASON:

In the interests of the residential amenity and visual amenities of the area.

CONDITION 44:

No deliveries and servicing to the commercial units in the ground floor of the development to be used within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Sui Generis Use Class (Bar or Public House) shall take place between 22:00-06:00 on any day.

REASON:

To protect the residential amenity of future occupiers and in the interests of the visual amenities of the area.

CONDITION 45:

No catering equipment shall be installed within any commercial unit to the ground floor of the development (falling within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Sui Generis Use Class (Bar or Public House)) other than that which has been detailed in a Scheme of Works for Odour Control (SWOC) which shall have first been submitted to and approved in writing by the Local Planning Authority. The SWOC shall assess the need for odour and fume control equipment and have regard to the EMAQ guidance on Control of Odour and Noise from Commercial Kitchen Exhaust Systems or similar documents. The SWOC shall also detail the design of any necessary odour and fume control equipment serving the kitchen extraction system. Any catering equipment provided in accordance with the approved SWOC shall thereafter be maintained in perpetuity.

REASON:

To prevent the emission of fumes which would be detrimental to the amenity of the area and in the interests of the amenity of neighbouring properties.

CONDITION 46:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any order revoking or re-enacting that order, no wall, fence, gate or other means of enclosure shall be erected, constructed or placed on land in front of the commercial units without the prior written permission of the Local Planning Authority.

REASON:

In the interest of visual amenity, heritage, residential amenity, traffic flows and highway safety.

CONDITION 47:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any order revoking or re-enacting those orders, no development shall be carried out which comes within Class AA of Schedule 2 Part 20 of the Order without the prior written permission of the Local Planning Authority.

REASON:

In the interest of visual amenity, heritage, residential amenity, traffic flows and highway safety.

INFORMATIVES

INFORMATIVE 1:

This development is subject to a S106 legal agreement.

INFORMATIVE 2:

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions.

Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

INFORMATIVE 3:

Warwickshire Fire and Rescue Authority has advised that the applicant/developer needs to ensure the development complies with Approved Document B, Requirement 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. Where compliance cannot be met the applicant/developer is asked to provide details of alternative measures they intend to put in place.

Warwickshire Fire and Rescue Authority also ask the applicant/developer to 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.

Warwickshire Fire and Rescue Authority ask you to consider and ensure that access to the site, during construction and once completed, are maintained free from obstructions such as parked vehicles, to allow Emergency Service vehicle access.

Should you require clarification of any of the foregoing or any further Fire Safety advice please do not hesitate to contact Gabriella Ahnger from Warwickshire Fire and Rescue Authority.

INFORMATIVE 4:

Warwickshire Police has advised that the applicant should adopt the principles of Secured by Design - Homes and Secured by Design – Commercial Developments for this development. Security requirements for dwellings are set out in Part Q of Schedule 1 to the Building Regulations. Warwickshire Police further recommend that all doors should meet PAS 24:2016 standard and are third party certified (such as by companies that achieve ‘secured by design’ accreditation). It is also recommended that laminated glazing to achieve blast protection is used for all ground level glazing where it is in close proximity with the road. In addition, it is

recommended that the current town centre CCTV should be extended to cover the proposed new build and especially the public realm area.

Warwickshire Police advises that building sites, and in particular site offices and storage areas, are becoming common targets for crimes such as theft of plant and fuel. These sites should be made as secure as possible. All plant and machinery should be stored in a secure area. Tools and equipment should be marked in such a way that they are easily identifiable to the company. Consideration should be given to the use of security patrols. Developers are now requested to inform the local Safer Neighbourhood Policing Team, which covers the area of the development that they have arrived on site and provide contact numbers of the site manager for us in the case of an emergency. A grid reference for the site should be provided. This will help to reduce the possibilities of a delayed response.

INFORMATIVE 5:

WCC Ecology advise that lighting can have a harmful effect on bats impacting on their use of a roost and also their commuting routes and foraging areas. Light falling on a roost access point is likely to delay bats from emerging, which can be especially damaging around dusk as that is when there is a peak in the number of insects. In the worst-case scenario, it can cause the bats to desert the roost. Bats and roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). Bats, birds and other nocturnal animals should always be considered when lighting is being considered. It is respectfully advised that lighting is kept to a minimum around the roof area and is limited to illuminating the ground and not any possible access points or foraging corridor. For further advice on this please contact the WCC Ecological Services on 01926 418060.

INFORMATIVE 6:

RBC Environmental Health advise that prior to any demolition, redevelopment or refurbishment works taking place, an appropriate Asbestos Survey should be undertaken by an asbestos licensed/authorised company/person and any recommendations implemented. For pre-demolition assessment the asbestos survey is fully intrusive and will involve a destructive inspection, as necessary, to gain access to all areas. Where presence of asbestos is suspected the Health and Safety Executive (HSE) and Environment Agency must be notified and special waste regulations complied with; asbestos removal activities fall under the remit of the HSE.

INFORMATIVE 7:

RBC Environmental Health advise that the development hereby approved is located within the town centre area. Those working and living at the development will therefore be subject to reasonable disturbance from noise, dust, odour, vibration and light associated with existing town centre activities, including that from patrons, pedestrians and vehicles. Such activities may extend throughout the day and night time period.

INFORMATIVE 8:

RBC Environmental Health advise that this development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations and Council's Standards of Amenity. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

INFORMATIVE 17:

The applicant, developer and future occupiers are advised that separate advertisement consent may be required from the Local Planning Authority for any proposed signage. All signage shall be in accordance with the Shop Front and Advertisement Design Code required by condition 14.

INFORMATIVE 18:

WCC Highways has advised that the application includes proposals for a loading bay that requires works to be carried out within the limits of the public highway. The applicant/developer must enter into a Minor Highway Works Agreement made under the provisions of Section 278 of the Highways Act 1980 for the purposes of completing the works.

In terms of design guidance this is carried out in conjunction with the County Road Construction Strategy 2022 on our website as referred to on the opening page. Please see below link: <https://api.warwickshire.gov.uk/documents/WCCC-770-261>

The applicant/developer should note that any drawings of works to be carried out within the limits of the public highway which may be approved by the grant of this planning permission should not be construed as drawings approved by the Highway Authority.

An application to enter into a Section 278 Highway Works Agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall Post Room, Warwick, CV34 4SX or by email to: s38admin@warwickshire.gov.uk

In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution.

Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP or by email to: streetworks@warwickshire.gov.uk For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.

INFORMATIVE 19:

To register the property and receive a postal address please complete an application form for Postal Naming and Numbering. This should be done prior to above ground works commencing. The form can be downloaded at: http://www.rugby.gov.uk/site/scripts/documents_info.php?documentID=223&categoryID=200295.

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.

Reference: R21/0985

Site Address: LAND AT PADGE HALL FARM, WATLING STREET, BURBAGE

Description: Hybrid planning application comprising: Outline application (all matters reserved except for site access from the A5) for the demolition of existing structures and the erection of distribution and industrial buildings (Use Class B2 and B8) including ancillary offices and associated earthworks, infrastructure and landscaping, and highways improvements at Dodwells roundabout; a Full application for the development of a distribution building (Use Class B8), including ancillary offices with associated access, hard standing, parking, and on plot landscaping. The proposals include improvements to the existing railway bridge on the A5 Watling Street including increased height clearance. This is a cross boundary application with Hinckley and Bosworth Borough Council and Nuneaton and Bedworth Borough Council (EIA development).

Recommendation

1. Planning application R21/0985 be approved subject to:
 - a. the conditions and informatives set out in the draft decision notice appended to this report; and
 - b. the completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.
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
3. The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman or Vice Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

1. Introduction

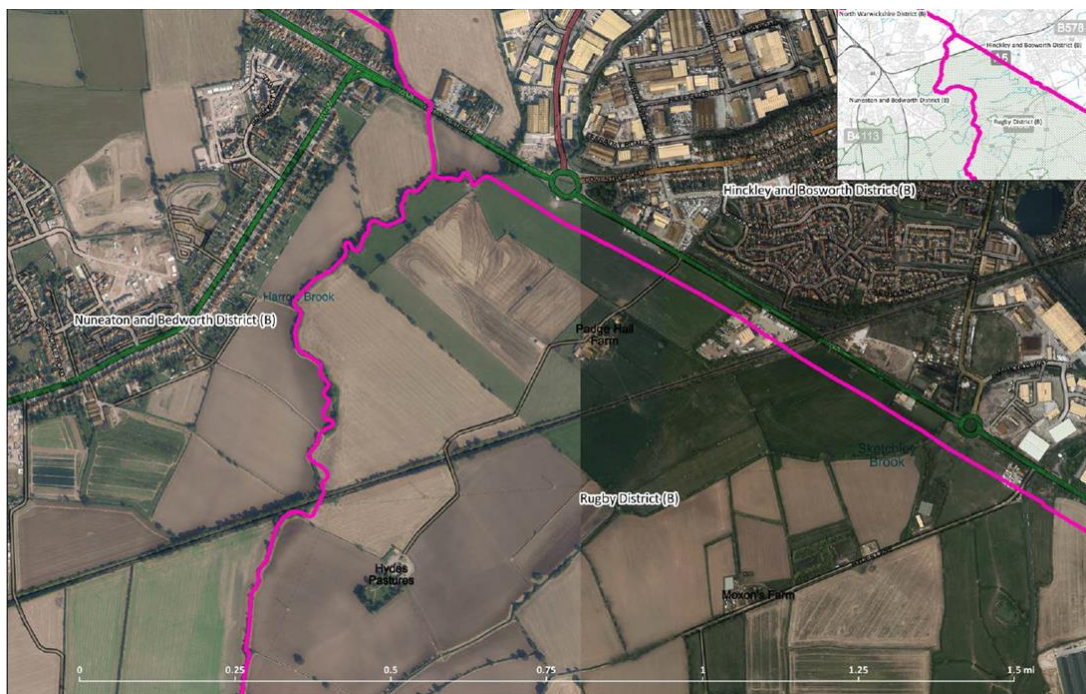
- 1.1. This application is being reported to Planning Committee in accordance with the Scheme of Delegation as the application constitutes major development and it is a departure from the development plan.
- 1.2. This application was reported to Planning Committee on 24 November 2022 and was subsequently deferred in order to resolve the highways issues. Since then, additional information has been submitted in relation to the previous two reasons for refusal. This information has been reviewed by National Highways, Leicestershire County Council and

Warwickshire County Council. There are now no highways objections to the application. This committee report supersedes the previous committee report as it is based on the most up to date assessment of the application.

- 1.3. The development proposed is considered to be an Environmental Impact Assessment (EIA) development and as such, in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 is accompanied by an Environmental Statement (ES). The ES provides an overview of the environmental impact of the proposals with a summary of mitigation measures proposed and contains a methodology for assessing the significance of the environmental effects and the cumulative impact. A series of technical papers consider the range of environmental factors.

2. Application Proposal

- 2.1. The application, which is submitted for consideration, is a hybrid proposal; this is where an applicant seeks outline planning permission for one part and full planning permission for another part of the same site. This is a cross boundary application with Hinckley and Bosworth Borough Council (HBBC) and Nuneaton and Bedworth Borough Council (NBBC).
- 2.2. HBBC and NBBC have not resolved to determine their elements of the application yet and although RBC cannot grant planning permission for the parts of the scheme in HBBC and NBBC, they are a material consideration.
- 2.3. The plan overleaf identifies the appropriate Borough boundaries for each Local Authority adjoining the application site. It is important to note that the Local Plan policies only apply to the area of the site within Rugby Borough Council's administrative area however the whole planning application is a material planning consideration.



Outline Planning Permission

- 2.4. The outline permission sought is for the demolition of existing structures and the erection of distribution and industrial buildings falling within Use Class B2 and B8 including ancillary offices and associated earthworks, infrastructure and landscaping. The main considerations in this application are the principle of development and access to be taken from the A5. With layout, landscaping, scale and appearance all being reserved matters to be considered in detail at a later stage.

Full Planning Permission

- 2.5. Full planning permission is being sought for the development of a distribution building within Use Class B8, including ancillary offices with associated access, hard standing, parking, earthworks and landscaping. The proposals also include improvements to increase the height clearance of the existing railway bridge on the A5 Watling Street by lowering the road under the bridge.

Unit 1 – Global Logistics Company

- 2.6. Unit 1 would be sited to the south of the application site and would be located at least 200 metres away from Watling Street (A5). The proposal would have a maximum height of 18 metres with a height of 16.5 metres to the top of the parapet and an internal floor space of 55,740 square metres. The proposal is required for a global logistics company, who specialise in the design and operation of supply chain solutions for automotive and technology customers.
- 2.7. The requirements of the logistics company has informed the size and proportions of the warehouse unit, office space, depth and general arrangement of operational service yard, the quantum and displacement of access doors along the two primary cross docked elevations and the provision of car, motorcycle and bicycle parking and other essential support functions.

3. Site and Surrounding Area

- 3.1. The application site is located on the south-western edge of Hinckley, adjoining and immediately to the south-west of the A5. The southern boundary of the site is defined by the Birmingham-Leicester Rail Line. To the west of the application site lies the urban area of Nuneaton and includes the A47 which connects through to the A5 to the north of the site. The site is surrounded by agricultural fields to the west and Harrow Brook extends through the site on the northern and western sides of the site. The vast majority of the application site is situated within the jurisdiction of Rugby Borough Council and a minor part is within the West Midlands Green Belt.
- 3.2. The land is gently sloping, with the vast majority of the site falling from south-east to north-west, with a very gentle fall in land from the farm towards the eastern corner of the site. The context of the site includes industrial and commercial development immediately beyond the A5 and the north-eastern boundary of the site.

4. Relevant Planning History

- 4.1. Whilst there is an extensive planning history on this site none of this directly relates to this application.

5. Responses to the application

Technical Responses

Objections were previously received from Warwickshire County Council (Highways) and Leicestershire County Council (Highways) but in light of the additional information received these consultees now have no objections subject to conditions and obligations.

No objections, some subject to conditions/obligations, have been received from:

- Warwickshire County Council (Flood Risk Management)
- Warwickshire County Council (Public Rights of Way) – reconfirmed in light of additional information received
- Warwickshire County Council (Infrastructure)
- Warwickshire County Council (Archaeology)
- Warwickshire County Council (Ecology)
- Rugby Borough Council (Environmental Services)
- Rugby Borough Council (Arboriculture Officer)
- Warwickshire Fire and Rescue
- The Ramblers Association
- Agricultural Consultant
- Environment Agency
- Warwickshire Police
- Seven Trent Water
- Historic England
- Natural England
- Network Rail
- Cadent Gas
- Health and Safety Executive (HSE)
- National highways – reconfirmed in light of additional information received
- Hinckley and Bosworth Borough Council

No comments have been received from:

- Rugby Borough Council (Work Services)
- Nuneaton and Bedworth Borough Council
- Warwickshire Wildlife Trust
- Planning Casework Unit
- CPRE

Third Party Responses

Neighbours notified and a site and press notice has been displayed with five letters of support being received raising the following:

1. The new building is required to facilitate the increasing demand from the automotive and technology sectors both in the UK and globally;
2. A two-year search has been carried out and there are no sites within Hinckley which meet the requirements with a shortage of logistics development sites across the midlands area;

3. They are aware of other sites within Northampton and Coventry but these would create significant disruption of the business;
4. Relocating to this location would see the existing workforce retained which is drawn from Warwickshire and Leicestershire communities;
5. The proposal would create approximately 2,500 direct and indirect jobs in addition to the existing facility and operation remaining open;
6. The application would provide new premises in a desirable location with a constrained supply of logistics floorspace being available locally;
7. Covering 136,350 square metres of employment space in an extremely strategic location this responds directly to changing needs and will create and safeguard 2,500 local jobs;
8. The plans retain an existing occupier based in Hinckley and without the development will risk losing the business to the local area as investment moves to alternative locations;
9. Employees to this site travel across the area and the development would support them to maintain and grow the workforce;
10. The new facility needs to be operational in 2023 with no emerging sites within the area capable of delivering these timing from a planning or infrastructure perspective;
11. The development will be a net zero carbon development; and
12. The lowering of the A5 carriageway will prevent well known issues with the Watling Street rail bridge making the route significantly safer.

Neighbours notified and a site and press notice has been displayed with two letters of objection from one address being received raising the following:

1. This is an unsuitable location for the development as the A5 down to Dodwells roundabout is already highly congested and this will increase the traffic problems; and
2. An additional set of traffic lights and two Tuscan crossings in close proximity will not improve the situation as increased traffic flow will cause longer tailbacks.

One email has also been received detailing a number of observations in relation to the proposed development: These observations are as follows:

Visual Impact

1. The elevational details of the warehouse units need to be sympathetic to the surrounding area;
2. The buildings should not include colour banding or corporate colours on the cladding, no logos, signage of any sort or external lighting to the rear elevations facing the properties;
3. As an outline proposal the maximum build heights need to be known;
4. The tree line of Harrow Brook which is visible from the Long Shoot has large gaps within resulting in the development having a visual impact including external lighting pollution at night;
5. New tree planting and landscaping should be appropriate for the area and provide continuous screening all year round.
6. No development should take place, with the exception from tree planting and habitats, on the Long Shoot side of Harrow Brook.

Site Drainage and Surface Water run-off (Flooding)

1. Whilst located within Flood Zone 1 and the lowest category of flood-risk the fields do experience water run off during particular times of the year which is having an impact on the gardens within the Long Shoot;
2. The focus appears to be on the flooding towards the A5 and the Railway Bridge, however, residents are concerned as to any impacts flooding, on land directly behind properties, that impacts then on our garden; and
3. Highways should be dealing with the road flooding issues.

Traffic and Transport

1. The proposal focuses on the improvement to the A5 with the works to increase the height under the bridge which is a positive aspect of the proposals, but should not take a development to have to pay and undertake these works;
2. What impacts will there be on more local traffic flow; particularly HGV movements, along Eastboro Way and The Long Shoot, with additional vehicles servicing the application site. Lower vehicle emissions are mentioned but this will not be the case for increased movements on local roads. An idea of numbers / figures are needed here rather than just saying it will be looked at in the modelling;
3. Warwickshire County Council are proposing a cycle way along The Long Shoot, which would reduce speed limits from 40 MPH to 30 MPH and reduce carriageway width to allow for cyclists. Has this been considered as part of the proposal;
4. Will the junction off Dodwells Island ever be used to access the site, the latest plan shows it greyed out, what does this mean for the future.

Ecology

1. The development would lose a significant amount of countryside and Green Belt the development should go above and beyond minimum stands to reduce the environmental impact;
2. The Community Green Space should play a major part in this but not be the only part of the solution;
3. The right tree species, vegetation and habitats should be included as part of additional planting and be in keeping with what is already in the area.
4. What will happen to local wildlife species encountered on the land to be developed?

External Lighting

1. Night time pollution from external lighting should not expose residents to direct glare or darkness pollution from the external lighting scheme with no lighting to the rear of the units seen from the Long Shoot. We have upstairs bedrooms that face outwards towards the proposed development – we would not wish the external lighting to cause problems with this in terms of light pollution.
2. A detailed external lighting design and illumination scheme should be submitted for each plot.
3. The layout of the buildings on the Masterplan helps to reduce impacts by having lorry yards facing inwards and away from residential dwellings this should be maintained and improved.

Noise and Air

1. There should be no impact from noise issues and air quality issues on local residents from the proposed development.
2. Concerns over the use of reversing beepers during the operation of the site and whether they would be restricted in the evening and during night-time hours.
3. What are the current noise levels of Syncreon to mark as a benchmark for the proposed location.

Sustainability

1. The development should look at achieving high sustainability and environmental credentials on the basis that it is destroying large areas of natural countryside in our green belt.
2. BREEAM 'Very Good' accreditation is mentioned within the application but should be aiming for BREEAM 'Excellent' as a minimum.
3. Net zero carbon buildings should be considered in terms of embodied carbon during the build and materials selection stages and also the operational energy of the buildings.
4. Provision of solar panels and details of location extent and electricity generated should be known.
5. Other sustainability measures should be considered as part of the development.
6. Electric vehicle charging provisions should be provided for both Tenants and Public to use.
7. Community Green Space should be something special and not a token gesture that gets left to rack and ruin it should be special allowing for ecology and nature to re-establish.

No comments have been received from:

- Stretton Baskerville Parish Council

Highways re-consultation

Since the deferment of the application a full 21 day re-consultation was carried out in relation to the additional highways information submitted. 6 additional letters of objection were received in relation to:

- Increased volume of traffic
- Pollution and noise
- Detrimental impact to the countryside
- Wildlife conservation
- Loss of visual amenity
- Highway safety
- Flood risk
- 24 hour disturbance
- Coalescence of Hinckley and Nuneaton
- Additional pressure onto the A5
- Loss of farmland
- Health impacts on children and adults in relation to air pollution
- Transport infrastructure cannot support existing traffic volume
- Buffer to Nuneaton should be maintained not built upon

6. Relevant Planning Policies and Guidance

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.

Local Plan Policies – 2011 – 2031

Policy GP1: Securing Sustainable Development
Policy GP2: Settlement Hierarchy
Policy DS1: Overall Development Needs
Policy ED3: Employment Development outside Rugby Urban Area
Policy HS2: Health Impact Assessments
Policy HS5: Traffic Generation, Air Quality, Noise and Vibration
Policy NE1: Protecting Designated Biodiversity and Geodiversity Assets
Policy NE3: Landscape Protection and Enhancement
Policy SDC1: Sustainable Design
Policy SDC2: Landscaping
Policy SDC3: Protecting and Enhancing the Historic Environment
Policy SDC4: Sustainable Buildings
Policy SDC5: Flood Risk Management
Policy SDC6: Sustainable Drainage
Policy SDC7: Protection of the Water Environment and Water Supply
Policy SDC9: Broadband and Mobile Internet
Policy D1: Transport
Policy D2: Parking Facilities
Policy D3: Infrastructure and Implementation
Policy D4: Planning Obligations

National Planning Policy Framework – 2021

Section 2: Achieving Sustainable Development
Section 6: Building a Strong, Competitive Economy
Section 8: Promoting a Healthy and Safe Communities
Section 9: Promoting Sustainable Transport
Section 11: Making Effective Use of Land
Section 12: Achieving Well Designed Places
Section 15: Conserving and Enhancing the Natural Environment
Section 16: Conserving and Enhancing the Historic Environment

Supplementary Planning Documents and other

Planning Obligations SPD – 2012
Sustainable Design and Construction SPD – 2012
Air Quality SPD – 2021
Employment Land Study – 2015
Housing and Economic Needs and Distribution Assessment – 2022

7. Assessment of proposals

The main considerations in respect of this application are as follows:

- Principle of Development;
- Green Belt
- Land Designation and Use
- Character and Design
- Landscape and Visual Impact
- Impact on Residential Amenity
- Pollution
- Impact upon the Highway
- Flooding;
- Trees and Hedgerows
- Ecology
- Archaeology
- Heritage
- Other Matters
- Planning Obligations

8. Principle of Development

- 8.1. Paragraph 2 of the National Planning Policy Framework (NPPF) (2021) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms 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.
- 8.2. Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved unless other material considerations indicate otherwise.
- 8.3. Policy GP2 of the Local Plan states that development will be allocated and supported in accordance with the settlement hierarchy whereas Policy GP1 of the Local Plan states that the Council will take a positive approach that reflects the presumption in favour of sustainable development.
- 8.4. The application site is located within the countryside as defined in Policy GP2 of the Local Plan. As such new development will be resisted and only where national policy on countryside locations allows will development be permitted.
Proposed Location
- 8.5. In this case the application site is located within the countryside, which sets out a clear sequential approach to the selection of sustainable development, specifically related to Rugby Town. As such the site is considered to be an unsustainable location which would result in a heavy reliance on the private car for residents of Rugby to access the employment opportunities, services and facilities from the neighbouring settlements.

- 8.6. It is acknowledged that the site is situated adjacent to the settlement boundaries of both Hinckley and Nuneaton which are considered to be highly sustainable locations in their administrative areas as Market Towns. Paragraph 3.16 of the Local Plan states that ‘The administrative boundary of Rugby Borough sits very close to urban area such as Bedworth, Nuneaton, Hinckley [...] development within the Borough that is related to these urban area or sites remains contrary to the spatial strategy set out in the Plan to focus development at Rugby and the /main Rural Settlements.’ However, this paragraph then also goes on to state that ‘any such proposal would be judged on its own merits in consultation with the relevant neighbouring Local Planning Authority, taking account of other policies of this plan and national planning policy.’
- 8.7. Paragraph 3.14 of the Local Plan also states that “Countryside locations are those which are not defined by a settlement boundary and are therefore generally unsuitable for development... only where national policy on countryside locations allows will development be permitted.”
- 8.8. A small element of the site is within the Green Belt however this will be assessed in a separate section of this report.
- 8.9. Policy ED3 of the Local Plan states that with the exception of sites allocated for employment, employment development will not be permitted outside of the Rugby urban area except for in the following circumstances:
- Conversion of a building for employment purposes, subject to its location and character, including historic or architectural merit, being suitable for the proposed use and it having been in existence for at least ten years; or
 - Redevelopment, at a similar scale, of an existing building or vacant part of an existing employment site for employment purposes, where this would result in a more effective use of the site; or
 - Sustainable expansion of an existing group of buildings for business uses where the site is readily and regularly accessible by means of transport than the private car; or
 - A building or structure related to agriculture, horticulture or forestry where it is genuinely required as an ancillary use for an existing rural employment development.
- 8.10. The Proposed development is not within the Rugby urban area and does not meet any of the above bullet points and therefore the proposal is contrary to Policy ED3.
- 8.11. It is considered that the proposed development does not align with the spatial strategy of the Borough as set out within the Local Plan. The proposal therefore conflicts with Policies GP2 and ED3 of the Local Plan.
- 8.12. Rugby Borough Council (Development Strategy) have objected to the application on the grounds that the development is contrary to Policy GP2 due to its location within an unsustainable location. The proposal is also contrary to Policy DS1 due to the proposal exceeding the amount of employment floor space required within the Borough. Along with Policy DS4 and ED3 with the application site not being located within an allocated employment area and does not meet the requirements for employment within the countryside.

- 8.13. Paragraph 82 of the NPPF seeks to positively and proactively encourage sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development.
- 8.14. Although the site is not within a defined settlement boundary and is contrary to the local plan policies in relation to the spatial strategy it is within close proximity to highly sustainable settlements and therefore it not classed to be in an unsustainable location in relation to proximity to services. It is considered therefore that the development should not be refused in relation to being in an unsustainable location.
- 8.15. Therefore, the proposals would need to demonstrate that the overall social, environmental and economic benefits outweigh the disadvantages of the location in relation to the spatial strategy of the Borough.

Employment Need

- 8.16. Paragraph 81 of the NPPF places significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 8.17. The provision of distribution and industrial buildings is considered to be a type of use that contributes to the overall employment development needs of the Borough as detailed in Policy DS1. This confirms that 208 hectares, including 98 hectares to contribute towards Coventry's unmet need, will be provided within the Borough of Rugby to address this unmet need. Policy ED2 of the Local Plan seeks to provide provision for employment in the most sustainable locations of the Borough by permitting new employment development within the Rugby Urban area, and Policy ED3 resists employment development outside the Rugby urban area except in specific circumstances.
- 8.18. The Local Plan requirement for employment land over the 2011 – 2031 period equates to approximately 10 hectares per year. The latest Authority Monitoring Report (October 2021) identifies that permission has been granted for 152.3 hectares, which equates to 15.2 hectares per year. As such, the Local Planning Authority is permitting an amount of employment floor space, which is at a rate that is faster than that set out within the Local Plan. The sites identified within the Local Plan to meet the Borough's strategic economic needs consist of a variety of sites and sizes and have been found sound by an Inspector, having been tested at examination.
- 8.19. The Local Plan does provide flexibility over and above the land required purely based on the quantitative need, to allow for further growth in not only Rugby's economy but also that of Coventry and Warwickshire. The amount of land required equates to 55.7 hectares of land to be permitted over the remaining 10 years of the Local Plan period (up to 2031). The application site seeks approval for 63.8 hectares (of which approximately 53ha is within RBC), as such the granting of planning permission, would nearly exceed the requirements of Policy DS1 with 10 years of the plan still remaining.
- 8.20. The balance of employment and housing needs has been assessed as a sustainable strategy for the Borough of Rugby through the Local Plan process. A development of this

size in addition to what is allocated, could potentially tilt the balance between employment and housing needs, which may then increase the housing needs of the Borough, resulting in unsustainable development. It does not appear, therefore, that there is a 'need' for the authority to permit this application to meet the requirements of DS1.

8.21. Since the adoption of the Local Plan Coventry and Warwickshire Housing Market Area have undertaken a Housing and Economic Needs Assessment (HEDNA) (2022) (reported to cabinet on 5th December as an appendix in association with the Local Plan Review).

8.22. The HEDNA concludes the following employment land need for Rugby (2021-2041):

Office	General Industrial (B2)	Subtotal	Total Strategic B8 for Coventry and Warwickshire
5.2 ha	150.5	155.7 ha	606 ha

8.23. Chapter 11 within the HEDNA report provides guidance on identifying suitable locations for Strategic B8 development, and key corridors within which Icenl (report authors) consider development is likely to be focussed. The considerations are road accessibility, power supply, proximity to rail terminals, labour availability and neighbouring activities. The A5 corridor is noted as a potential location for this sort of development however it is noted that there are potential issues of capacity and the prospect of funding to dual the road. Existing concentrations of development indicates that the A5 is an attractive location for strategic B8 development and relates well to the logistics golden triangle. However, there is the potential that over concentration of development in this area to the north of the sub-region could create pressures particularly in terms of the highways network and labour market.

8.24. There is therefore a need for B2 and B8 development above the Local Plan requirement which needs to be considered moving forward however this evidence still needs to be tested through the Local Plan process. It is considered that sites will be selected through the Local Plan Review process to meet this need as this need exceeds the current Local Plan period by 10 years.

Consideration of Alternative Sites

8.25. There is no formal requirement for a sequential assessment. However, as the proposals are EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, Schedule 4, Part 5 does require an alternative study for inclusion in the Environmental Statement.

8.26. The applicant's submission outlines that the consideration of alternative sites is not always as straight forward as it appears, as it is difficult to appraise or fully consider sites which are outside of the applicant's control or being promoted by others. It has been stated that as the applicant does not control land locally outside of the proposed application site it means there are no other reasonable alternatives which could be

brought forward by the applicant or form a detailed assessment within the remit of the EIA.

- 8.27. The proposal has been driven by an existing Hinckley based occupier who wish to continue to invest and expand in close proximity to Hinckley. The occupier had undertaken an extensive search for alternative sites or premises, and confirmed through the submitted Market Report, that there is a severe shortage of existing, allocated employment land in the area. It is stated within the consideration for alternative sites that the occupier's workforce is primarily drawn from the local area, and is a high priority to retain, as well as expand, the local workforce.
- 8.28. The need of the occupier therefore significantly reduced the relevant area for a potential new site without creating additional economic and operational impacts, as well as potential environmental effects by changing transport patterns and journeys to work. The application site is close to the occupier's existing facility, and adjacent to the urban edge of Hinckley and as such it represents a sustainable location with regard to accessibility and minimising wider effects, more so than remote locations further from the town.
- 8.29. Additional considerations were made by the applicant including the awareness of the West Midlands Green Belt which extends around the southern part of Hinckley, extending southwards along the A5 corridor, and westwards around Nuneaton. The majority of the application site itself is outside the Green Belt and located within the countryside which then informed decisions around the extent and scale of the site based on features on the ground and local context.
- 1.19 As a logistics led employment proposal, any alternative site needs good access to the Strategic Road Network (SRN), which results in limiting factors on sites further to the west or north around Hinckley, and greatly limits any realistic alternatives. The application site is accessed from the A5, and with access to the M69 motorway to the east, maximising accessibility, and minimising the traffic effects on other parts of the local highway network when compared to any alternatives further from the SRN.

Conclusion

- 8.30. Whilst the application site may be considered a sustainable location when the proximity is read in conjunction with Hinckley and Nuneaton, the site does fall within the countryside within Rugby Borough and therefore constitutes an unsustainable location in relation to the spatial strategy. The proposals are therefore contrary to Policies GP2 and ED3 of the Local Plan.
- 8.31. The site is not an allocated site and the employment need identified within Policy DS1 of the Local Plan is on track to be met. In relation to the HEDNA (2022) it is considered that should an excess of employment development be granted prematurely the balance of employment and housing need will tilt the balance between the employment and housing needs resulting in unsustainable development.
- 8.32. Therefore, the proposals would need to demonstrate that the overall social, environmental and economic benefits outweigh the identified harm in relation to the need and location.

9. Green Belt

- 9.1. The majority of the application site lies adjacent to the West Midlands Green Belt. However, it is acknowledged that a minor part of the red line lies within this area of the Green Belt. The development within this part of the red line would consist of improvements to the existing drainage network in relation to the A5.
- 9.2. In respect of development in the Green Belt, Policy GP2 states that new development will be resisted; only where national policy on Green Belt allows will development be permitted.
- 9.3. Paragraph 137 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 138 of the NPPF sets out the five purposes of the Green Belt.
- 9.4. 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.
- 9.5. Paragraph 150 of the NPPF sets out certain forms of development which would not be classed as inappropriate within the Green Belt. The proposed drainage improvements would fall within criteria b which relates to engineering operations. The proposal would conserve the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt as set out within paragraph 138.
- 9.6. Therefore, it is considered that the element of the proposal within the Green Belt would not constitute inappropriate development and would not significantly impact the openness of the Green Belt. The proposal therefore complies with paragraphs 137, 138, 147 and 150 of the NPPF and Policy GP2 of the Local Plan.

10. Land Designation and Use

- 10.1. The application site is currently utilised as agricultural land. Paragraph 174 (b) of the NPPF and Reference ID: 8-001-20190721 of the National Planning Practice Guidance are therefore relevant and outline the need to consider the economic and other benefits of the best and most versatile agricultural land. Paragraph 174 (b) putting an emphasis on protection of sites of geological value and soils with the NPPG highlighting the importance of soil as an essential natural capital asset that provides important ecosystem services such a growing medium for food, timber and other crops.
- 10.2. This higher quality land represents that which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals. In this respect agricultural land is graded on a scale of 1 to 5 where the grades are: 1 (excellent); 2 (very good); 3a (good); 3b (moderate); 4 (poor); and 5 (very poor). The best and most versatile land are classified as being grades 1 (excellent), 2 (very good) and 3a (good).

Approach to Agricultural Land

- 10.3. The above policy implies that a sequential approach should be considered where poorer graded land is potentially considered in advance of higher quality land. Although no sequential assessment has been undertaken by the applicant with regard to agricultural land, the NPPF indicates that it is for Local Planning Authorities to judge the economic and other benefits of the best and most versatile agricultural land. This is consistent with the technical note produced by Natural England entitled 'Agricultural Land Classification: Protecting the Best and Most Versatile Agricultural Land' (2012). This note emphasises the importance of such land as a natural resource which is vital to sustainable development. However, it does note that decisions rest with planning authorities and that the agricultural land classification is not the sole consideration.

Agricultural Land Classification with Warwickshire and Rugby

- 10.4. According to Natural England's statistics, approximately 12% of land (23,692 hectares) in Warwickshire falls in grades 1 (excellent) and 2 (very good). In Rugby Borough there is no grade 1 (excellent) land but there are 4,186 hectares of grade 2 (very good) land which equates to 11.8% of land within the Borough. The figures for grade 3 (good/moderate) land provided by Natural England do not split grades 3a (good) and 3b (moderate) but indicate that approximately 75.5% of land within the Borough (26,686 hectares) is grade 3 (good/moderate) land.

Land Designation and Use Conclusions

- 10.5. The application site comprises of 63.6 hectares of land at Padge Hall Farm. Following consultation with the Local Authority's Agricultural Consultant it has been confirmed that the land which is proposed to be developed is classified as Grade 3, with the vast majority being Sub Grade (3b) with some Sub Grade (3a) on the higher ground in the centre and East of the site.
- 10.6. Land classified as Grade 3, Sub Grade (b) is midway between Grade 1 and Grade 5, and is suitable for growing good crops of cereals, pulses, oilseeds and grassland for grazing and/or conservation as hay/silage. The land in Sub-Grade 3 (b) is more limited than that within Sub-Grade 3 (a) which is more suited to autumn sown crops and grassland. The land which comprises the site is currently cropped with either pasture, which is used by cattle, or in arable cropping.
- 10.7. The suitability of this type of land for cropping is improved and enhanced if it has been under drained which will extend the period of time when the land can be worked or grazed.
- 10.8. The proposed development would result in the loss of 63.6 hectares of average quality agricultural land together with the farmhouse and buildings at Padge Hall Farm resulting in a significant loss to agriculture. In terms of the loss of Best and Most Versatile Land (Grade 3a in this case) this would be limited however there is still a loss. This will be weighed within the planning balance.

11. Character and Design

- 11.1. Local Plan Policy SDC1 seeks to ensure that development is of a high quality and will only be allowed where proposals are of a scale, density and design that responds to the character and amenity of the areas in which they are situated.
- 11.2. 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. Likewise, paragraph 130 (a) states that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Outline Planning Permission

- 11.3. Whilst the main consideration under this application is the principle of development and access only, the initial indicative layout submitted with the proposal is considered to be acceptable in this instance and is capable of accommodating the employment units with associated development.
- 11.4. Whilst it is acknowledged that layout is not a matter for consideration given the levels differences within the application site it is considered important that any finalised layout takes the levels into consideration in order to limit any impact on the character and appearance of the surrounding area. This will mostly be assessed at reserved matters stage however a parameters plan (which would be conditioned) has been submitted which sets out the following parameters for the outline section of the application:
- Finished floor level to 91.00m AOD +/- 300mm
 - Maximum height of buildings (from FFL to highest ridge point) – 18 metres
 - Up to 136,350 square metres of floorspace (including unit 1 – detailed)
- 11.5. The character of the development along the A5 is both industrial and commercial. The site is adjacent to both Nuneaton and Hinckley. The development in Nuneaton is largely residential in this area. The development in Hinckley is mixed. Directly to the north-east of the site (off Dodwell's roundabout) is Dodwells Bridge Industrial Estate and Harrowbrook Industrial Estate. Further along the A5 to the south-east is a residential estate, Nutts Lane Industrial Estate and Logix Distribution Park (where Syncreon are currently located).
- 11.6. There is therefore a range of development in the area of varying scales, including warehousing development. The proposed indicative layout and scale of development is similar to other industrial estates within the area. The parameters are considered to be acceptable in relation to this development and provide assurance in the absence of detail.
- 11.7. Therefore, it is considered that the character and design of this element of the scheme will be acceptable subject to conditions and reserved matters applications.

Full Planning Permission

- 11.8. Whilst the appearance of the outline element of the scheme will be determined at Reserved Matters Stage. Unit 1 has been submitted for full planning consideration as such, this will lead the way in any forthcoming reserved matters applications, in relation

to the design and treatment of the proposals, ensuring continuity throughout the development.

- 11.9. Unit 1 has been designed around the requirements of the specific end user for the site and the needs of a global logistics company. This unit is the largest building proposed on site and would benefit from a total internal floor space of 55,740 square metres. The proposal would have a maximum height of 18 metres, with a height of 16.5 metres to the top of the parapet. There would be a width of approximately 312 metres and a depth of 212.1 metres.
- 11.10. The north-east elevation includes the three-storey office element and the hub office single storey element. This elevation will face onto the A5 and therefore elements of an active frontage have been introduced. The service yards are proposed to both the south east and north west. Windows are proposed above the service areas and hub offices are also proposed in the centre of these elevations to provide relief.
- 11.11. The materials pallet, of which the details are still to be agreed, will ascend in three bands each shade being lighter, to assist with blending into the skyline with other architectural tools to reduce the perceived mass of the building. It is proposed that detailing will be seen throughout the main warehouse building, office areas and ancillary structures, whilst ensuring that the proposal would not date too quickly.
- 11.12. Important features such as roof mounted PV solar provision will be incorporated into the scheme providing up to 1.05M KWP, a battery storage system supporting onsite power generation, green roofs are proposed where appropriate to enhance onsite biodiversity, with roof lights and panoramic glazing to maintain and enhance natural light reducing the demand for artificial lighting and minimise passive heat gain.
- 11.13. The proposal has been well designed incorporating sustainability measures which has been harmoniously linked into the environment through the meeting of the built form seen in Nuneaton and Hinckley whilst keeping key links to the Countryside and Green Belt within Rugby to provide a balanced form of development.
- 11.14. This application is therefore considered to be in accordance with Policy SDC1 of the Local Plan and Section 12 of the NPPF.

12. Landscape and Visual Impact

- 12.1. As previously identified Local Plan Policy SDC2 states that the landscape aspects of a development proposal will be required to form an integral part of the overall design. A high standard of appropriate hard and soft landscaping will be required. With Policy NE3 stating that new development which positively contributes to landscape character will be permitted.
- 12.2. A Landscape and Visual Impact Assessment was submitted as part of the application as part of the Environmental Statement.

- 12.3. The site lies within National Character Area (NCA) 72: Mease/Sence Lowlands. This is a gently rolling landscape with rounded clay ridges and shallow valleys. It is a well ordered agricultural landscape of open views. Woodland cover is limited to scattered hedgerow trees, coverts and spinneys. Larger modern urban development is present on the fringes of the NCA in Nuneaton, Hinckley and Burton-upon-Trent.
- 12.4. The site lies to the edge of the Mease lowlands: Estate Farmlands Landscape Character Type (LCT) within Warwickshire which is defined similarly to the NCA. Enhancement to the continuity and wooded character of the river and streams and the tree cover through small woodland planting is sought in this character area.
- 12.5. The topography of the site is generally rolling and relatively lower lying. The higher ground lies 2-3km beyond the site in an arc that stretches from the north-west around to the south-east. Although the topography is gently rolling it has the appearance of being relatively flat. There is a levels change of 7-9 metres from east to west across the site.
- 12.6. The Local Authority's Arboricultural Officer initially objected to the application on the grounds that there is a lack of mitigation landscaping and green infrastructure to the south whilst other areas within the application site notably to the north, east and west benefited from large areas of landscaping. The illustrative landscape plan does include a landscaping strip (and mounding) to the south which is approximately 20 metres in width. However, this is significantly narrower than the landscaping buffers which have been provided to the north, east and west.
- 12.7. The Landscape and Visual Impact Assessment (LVIA) states that "the existing wider landscape is generally and relatively more sensitive to the south and south-west and relatively less sensitive to the north, north-west and east and south-east". The LVIA also states that the other wider effects and influences will be largely contained to the south. Whilst the proposed built form is located just outside of the West Midlands Green Belt, agricultural land beyond the Leicester/Birmingham railway to the south and south-east enjoys almost complete screening and separation from the adjoining towns of Nuneaton and Hinckley which are located in relative close proximity. Indeed, the rolling nature of the landscape comprises established field hedgerows and trees and is interconnected by a network of public footpaths and bridleways which appear highly used by the local community.
- 12.8. The nature of the direct change to the landscape character of the site and its immediate context will be notable, however it will reflect the mixed development already present and visible within the context of the site. The magnitude of landscape change arising from the urbanisation of the site through development will be high. In combination with the medium sensitivity of this landscape this will result in a moderate/major adverse landscape effect. This level of harm will be weighed within the planning balance. This impact is considered to be localised. Upon completion the harm would be at its highest magnitude however following the maturing of the landscaping planted and other mitigation measures in place it is considered that the overall harm to the landscape character of the local area would lessen.

- 12.9. The bridlepath which continues to the west of Hynes Lane enjoys a number of uninterrupted rural views along a raised ridge and as viewed looking north towards the application site. Given the scale of the application there would be high degree of landscape and visual effects. As viewed on site, the scale of the development is considerable and will still be visible post 15 years after the construction and establishment of the landscaping planting. It was therefore considered that given the sensitivity to the south of the site, that extra landscaping was needed to strengthen and widen of the southern landscaping buffer and green infrastructure.
- 12.10. Following concerns raised by the Local Authority's Arboricultural Officer further information was received from the applicants which confirms that the development has been carefully and comprehensively appraised in terms of its landscape and visual effects which has included the sites relationship with the southern boundary and the Green Belt with appropriate landscape and visual receptors to the south. This includes the widening of the site edge with mitigation mounding introduced and additional woodland and trees added.
- 12.11. It is considered that this forms an appropriate landscape mitigation approach and reflects what has been adopted elsewhere around other sides of the built development area. Whilst it is raised that the landscape boundary is approximately 20 metres it is in fact 35 metres wide. The supporting information submitted confirms that the proposed woodland, trees and other planting could be varied to improve the mitigation (in either the short or longer term), and would be willing to consider the selection and mix of species; sizes of planting stock and the density of planting.
- 12.12. Rugby Borough Council's Arboricultural Officer confirmed that there is no objection to the proposal following a review of the additional information submitted in terms of landscape and visual impact subject to the inclusion of appropriate conditions.
- 12.13. The proposal would result in an urbanisation of the site which would result in harm to the landscape and therefore there is some conflict with Policy NE3. However, whilst there is conflict it is deemed that the mitigated proposed and to be secured via condition is satisfactory. This application is therefore considered to comply with Local Plan Policy SDC2 and Section 12 and 15 of the NPPF.

13. Impact on Residential Amenity

- 13.1. Policy SDC1 states that development will ensure that the living conditions of existing and future neighbouring occupiers are safeguarded.
- 13.2. Likewise Section 12 of the NPPF states that development will provide a high standard of amenity for existing and future users.

Outline Planning Permission

- 13.3. Whilst design, scale and massing of the buildings are to be dealt with at reserved matters stage it is considered that the illustrative masterplan and parameters plan indicate the level of development proposed. The parameters plan shows a maximum ridge height of 18 metres within the outline area and the illustrative masterplan shows the location of units 2-5 set significantly away from the nearest residential dwellings on The Long Shoot with a landscape buffer proposed between the proposed buildings and the dwellings. The service yards are also shown to be internal to the site so any noise and light spillage would be reduced.
- 13.4. The detailed designs will be assessed at reserved matters stage however a condition would be imposed to ensure that the reserved matters layout is in general accordance with the illustrative masterplan and conforms with the parameters set out on the parameters plan. Subject to these conditions it is considered that the outline element of the application is acceptable and that a detailed design which safeguards neighbouring residential amenity can be achieved.

Full Planning Permission

- 13.5. The nearest residential dwellings are located along the Long Shoot within the Borough of Nuneaton and Bedworth and are situated to the west of the application site. These properties are sited approximately 400 metres away off the common boundary onto the rear elevation of Unit 1. Whilst the landscape character will be altered from what is currently experienced, taking into consideration the separation distance from the proposal, along with the enhanced landscaping mitigation measures proposed. It is considered that there will be no materially adverse impacts in terms of overbearing impact, loss of light or loss of privacy on the occupiers of these properties.
- 13.6. To the north of the application site are a number of residential dwellings and businesses are situated on the opposite side of the A5. These businesses and dwellings are located approximately 170 metres away from the A5 which has seen significant landscape enhancements embedded into the scheme. It is considered that there will be no materially adverse impacts in terms of overbearing impact, loss of light or loss of privacy on the occupiers of these properties.
- 13.7. This application is therefore considered to be in accordance with Policy SDC1 of the Local Plan and Section 12 of the NPPF.

14. Pollution

- 14.1. 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.
- 14.2. Environmental Health have assessed the application and have no objections subject to conditions/informatives.

Noise

- 14.3. A Noise Assessment has been submitted as part of the application. The recommendations in paragraph 9.3.45 of chapter 9 shall be implemented. In terms of the 4 units subject to outline approval (if granted) the full and detailed impact of the proposed development would not be comprehensively known until the reserved matters stage, given the outline nature of the proposed development. It is therefore considered necessary that prior to each reserved matters application a new noise assessment is required to be undertaken to update the baseline. This would be secured via condition. It would also be conditioned that only electric fork lift trucks shall be used in the stockyard area and that any reversing alarms shall be broadband alarms. A demolition and construction management plan condition will also be imposed to regulate noise in the construction period. This will include the control of construction hours. Overall, it is considered that subject to conditions and reserved matters approval the proposal would comply with the NPPF.

Lighting

- 14.4. The proposed development will be lit after dark as a 24/7 operation is proposed. Presently there are sources of light in the local environment from other commercial estates as well as residential areas. The Environmental Statement which assesses lighting sets out recommendations. These recommendations are considered to be acceptable and shall be per conditioned as per paragraph 7.5.5 of chapter 7 of the ES.

Air Quality

- 14.5. Policy HS5 requires that development of more than 1000 sqm of floorspace or 10 or more dwellings must achieve or exceed air quality neutral standards. If air quality neutral standards are not met, points 2, 3 and 4 of the policy detail how developments should address the impacts of poor air quality, including mitigation measures.
- 14.6. 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.” It is recognised that the current proposal triggers the threshold of a Major development and as such policy HS5 is relevant.
- 14.7. Within the context of point 1 of the policy, the development is not considered to be air quality neutral and in addition requires an Air Quality Assessment. This has been submitted as an Environmental Statement chapter and concludes that any increase in pollutant levels is predicted to be not significant. Environmental Health agree with the conclusions of the assessment. As a result, only on-site mitigation measures as detailed in points 2 to 4 of the policy are required. The following on-site mitigation measures are proposed:
- Electric Charging points
 - Cycle parking spaces
 - Solar panels
- 14.8. Taken as a whole, it is considered that the above package of mitigation measures meet the requirements of points 2-4 of the policy and as such complies with Policy HS5. Details would be secured via condition.

Contaminated Land

- 14.9. 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.
- 14.10. The application has been accompanied by a Phase I and II Geo-Environmental Assessment. The evidence shows that the majority of the site has been historically farmland and that there is a low risk of contamination as no elevated levels of contamination have been found to date. Subject to appropriate conditions this element of the application is considered acceptable.

Asbestos

- 14.11. Informative notes shall be included due to the demolition of the farmhouse and buildings. If asbestos is found the HSE and Environment Agency must be notified as this falls within their remit.
- 14.12. Overall, it is considered that the development will have no adverse impacts in terms of pollution and therefore complies with the policies specified above.

15. Impact upon the Highway

- 15.1. Local Plan Policy D1 states that sustainable transport methods should be prioritised with measures put in place to mitigate any transport issues. Whereas Appendix 5 expands on this and further sets out the need for transport assessments to be submitted with planning applications to assess the impact and acceptability of development proposals.
- 15.2. 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.
- 15.3. 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.
- 15.4. Policy 111 of the Framework 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.
- 15.5. A Transport Assessment (TA) and Framework Travel Plan were originally submitted with the application within the Environmental Statement (ES). Various addendums and technical notes have been submitted throughout the course of the application. Since the application was deferred ongoing conversations have been underway with all three highways authorities and the applicant. This resulted in additional information being submitted
- 15.6. Objections have been received in relation to the development being located in an unsuitable location as the A5 to Dodwells roundabout is already highly congested and this development will increase traffic problems. In addition, it has been raised that the

proposed mitigation will not improve the situation as increased traffic flow will cause longer tailbacks.

- 15.7. Due to the location of the site National Highways (NH), Warwickshire County Council (WCC) and Leicestershire County Council (LCC) have all assessed the scheme. The access to the site is off the A5 which is within Hinckley and Bosworth Borough Council and is within the jurisdiction of National Highways as a strategic highway. National Highways have assessed the impact of the scheme on the strategic road network (SRN). The Local Highway authorities have assessed the impact on the Leicestershire and Warwickshire local road networks (LRN). All authorities have assessed the sustainable access to the site in terms of walking and cycling.
- 15.8. Highways are discussed as a whole in this report for context and to provide the full picture for consideration however Rugby Borough Council would only be determining the application in its own administrative area.
- 15.9. Following the deferment of the application and additional information being submitted for consideration, LCC, WCC and NH all have no objections to the scheme.

National Highways Assessment

- 15.10. The site access, trip generation and distribution and traffic modelling has been assessed by NH. The site is situated on land to the south of the A5 adjacent to the Dodwells Roundabout. It should be noted that this is along the corridor of the A5 Hinckley to Tamworth Road Investment Strategy 3 (RIS3) Pipelines scheme as identified in the Road Investment Strategy 2 (RIS2). The current commitment for National Highways is up to option development. Progress into further stages, including construction, will be determined through the RIS3 process. However, as the site is situated adjacent to the A5, notwithstanding work currently being undertaken by NH, it is considered that the development has the potential to prejudice the options which may be available for the RIS3 Pipeline scheme. The submitted parameters plan has identified an 'A5 Future Road Corridor (Indicative Safeguard Area)'. It is uncertain at this stage whether this area will contribute positively to future options being considered as part of NH RIS3 Pipeline scheme. However, the applicant has committed to safeguard this land for NH, such that it would be available for future consideration. This would be secured through a Section 106 agreement.

Transport Modelling and Network Impact

- 15.11. NH have reviewed the TA information, together with subsequent clarifications including the TA Addendum dated April 2022. NH are satisfied that the proposed development would not have a severe impact on the SRN.

Mitigation measures

- 15.12. The application proposes a new site access junction with the A5, as well as, changes to the A5 Dodwells roundabout and the lowering of the A5 carriageway under the Nutts Lane railway bridge. A Walking, Cycling and Horse-riding Assessment and Review was also submitted to support the proposals. Following review, discussion and revision of the submitted drawings and associated documents the principle of these improvements has

been accepted. Stage 1 Road Safety Audits have been undertaken of the proposed schemes with the findings and action approved by National Highways.

- 15.13. NH have reviewed the additional information submitted in relation to sustainable transport modes and support the A5 footpath linkages and south-western linkage to The Longshoot as it will support modal shift away from car travel.
- 15.14. In summary, having reviewed the submitted information, NH considers that the proposed development would not have a severe impact on the SRN. In addition, the proposed improvements would provide substantial betterment to the operation of the A5. NH therefore are of the opinion that there the application complies with local and national policy subject to conditions and obligations.

Local Highway Authorities Assessment

- 15.15. The Highway Authority for both Warwickshire County Council and Leicestershire County Council have undertaken a full assessment of the development proposals in accordance with National and Local Planning and Transport Policy. Previously three reasons for refusal were proposed concerning safe and suitable access, mitigation of significant impacts on the transport network and issues concerning the strategic improvements to the A5. These reasons for refusal have now been withdrawn based on the following assessment.

Detailed Development Impact Assessment

A5 Bridge

- 15.16. A principal benefit of the development scheme proposed is the inclusion of a potential scheme to lower the A5 carriageway under the rail bridge over the A5. A bridge previously termed "the most bashed bridge in Britain" in the media. The LHA's support this in principle. Previously the LHA's raised concerns in relation to the mitigation proposed if the carriageway under the bridge were to be lowered. Within this LCC LHA also previously raised the issue of increased flood risk associated with the road – this is considered by Lead Local Flood Authority for the A5 which is LCC and the Environment Agency. As this part of the A5 is not in Warwickshire this is to be considered and reported by Hinckley and Bosworth Borough Council.
- 15.17. Previously there were concerns surrounding the additional HGV movements on the A5 that could filter through onto the Local Highway networks due to the lowering of the carriageway under the railway bridge. Additional information was submitted in light of this. A revised assessment has been undertaken by the applicant team to understand the potential impact of doubling the 10% HGV fleet to 20% which is the national average. This was then remodelled and the revised assessment did not present a material deterioration of the junction performance.
- 15.18. The A5 carriageway lowering works is also now to be conditioned to be completed prior to occupation of the units therefore the effects of the improvements will be felt before the occupation of the development.

Site Access and A5 Dodwells Roundabout

- 15.19. The LHA's understand that the principle of access onto the SRN has been agreed with National Highways and comprises a new signalised junction onto the A5 and a

complimentary access scheme at the adjacent Dodwells roundabout junction to facilitate U-turning traffic wishing to travel east on the A5. A short stretch of additional widening on the westbound A5 approach to Dodwells roundabout creates an additional right turn lane whilst preserving the existing two-lane approach. An additional U-turning lane is added on the Dodwells circulatory to facilitate this movement over the existing single lane which serves right turning traffic to the A47, B4666 or the very infrequent U-turn movement that may currently, occasionally occur.

- 15.20. As identified above, the A5 westbound approach currently provides 80m of two-lane approach back from the stop line at Dodwells roundabout. The proposed scheme is presented as providing a 3 lane approach for 60 metres and 2 lanes for 100 metres. This is mainly achieved by provision of land along the development site's frontage with the A5 and which affords the additional third lane approach and enlarged Dodwells roundabout to facilitate the U-turn movements necessitated by the signalised site access being left out only. The LHA notes that the additional 20m of two-lane approach equates to approximately 3 cars or 1 HGV in length.
- 15.21. The LHA's previously raised concerns that the strategic modelling assessment of the development was undertaken prior to an agreed access strategy being finalised. The Saturn network coding information for the Dodwells junction tested in the Pan Regional Transport Model (PRTM) has been provided by the applicant along with a difference plot showing flow change between the latest Dodwells scheme and the one used in the strategic modelling that underpinned the submitted Transport Assessment. Review of this additional information would appear to show that the revised Dodwells mitigation scheme would not have a significant impact on the capacity or routing of trips through the A5 Dodwells junction when considered in the context of the strategic highway model/ The PRTM run is therefore considered reasonable and the outputs can be broadly relied on.
- 15.22. In relation to the Leicestershire network select link analysis was also provided to demonstrate the residual impact on Nutts Lane where the flow difference plots previously presented identified traffic routing away from the A5. The analysis identified the origins and destinations of trips routing via Nutts Lane to understand the wider routing of these trips and demonstrated that a proportion of the trips are development trips routing to site rather than displaced background traffic which lessens the concerns raised over this specific impact. Further analysis of the queuing and delay on Coventry Road and the A47 approach to Dodwells roundabout has also been provided. These routes were considered in different modelling scenarios (LinSig model). The Coventry Road results showed no material change in performance, with small fluctuations in degree of saturation, queuing and average delay. The A47 Dodwells Road results also showed no material change in performance, with no severe increases in degree of saturation, queuing or average delay when comparing the different scenarios run. The LHA is therefore satisfied in relation to Leicestershire that there would be no material deterioration on the highway network due to this development. It is also noted that NH considered that impacts on the A5 strategic road network are considered to be acceptable to NH.
- 15.23. In relation to Warwickshire the additional modelling submitted demonstrated, to the satisfaction of NH and LCC, that the impacts of the additional traffic, on the A5 and at The Long shoot/Dodwells junctions in conjunction with the proposed mitigation schemes at Dodwells junction and the height restricted railway bridge to the east of the site, would

not lead to a severe impact on the network over and above that would occur without the development.

- 15.24. In summary, the applicant has demonstrated that any significant impacts of the cumulative impact of development can be mitigated, complying with the National Planning Policy Framework.

Access by sustainable modes

- 15.25. The LHA's previously raised concerns with the sustainable connectivity proposed to the application site, namely inadequate crossing facilities, lack of provision east along the A5 to connect with the existing provision that terminates under the railway bridge, further details of provision to the residential area to the east (Applebees Meadow) and to the west of the site along the A5 and linkages to Nuneaton.
- 15.26. Previously, the sustainable connectivity to the site is predominantly proposed via a link from Applebees Meadow and crossings at the proposed Dodwells roundabout and signalised access junctions. The routes via Dodwells roundabout rely upon a number of Toucan and uncontrolled crossings. Additional footpaths are now proposed from opposite the site access on the A5 to the A5 railway bridge and from the west of the site to The Longshoot. In addition, the applicant has also provided detailed access proposals for walking and cycling from the emergency access onto the Dodwells roundabout on the A5. These pedestrian/cycle routes will either be conditioned or secured as a section 106 obligation.
- 15.27. Finally, a way finding strategy inclusive of additional directional signage to clarify safe crossing routes for pedestrians and cyclists crossing the A5 to access the site when approaching the site from the west or east along the recently proposed footway/cycleway.
- 15.28. It was previously considered that a route is required for pedestrians and cyclists from Nuneaton. Given the nature and scale of the proposed development the LHA's would anticipate and welcome significant demand for travel by sustainable modes to the development site from existing residential areas, including from the east such as those adjacent to the existing Syncreon site.
- 15.29. Access by modes other than the private car are to be encouraged, and therefore a contribution is requested in order to extend hours of operation for existing bus services that operate between Nuneaton, Hinckley and Leicester. Travel Plans will also be required via condition.
- 15.30. The additional information relating to footpath/cycleway provisions which are now proposed are considered to provide a safe and suitable access for all users in conjunction with the Travel Plan which will be conditioned and the Bus Service contribution (discussed further in the Planning Obligation section of this report).

A5 Strategy/Improvements

- 15.31. The development proposals are speculative in nature with no Local Plan Allocation. As such, it is of significant concern to the LHA's that they may be prejudicial to the strategic improvements under development for the A5 corridor in this area with the potential to prejudice the options which may be available for the Road Improvement Strategy 3 (RIS3) Pipeline scheme. NH also raised a potential concern with this however consider

the development acceptable subject to the identified 'safeguarded area' within the development. The LHA's note that the A5 Long Shoot to Dodwells dualling scheme, recently removed from the RIS 2 programme, formed part of various evidence bases in the allocation of existing planned growth in the area. The omission of this scheme heightens the importance of avoiding the situation where unallocated, speculative growth prejudices the delivery of the future strategic improvements for the RIS3 Pipeline scheme.

- 15.32. This issue was a previous reason for refusal however was not taken forward within the November committee report reasons. Although National Highways had potential concerns surrounding the future improvements to the A5 in this area they set out clearly the current status of the work surrounding these potential improvements. The improvements do not have an associated scheme or funding and the area of land which could be safeguarded is also not outlined.
- 15.33. The Local Planning Authority consider that given the current status of the Road Improvement Strategy for this stretch of road and the fact that the land is not safeguarded within a local plan there would not be a justifiable reason for refusal in relation to this element of the concerns raised. The Local highway Authorities have withdrawn this reason for refusal due to this.

Local Highway Authority Assessment Conclusion

- 15.34. The proposed employment site located to the south of the A5 is anticipated to lead to significant pedestrian demand. The Local Highway Authorities consider that a deliverable access strategy which enables safe and suitable access for all users has been demonstrated.
- 15.35. The strategic modelling assessment of the development impact in conjunction with the additional information submitted demonstrates that the residual cumulative impacts of development can be mitigated and would not present a severe highway impact subject to conditions and obligations requested by all three highway authorities.

Proposed Parking

- 15.36. The parking proposed for the scheme as also been assessed in accordance with Local Plan Policy D2.
- 15.37. The tables below provides a breakdown of the use classes proposed within the application site, along with the total requirements for parking provision for the use classes, as set out within the Planning Obligations SPD and Appendix 5 of the Local Plan, based on a maximum floorspace of 136,350 sqm the site should accommodate a 2154 parking spaces along with a minimum of 391 cycle spaces for Units 1 to 5.
- 15.38. It is important to note that the actual parking provision for the buildings, being applied for in outline, would be determined at the reserved matters stage. A key factor in this is that parking provision is calculated based on the floor space of the buildings and this is to be formally determined should permission be granted at the detailed design stage. As a maximum amount of floor space is applied for as part of the outline application, 80,608 sqm the upper limited to the parking provision is detailed below. The application is for a

mix of B2 and B8 uses use (up to 33.3% B2 and at least 66.7% B8 of the entire site – full and outline) a range of the upper limit of the parking provision for the outline application specifically is provided for these scenarios.

15.39. For the B2 and B8 split, this scenario takes into consideration the fact that Unit 1, which is applied for in detail, is 100% B8 and the 33.3% B2 is for the entire site not just the outline scheme.

<u>Land Use</u>	<u>Proportion of Unit 2 – 5</u>	<u>GIA (sqm)</u>	<u>Car Parking</u>	<u>Disabled Parking</u>	<u>Cycle Parking (minimum)</u>
B2	33.3%	45,450	1,010	13	221
B8	66.7%	35,158	586	9	105
Total	100%	80,608	1,596	22	326

<u>Land Use</u>	<u>Proportion of Unit 2 - 5</u>	<u>GIA (sqm)</u>	<u>Car Parking</u>	<u>Disabled Parking</u>	<u>Cycle Parking (minimum)</u>
B8	100%	80,608	1,343	16	242

15.40. The range of the parking provision provided for the outline scheme is therefore 1,596 of car parking spaces, 22 disabled spaces and 326 cycle parking spaces (minimum) for the B2 & B8 split scenario and 1,343 of car parking spaces, 16 disabled spaces and 242 cycle parking spaces (minimum) for the 100% B8 scenario.

15.41. The Local Plan details a requirement for electric vehicle charging provision, at a rate of 1 charging point per 10 spaces, including 1 charging point for every 10 disabled parking spaces. In line with this requirement an updated site plan, for Unit 1 (18-144 PP-04 Rev L), has been submitted which shows 550 car parking spaces including 54 electrical car parking spaces with 4 provided with the disabled parking provision and 184 cycle parking spaces.

15.42. The parking for unit 1 therefore complies with Local Plan policy. Units 2-5 will be assessed in detail at reserved matters stage but there should be no conflict with the parking for these units either based on the submitted information.

Existing Public Rights of Way

15.43. Public footpath R282 runs through the site from the A5 to the north, connecting with footpaths R1, R1a and R2 to the south of the site.

15.44. The existing Public Right of Way R282 crosses the development site from the railway bridge in the southeast corner, to the existing site access junction on to the A5 Watling Street. This Public Right of Way would need to be diverted so that it follows the railway line and then joins the site access road and would connect pedestrians to the A5 Watling Street.

- 15.45. The Ramblers Association support the proposal as it will provide a safe crossing of Watling Street to join with public footpath U61 in Leicestershire and provide a link between the end of public footpath R282 at the Warwickshire boundary and up to and across Watling Street to link up with public footpath U61 in Leicestershire.
- 15.46. Warwickshire County Council (Public Rights of Way) have confirmed that they have no objection to the proposal subject to appropriate conditions and informatives. The proposed alterations would also be subject to the submission of a Diversion Order, being submitted to the Local Planning Authority, with the final approval being the subject of confirmation from colleagues within Public Rights of Way.

Highways Conclusion

- 15.47. There are no objections from National Highways, Warwickshire County Council or Leicestershire County Council subject to conditions and obligations.
- 15.48. In relation to proposed parking the scheme is acceptable and therefore complies with Policy D2 of the Local Plan.
- 15.49. Based on the assessment undertaken above it is considered that the applicant has overcome the previous reasons for refusal put forward in the November committee report. Therefore, it is considered that a safe and suitable access for all users would be provided and that any significant impacts on the transport network from the development can be mitigated. It is therefore considered that there would not be a severe impact upon the highway network in accordance with paragraph 111 of the NPPF. The development is also considered to comply with Policy D1 of the Local Plan and Paragraph 110 of the NPPF.

16. Flooding

- 16.1. Chapter 10 of the NPPF sets out government requirements on how the planning system should take into account the risks caused by flooding. The Planning Practice Guidance under the chapter entitled 'flood risk and climate change' gives detailed advice on how planning can take account of the risks associated with flooding in the application process.
- 16.2. Policy SDC5 of the Local Plan sets out the sequential approach taken in relation to flooding based on the flood zone.
- 16.3. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:
- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and

- Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.
- 16.4. Whilst the application site is located within Flood Zone 1 which has a low probability of flooding as the application constitutes major development the Warwickshire County Council (Flood Risk Management) team and the Environment Agency have been consulted on the application.
 - 16.5. The surface water drainage strategy proposed will discharge water at the existing greenfield mean annual rate and provide attenuation up to the 1 in 100 year plus climate change event.
 - 16.6. The Environment Agency initially objected to the application on the grounds that insufficient information had been submitted with this application. A request was made to the agent for the additional information to be submitted with the application. This information was received, and a re-consultation was carried out accordingly. It has been confirmed from the Environment Agency that they have no objections subject to conditions.
 - 16.7. Warwickshire County Council (Flood Risk Management) initially objected to the application on the grounds that insufficient information had been submitted with the application. The outstanding information was required to demonstrate that the works to be undertaken to lower the base level of an existing pond located in the southern area of the site can be constructed safely without an increase in potential short term surface water flood risk. A request was made to the agent for the additional information to be submitted with the application. This information was received a re-consultation was carried out accordingly. It has been confirmed from Warwickshire County Council (Flood Risk Management) that they have no objections subject to conditions. This application is therefore considered to comply with Policy SDC5 of the Local Plan and Chapter 10 of the NPPF.
17. Trees and Hedgerows
 - 17.1. Local Plan Policy SDC2 states that the landscape aspects of a development proposal will be required to form an integral part of the overall design. A high standard of appropriate hard and soft landscaping will be required.
 - 17.2. Section 15 of the NPPF states that planning decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including trees and woodland.
 - 17.3. The Local Authority's Arboricultural Officer has confirmed that there are no protected trees located within the application site neither is the application site located within a conservation area. The proposal confirms that perimeter trees and hedgerows are to be retained and incorporated into the development. It is therefore considered that should

planning permission be granted a robust Arboricultural Method Statement would be required to ensure all retained trees and hedgerows are not damaged during the construction phase of the development.

- 17.4. A number of established internal field boundary hedgerows and trees located within them are proposed for removal in order to facilitate the development and associated changes in ground level. Many of these hedgerows are in decline with a number of gaps, outgrown and are of a low species density. As such, they are considered to be of low quality. In addition, no notable trees were noted with the majority of the trees to be felled in physiological and mechanical decline or of limited value within the wider landscape.
- 17.5. The proposed planting would represent a significant net gain in terms of visual amenity, biodiversity and screening with greater emphasis made to the strengthening/widening of the southern landscape buffer and incorporating larger growing deciduous and coniferous species.
- 17.6. This application is therefore considered to be in accordance with Local Plan Policy SDC2 and Section 15 of the NPPF.

18. Ecology

- 18.1. Policy NE1 of the Local Plan seeks to ensure that development proposals do not have an adverse impact upon protected habitats and species. It also sets out that development should retain and protect natural habitats and provide mitigation and compensation measures where this would be lost. In addition, Policy NE2 of the Local Plan requires proposals to protect, restore and enhance green infrastructure assets within the defined Strategic Green Infrastructure Network.
- 18.2. These policies are consistent with one of the core planning principles outlined within the NPPF which sets out the need for planning to 'contribute to conserving and enhancing the natural environment'. The NPPF further outlines a need to minimise the impact of proposed developments on biodiversity as well as contributing to and enhancing this where possible it particularly highlights the need to consider the impact on ecological networks, protected wildlife, priority species and priority habitats.
- 18.3. Paragraph 174 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 18.4. Warwickshire County Council (Ecology) have reviewed the Environmental Statement and initially objected to the application on the grounds that insufficient information has been submitted to allow a formal response to be provided. A request was made to the agent for the additional information which was received and a re-consultation has been carried out accordingly.

Habitats

- 18.5. The site is dominated by arable land and improved grassland used for pasture, with field boundaries formed by native hedgerows, some with associated ditches and mature

trees. A farm complex is present in the east of the site which comprises agricultural buildings, a residential farmhouse and bungalow and hardstanding. The Harrow brook extends through the site and forms part of the western site boundary and is buffered from the arable fields by a narrow corridor of poor semi-improved grassland and tall ruderal vegetation within the southern half of the site, and by the improved grassland fields in the north. Additional habitats recorded include tall ruderal vegetation, dense and scattered scrub, bare ground, and mature tree belts.

Species

- 18.6. The Preliminary Ecological Appraisal draws on data records and surveys which indicate that the development has the potential to impact on birds, bats, badger, reptiles and great crested newts. In addition to these other notable mammals located within close proximity to the development site include otters, water vole and hedgehogs. A variety of measures are proposed to offset such potential impacts. Warwickshire County Council (Ecology) have assessed these and are satisfied that the potential impact to these species could be mitigated against through planning conditions.

Biodiversity Impact Assessment

- 18.7. A Biodiversity Impact Assessment (BIA) has been submitted which quantifies the value of existing habitats and establishes what impact there would be from the loss of those habitats as a result of the proposed development. This was then compared with the post-development habitat values which were derived from the proposed retention of existing habitats in addition to proposed habitat creation and enhancement on-site (land within the blue line). The assessment concluded that there would be a net biodiversity gain arising from the proposed development of 37.75 area units and 12.45 hedgerow units. The habitat creation and enhancement is considered realistic and achievable with the long term management and monitoring being secured through a Landscape and Ecological Management Plan (LEMP). A condition will also be imposed to secure the management of the site through a 30-year management plan.

Ecology Conclusions

- 18.8. It has been found that the findings of the Preliminary Ecological Appraisal are acceptable and form a robust basis for considering the ecological impacts arising from the proposed development. In the first instance it has been established that the proposed development would not give rise to detrimental and adverse impacts at statutory and non-statutory ecological sites. The proposal would result in a net gain of biodiversity which would be secured through a condition. The potential impact on species would be mitigated against through the use of planning conditions. It is consequently considered that the proposed development would not have an adverse impact upon habitats and species whilst ensuring a net biodiversity gain.
- 18.9. This application is therefore considered to be in accordance with Local Plan Policies NE1 and NE2 of the Local Plan and paragraph 170 of the NPPF.

19. Archaeology

- 19.1. Section 16 of the NPPF states that Local Planning Authorities should consider the impacts which cause any harm to; or loss of; the significance of a designated heritage asset. Furthermore, Local Plan Policy SDC3 states that applications with the potential to affect the significance of a heritage asset will be required to provide sufficient information and assessment on the impacts the proposal has on the heritage asset.
- 19.2. The proposed development lies in an area of significant archaeological potential. Recent archaeological work undertaken approximately 800m to the northwest of the proposed development at Callendar Farm has identified extensive Iron Age and Roman period settlement evidence including round houses, industrial activity and a pit alignment. Following pre-application consultations with colleagues within Archaeology a geophysical survey followed by a programme of evaluative trial trenching was undertaken across the main central area of the proposed development site.
- 19.3. Areas along the western and eastern boundaries of the site were excluded from the initial phase of trial trenching due to access issues. The results of both of these phases of work have been submitted as appendices to the Environmental Statement submitted with this application. Other than traces of former ridge and furrow ploughing the geophysical survey did not identify any magnetic anomalies that were interpreted as representing probable archaeological features. Other than four large clay pits, former field boundary ditches and two undated features identified within a trench on the southern edge of the evaluation area no significant archaeological deposits were recovered from the area that was trial trenched.
- 19.4. Whilst colleagues within Archaeology have no objection to the development, it is considered that some further archaeological work should be required if consent is forthcoming. It is envisaged that this would be through a phased approach, the first phase of which would comprise an archaeological evaluation by trial trenching across those areas within the proposed development site which have yet to be fully evaluated. In addition, a programme of historic building recording being required should planning permission be granted for this scheme.
- 19.5. It is therefore considered that this application is in accordance with Section 16 of the NPPF and Local Plan Policy SDC3.

20. Heritage

- 20.1. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 20.2. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 197 states that in determining planning applications, local planning authorities should take account of:
 - a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

- c) The desirability of new development making a positive contribution to local character and distinctiveness.
- 20.3. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 20.4. Paragraph 203 states that “the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”
- 20.5. Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within conservation areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 20.6. Policy SDC3 states 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 assets and its setting will be expected to preserve or enhance its significance.

Heritage Assets

- 20.7. The subject site does not contain any designated Heritage Assets but does contain a non-designated Heritage Asset in the form of Padge Hall Farm and is located within close proximity to a Grade II Listed Farmhouse.

Padge Hall Farm

- 20.8. Padge Hall Farm is first noted on the Henry Dawkins Map of 1912 alongside further development located a short distance to the west. It is considered that the buildings in question date from the nineteenth century. The farm has since expanded in the twentieth century with the demolition of several parts of the farmstead present in nineteenth century mapping which historically enclosed a courtyard. The farmhouse has also seen a high level of alterations including UPVC windows and doors and twentieth century extensions to the existing property.
- 20.9. Whilst located within close proximity to Padge Hall Farm, it is considered that the heritage asset contains a low heritage interest with the buildings not being deemed to merit non-designated heritage asset status due to the number of alterations carried out over the years. Notwithstanding this the group value of the remaining buildings in the former nineteenth century farmstead provides almost all of the low level of local heritage interest that this asset possesses. In relation to setting, the surrounding agricultural

landscape which surrounds the farmstead makes a contribution to the overall heritage interest of the asset which includes the application site.

Hill Farmhouse

- 20.10. Hill Farmhouse is a Grade II Listed Farmhouse which was constructed in the early nineteenth century with mid-twentieth century additions to the rear. The Farmhouse consists of three storeys made from red brick with an old plain tile roof and gable end chimney stacks. The 'L' shape dwelling includes a later addition and has a three-window range of two and three light casements with architectural details including a brick string course and a dentil cornice with rendering to the front.
- 20.11. The building contains evidential value as an early nineteenth century farmhouse with remnant farmstead buildings situated around a courtyard, upon which, the southern, principal elevation, of the farmhouse forms the northern flank of the courtyard. Whilst the earlier farmstead is only partially retained with the bulk of the farm buildings now post-war development, the farmhouse shares group value with the red brick single storey original farm buildings which do remain.
- 20.12. Whilst the farm is visible from the southernmost element of the site on more elevated ground, at the distance it is located, the heritage asset is not easily distinguishable, with the more prominent buildings comprising of later twentieth century farm buildings associated with the farmhouse on the landscape. Due to the landscape setting and existing mature trees, the proposed development is not clearly visible when viewed from the farmhouse, aided by the fact that the site forms a small part of an extensive agricultural setting.
- 20.13. Hill Farmhouse is a heritage asset of high sensitivity as a Grade II Listed status with its designation deriving from its architectural and historic special interest as an example of a vernacular early nineteenth century farmhouse. It contains some group value from the remaining original farmstead which it faces onto. Whilst setting is an important factor, this is considered to be secondary in nature, with the wider agricultural landscape helping to inform the role of the farmhouse and provide its historic and existing context. Within this context the site makes a very small contribution to the very extensive wider setting and a very small contribution to the overall special interest of Hill Farmhouse.

Heritage Conclusion

- 20.14. The Heritage Impact Assessment submitted with the application dated September 2021 indicates the following:
- The proposal would preserve the setting and significance of the designated heritage assets; and
 - The proposal would not harm the significance of any designated heritage assets.
- 20.15. This view was further supported by comments received from Historic England who confirmed that they had no objections to the proposal. The proposal therefore complies with National Planning Policy.

21. Other Matters

- 21.1. As acknowledged within section 3 of the appraisal that a minor part of the application site is within the Green Belt. The Town and Country Planning (Consultation)(England) Direction 2021 sets out that the Secretary of State shall be consulted on any application received by the Local Planning Authority (LHA) on or after 21 April 2021 to which the direction applies and the LHA does not propose to refuse.
- 21.2. The direction relates to Green Belt development and for the purpose of the direction defines it as development which consists of or includes inappropriate development on land allocated as Green Belt in the development plan and which consists of or includes;
- a) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
 - b) Any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.
- 21.3. The development within the Green Belt within this application is not considered to fall within this definition and therefore the Secretary of State does not need to be consulted on this application once the planning committee have resolved to determine the application.
- 21.4. Although the highways impact has been assessed as a whole within this report the conditions requested by the Highway Authorities will not all be imposed on this permission as the A5 does not fall within the Warwickshire administrative area. RBC has been working alongside HBBC to ensure that all highways and rights of way conditions will be imposed upon the relevant decision notice.

22. Infrastructure and Planning Obligations

- 22.1. Paragraphs 54, 56 and 57 of the Framework, policies D3 and D4 of the Local Plan and the Planning Obligations SPD set out the need to consider whether financial contributions and planning obligations could be sought to mitigate against the impacts of a development and make otherwise unacceptable development acceptable.
- 22.2. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and the Planning Obligations PPG makes it clear that these obligations should only be sought where they are: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. If a requested planning obligation does not comply with all of these tests then it is not possible for the Council to require this. It is within this context that the Council has made and received a number of requests for planning obligations as detailed below. It is considered that all of these requests meet the necessary tests and are therefore CIL compliant.
- 22.3. **Ecology:** A net gain in biodiversity can only be achieved by providing improvements on land adjacent to the site. This land is within the blue line but not within the ownership of the applicant at present therefore this biodiversity offsetting scheme is required to be

secured through a section 106 agreement. This obligation is considered to be CIL compliant.

22.4. **Highways:** Warwickshire County Council and National Highways have made obligation requests in relation to the development.

National Highways:

- Contribution to enable the implementation of a pedestrian and cycle link to the development site from the west connecting to The Longshoot.
- Safeguarding of land adjacent to the A5 (Drg No. ADC1839-DR-022 Rev P3) for a period of 20 years (echoed by WCC and LCC).

Warwickshire County Council:

- The Highway Authority seeks a financial contribution prior to commencement of development, with the amount to be determined and to be advised in due course, to allow the Highway Authority to construct a shared use footway/cycleway link with lighting within the corridor indicated on drawing number ADC1839-SK-016 Revision S3 between the site and the public highway A47 Long Shoot.
- A contribution of £406,500 (£81,300 per annum) to extend the hours of operation for existing bus services operating between Nuneaton, Hinckley and Leicester passing the site. First payment to be made prior to occupation and annually from then on for a period of 5 years.

22.5. The obligations above are considered to be CIL compliant in accordance with the tests test out in paragraph 22.2 of this report.

22.6. In summary the contributions required for this proposal have been highlighted as per the table below:

Obligations	Requirement	Trigger
Biodiversity Net Gain	Provide biodiversity net gain on site (with the inclusion of the land within the blue line)	To be confirmed
Biodiversity Management Plan	30-year biodiversity management plan	To be confirmed
Safeguarding of land for highways purposes	Safeguarding of identified land adjacent to the A5 for 20 years	To be confirmed
Footpath connections	Contribution to enable a pedestrian/cycle route to the West in accordance with Drawing No: ADC1839-SK-016 Rev: S3	To be confirmed

Extend bus service operation	Contribution of £406,500 over a period of 5 years (81,300 per annum)	To be confirmed
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- 22.7. In relation to any financial contributions or commuted sums sought through a s.106 agreement, the financial contributions or commuted sums set out in this report will be adjusted for inflation for the period from resolution to grant to completion of the s.106 agreement. In addition, any financial contributions or commuted sums sought through a s.106 agreement will be subject to indexation from the completion of the s.106 agreement until the date that financial contribution or commuted sum falls due. Interest will be payable on all overdue financial contributions and commuted sums.
- 22.8. Subject to the completion of a section 106 agreement the development would be in accordance with Policy D3 of the Local Plan.

23. Planning Balance and Conclusion

- 23.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 23.2. Whilst the application site may be considered a sustainable location when the proximity is read in conjunction with Hinckley and Nuneaton. The site does fall within the countryside of Rugby Borough Council and therefore constitutes an unsustainable location in relation to the spatial strategy. The proposals are therefore contrary to Policies GP2 and ED3 of the Local Plan.
- 23.3. Although the site is not within a defined settlement boundary and is contrary to the local plan policies in relation to the spatial strategy it is within close proximity to highly sustainable settlements and therefore it not classed to be in an unsustainable location in relation to proximity to services. It is considered therefore that the development should not be refused in relation to being in an unsustainable location.
- 23.4. The site is not an allocated site and the employment need identified within Policy DS1 of the Local Plan is on track to be met. In relation to the HEDNA (2022) it is considered that the identified need which extends beyond the current plan period (2031) by 10 years will be addressed through the Local Plan Review in order to ensure sustainable development.
- 23.5. The proposed development would result in the loss of 63.6 hectares of average quality agricultural land together with the farmhouse and buildings at Padge Hall Farm resulting in a significant loss to agriculture. In terms of the loss of Best and Most Versatile Land (Grade 3a in this case) this would be limited however there is still a loss.
- 23.6. The proposal would result in an urbanisation of the site which would result in moderate/major harm to the landscape and therefore there is conflict with Policy NE3. The landscape harm is given significant weight within the balance.

- 23.7. However, whilst there is conflict with NE3 it is deemed that the landscape mitigation proposed and to be secured via condition is satisfactory. This application is therefore considered to comply with Local Plan Policy SDC2 and Section 12 and 15 of the NPPF.
- 23.8. In relation to other matters set out in this report, subject to adequate mitigation or conditions, the development is considered to be acceptable and complies with the policies specified within this report.
- 23.9. Weighed against the identified harm and conflict is the significant weight placed on the need to support economic growth and productivity in accordance with paragraph 81 of the NPPF.
- 23.10. The NPPF sets out a presumption in favour of sustainable development and advises decision-takers to approve a development proposal that accords with the development plan without delay. The question of whether or not a particular proposal constitutes “sustainable development” is not simply a matter of location; it involves a wide variety of other considerations such as the three dimensions of sustainability. The NPPF at paragraph 7 identifies the three dimensions to sustainability, those being economic, social and environmental. Paragraph 8 goes on to advice that in order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 23.11. From an economic perspective the proposed development would result approximately 900 construction jobs over a 3 year demolition and construction programme, approximately 2,000 full time jobs on the site across the manufacturing, logistics, transport and distribution sectors. Furthermore the proposal would also result in a contribution to the viability of local retail uses and services, this is considered to be a minor benefit to the sub-regional economy. The business rates generated from the development (approximately £2 million pa) would contribute significantly to the Borough. Such matters would have a positive impact on the local economy and prosperity of the Borough which weighs in favour of the application. As such, the proposed development would satisfy the economic role of sustainable development. The economic benefits associated with the scheme hold significant weight.
- 23.12. From a social perspective the scheme will provide new jobs therefore creating opportunities for new employment within the Borough. Job security is important to the community and access to employment opportunities is a critical component of sustainable development. It also plays a key role in helping improve and safeguard mental health and wellbeing. As such, the proposed development would satisfy the social role of sustainable development. These benefits are given moderate weight within the planning balance.
- 23.13. From an environmental perspective additional planting is proposed through landscaping, additional pedestrian linkages are proposed and a biodiversity net gain would be secured through a legal agreement. Sustainable Urban Drainage Systems are also proposed. Where negative effects have been identified in terms of landscape harm,

mitigation measures are proposed to minimise any potential impact. The proposal provides mitigation against flood risk, in particular surface water run off. It is considered that the proposed mitigation provided will off set any harm that may be caused. The environmental benefits are given significant weight.

23.14. In addition to the benefits set out above the lowering of the carriageway under the bridge would also be a significant localised benefit. On balance, taking into account the identified harm and the proposed benefits it is considered that the proposed benefits outweigh the harm in relation to countryside location, loss of BMV land and urbanisation of the site. Therefore, it is considered that the development would result in sustainable development and is therefore recommended for approval in accordance with the recommendation below.

Recommendation:

1. Planning application R18/0186 be approved subject to:
 - a. the conditions and informatives set out in the draft decision notice appended to this report; and
 - b. the completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.
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
3. The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman or Vice Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

DRAFT DECISION

REFERENCE NO:
R21/0985

DATE APPLICATION VALID:
22-Sep-2021

APPLICANT:

Mr Steve Harley Oxalis Planning, Toll Bar House, Landmere Lane, Edwalton, Nottingham, Nottinghamshire, NG12 4DG

AGENT:

ADDRESS OF DEVELOPMENT:

LAND AT PADGE HALL FARM, WATLING STREET, BURBAGE

APPLICATION DESCRIPTION:

Hybrid planning application comprising: Outline application (all matters reserved except for site access from the A5) for the demolition of existing structures and the erection of distribution and industrial buildings (Use Class B2 and B8) including ancillary offices and associated earthworks, infrastructure and landscaping, and highways improvements at Dodwells roundabout; a Full application for the development of a distribution building (Use Class B8), including ancillary offices with associated access, hard standing, parking, and on plot landscaping. The proposals include improvements to the existing railway bridge on the A5 Watling Street including increased height clearance. This is a cross boundary application with Hinckley and Bosworth Borough Council and Nuneaton and Bedworth Borough Council (EIA development).

CONDITIONS, REASONS AND INFORMATIVES:

GENERAL/Site Wide Conditions

These conditions apply to the site as a whole (all phases of development)

CONDITION: 1

Development hereby permitted shall be carried out in complete accordance with the details shown on the following submitted plans and documents received by the local planning authority:

- Site Location Plan 18-144 PP-01 Rev L
- Site Plan – as existing 18-144 PP-02 Rev L
- Site Plan – as proposed 18-144 PP-03 Rev K
- Unit 1 – Site Plan – as proposed 18-144 PP-04 Rev M
- Unit 1 – Overall Building Plan – as proposed 18-144 PP-05 Rev K
- Unit 1 – Elevations & Section – as proposed 18-144 PP-06 Rev K
- Unit 1 – Roof Plan – as proposed 18-144 PP-08 Rev L
- Boundary Treatment & Cycle Shelter Details – as proposed 18-144 PP-09 Rev K
- Gatehouse Details – as proposed 18-144 PP-10 Rev K
- Illustrative Masterplan (excluding Unit 1) 18-144 PP-03 Rev L
- Landscape Concept Proposal 01 Rev H
- Landscape Concept Proposal – Spine Road 02 Rev C
- Detailed Planting Plan Sheet 1 of 2 03 Rev E
- Detailed Planting Plan Sheet 2 of 2 04 Rev A
- Landscape Concept Sections 05 Rev A
- Detailed Planting Plan Spine Road 06 Rev A

Illustrative Landscape and Green Infrastructure Plan 8815-L-30 Rev M
Accessibility Plan ADC1839-DR-009 Rev P2
Development Parameters Plan 8815-L-08 Rev V
Accessibility Plan ADC1839-DR-009 Rev P2
Design and Access Statement Rev E
Flood Risk Assessment and Drainage Strategy (ref 19-7712-FRA Issue 9)

REASON:

To ensure that the details of the development are acceptable to the Local Planning Authority in accordance with policies GP1 and SDC1 of the Local Plan (2019)

CONDITION: 2

Prior to, or concurrently with, the submission of the first of the reserved matters application(s), a Site Wide Phasing Plan shall be submitted to the Local Planning Authority for approval. Any subsequent applications for approval of reserved matters which result in amendments to the phasing shall include an updated Site Wide Phasing Plan submitted for approval by the Local Planning Authority. The Site Wide Phasing Plan shall include the proposed sequence of providing the following elements:

- a) development parcels roads/routes within the site, including timing of provision of access points into the site, timing of provision of sustainable transport infrastructure including footway/ cycle routes, timing of provision of the emergency access;
- b) site wide foul surface water features and sustainable drainage systems;
- c) confirmation of the early delivery of the structural landscaping bund (visual and noise mitigation) delivered as part of the site-wide earthworks in accordance with the Parameters Plan and as described in the Environmental Statement (Chapters 4 and 5).
- d) site-wide structural green infrastructure and 'Biodiversity Net Gain' habitat creation features.

No development shall commence, apart from Enabling Works and Archaeological Investigations agreed in writing by the Local Planning Authority, until such time as the Site Wide Phasing Plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing contained within the Site Wide Phasing Plan.

REASON:

To ensure the comprehensive development of the site.

CONDITION: 3

No development above foundation level shall commence on any building until representative samples and full details of the types, finish, texture and colours of materials to be used on all external surfaces of buildings within that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved materials.

REASON:

To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy SDC1 of the Local Plan (2019).

CONDITION: 4

No development shall take place in each phase until:

- a) a Written Scheme of Investigation (WSI) for a programme of further archaeological evaluative work if relevant to that phase has been submitted to and approved in writing by the Local Planning Authority.
 - b) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI for that phase has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the planning authority.
 - c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development in that phase and should be informed by the results of the archaeological evaluation.
- The development, and any archaeological fieldwork, post-excavation analysis, publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with those documents.

REASON:

In the interest of archaeology in accordance with Policy SDC3 of the Local Plan (2019).

CONDITION: 5

No compound or any other construction related activities are to be carried out within the 'no build zone'.

REASON:

In the interest of archaeology in accordance with Policy SDC3 of the Local Plan (2019).

CONDITION: 6

Prior to installation of fixed plant machinery and ventilation equipment in any phase, details which shall include maintenance and management, shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises within that phase are first brought into use and maintained in use thereafter.

REASON:

To ensure the development does not have an adverse impact on the amenities of surrounding properties to accord with Policy SDC1 of the Local Plan (2019).

CONDITION: 7

The units hereby approved shall not be first brought into use until measures demonstrating that the buildings achieve at least a BREEAM Very Good standard in terms of carbon reduction have been submitted to and approved in writing by the Local Planning Authority. The development within each phase shall not be carried out other than in accordance with the approved measures and details.

REASON:

To ensure energy efficiency is achieved through sustainable design and construction and to reduce carbon emissions in accordance with Policies SDC1 and SDC4 of the Local Plan (2019).

CONDITION: 8

Prior to the commencement beyond enabling and site preparation works on each phase of built development, an Employment and Training Statement for construction employment at the site shall be submitted to the local planning authority for their approval in writing. The approved Statement shall be implemented in full within that phase.

REASON:

To promote employment opportunities for local residents.

CONDITION: 9

No building shall be first occupied in any phase unless and until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes for that phase, has been submitted to and approved in writing by the Local Planning Authority.

The development shall not first brought into use until the scheme has been implemented to the satisfaction of the Local Planning Authority.

REASON:

In the interest of Public safety from fire and the protection of Emergency Fire Fighters.

CONDITION: 10

If gas is used for any space or water heating then the boilers shall be ultra-low NOx emission devices.

REASON:

In the interests of air quality in accordance with Policy HS5 of the Local Plan (2019).

CONDITION: 11

Prior to the commencement of any works in any phase, a Demolition and Construction Environmental Management Plan shall be submitted in writing to, and approved by, the Local Planning Authority. This shall take account of the 'Environmental Statement September 2021' Chapter 8.6 Mitigation. It shall include details relating to:

- a) the control of noise and vibration emissions from demolition and construction activities including groundwork's and the formation of infrastructure including arrangements to monitor noise emissions from the development site during the demolition and construction phase

b) the control of dust including arrangements to monitor dust emissions from the development site during the demolition and construction phase. This shall take account of the 'Environmental Statement September 2021' Chapter 8.6 Air Quality Mitigation.

c) measures to reduce mud deposition offsite from vehicles leaving the site.

d) details concerning pre-commencement ecology checks (including badgers, bats, breeding birds, otter and water vole) and appropriate working practices and safeguards for wildlife and habitats that are to be employed whilst works are taking place on site.

e) a method statement and confirmed tree protection details during the construction phase, with regard to the approved Tree Retention Plans (8815-T-10 – 8815-T-18) contained in the ES Chapter 11.

Development shall be carried out in compliance with the approved Demolition and Construction Environmental Management Plan.

REASON:

In the interests of residential amenity and protected species, to ensure the details are acceptable to the Local Planning Authority and to avoid significant adverse impacts in accordance with Policies SDC1 and NE1 of the Local Plan (2019).

CONDITION: 12

Prior to installation of external lighting, fittings and light columns details for that phase must be submitted to and approved by the Local Planning Authority. Each phase shall not be first brought into use until lighting in accordance with the approved details is installed to ensure there is no glare or excessive light spill that may affect any properties off site as per 'Land South of Hinckley. Environmental Statement September 2021' Chapter 7 Lighting to retain the site as E2 lighting classification, per paragraph 7.5.5. In discharging this condition the Local Planning Authority expects (in accordance with the previously submitted ES mitigation measures) lighting to be restricted along the watercourses and railway embankment at the site boundary and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats. This could be achieved in the following ways:

- Lighting should be directed away from vegetated areas
- Lighting should be shielded to avoid spillage onto vegetated areas
- The brightness of lights should be as low as legally possible;
- Lighting should be timed to provide some dark periods;
- Connections to areas important for foraging should contain unlit stretches.

REASON:

In accordance with National Planning Policy Framework (2021), ODPM Circular 2005/06, and to ensure the details are acceptable to the Local Planning Authority and to avoid significant adverse impacts.

CONDITION: 13

If unexpected contamination is found after the development hereby permitted has begun, having regard to the GIP Combined Phase 1 and Preliminary Ground Investigation Report for a Proposed Industrial / Commercial Development Upon Land Located off Watling Street, Hinckley, Leicestershire, Date 10th December 2019 ref SJR/28385, report status Final' rec'd 28/2/23', 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 offsite receptors. To ensure the site is suitable for its proposed use in accordance with paragraph 183 of the National Planning Policy Framework (2021).

CONDITION: 14

Notwithstanding the agreed submitted details to date, no development excluding site clearance and preparation and any works associated with archaeological investigations shall take place for each phase, until a detailed surface water drainage scheme for that phase, based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme to be submitted shall:

1. Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 4.4l/s/ha for the site in line with the approved surface water drainage strategy (ref: 19-7712- FRA, Issue 9, dated 08/03/22).
2. Further details regarding the Harrow Brook outfall
3. Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme.
4. Provide detail drawings including cross sections, of proposed features such as swale, attenuation features, and outfall structures.
5. Provide detailed, network level calculations demonstrating the performance of the proposed system.
6. Provide external levels plans, supporting exceedance and overland flow routing plans.
7. Provide details of the disposal of surface water and foul water drainage directed away from the railway

The scheme shall subsequently be implemented in accordance with the approved details prior to the development being first brought into use. The approved details shall be retained and maintained thereafter throughout the lifetime of the development.

REASON:

To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity in accordance with Policies SDC1 and SDC5 of the Local Plan (2019).

CONDITION: 15

Prior to the development within each phase being first brought into use a detailed, site specific SUDS maintenance plan is provided to the LPA in consultation with the LLFA. Such maintenance plan should;

1. Provide the name of the party responsible, including contact name, address, email address and phone number
2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how surface water each relevant feature shall be maintained and managed for the life time of the development.
4. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance

The development must be carried out in accordance with these approved details.

REASON:

To ensure the future maintenance of the sustainable drainage structures in accordance with Policies SDC1 and SDC5 of the Local Plan (2019).

CONDITION: 16

A landscape and ecological management plan (LEMP) for each phase shall be submitted to, and be approved in writing by, the Local Authority prior to the development for that phase being first brought into use. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implantation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON:

To ensure a net biodiversity gain in accordance with paragraph 174 of the National Planning Policy Framework (2021).

CONDITION: 17

Construction shall be limited to the following hours (excluding highways works which will be subject to separate agreement):

- Monday - Friday: 0730hrs to 1800hrs
- Saturday: 0830hrs to 1300hrs
- No working on Sundays and/or bank holidays

REASON:

To ensure the development does not have an adverse impact on the amenities of surrounding properties to accord with Policy SDC1 of the Local Plan (2019).

CONDITION: 18

The following will be adhered to in relation to public footpath R282:

1. No site security fencing may be erected on or within 1m of public footpath R282.
2. No construction may commence on the existing alignment of public footpath R282 until it has been diverted (temporarily or permanently) by a legal order that has come fully into effect.
3. The applicant must make good any damage to the surface of public footpath R282 caused during works (site works relating to this permission and that within condition 19).

REASON:

To ensure sustainable routes are maintained in the interest of the public.

CONDITION: 19

Prior to commencement of any works involving disturbance of the surface of public footpath R282 the developer must contact Warwickshire County Council's Rights of Way team as Highway Authority to obtain any necessary consents and make any necessary arrangements for the protection of the public footpath and its users. Prior to the commencement of any works to resurface public footpath R282 the specifications for the new surface must be submitted to the Local Planning Authority for approval (in consultation with the Highway Authority).

REASON:

To ensure sustainable routes are maintained in the interest of the public.

CONDITION: 20

No more than 45,450 square metres of development shall be provided within Use Class B2 (General Industrial) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

REASON:

To ensure the site is developed in accordance with the approved plans and consistent with the application as consented.

CONDITION: 21

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) there shall be no change of use permitted from the approved use classes to a different use class of The Town and Country Planning (Use Classes) Order 1987 (as amended)).

REASON:

In the interests of sustainable development, economic growth, protection of employment land, traffic movements and highway safety in accordance with Policies SDC1, SDC4, ED1, ED3 and D2 of the Local Plan (2019).

CONDITION: 22

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no plant, equipment or development/extension shall be installed/undertaken that would increase the overall height of the building hereby permitted.

REASON:

In the interests of visual amenity and landscape impact in accordance with Policies SDC2 and NE3 of the Local Plan (2019).

CONDITION: 23

Prior to the development being first brought into use, a scheme of works for the A5 site access as shown on drawing 1839-DR-014 Rev P4 (or as amended by a Road Safety Audit or Detailed Design), shall be submitted to and approved in writing by the Local Planning Authority (LPA) in consultation with National Highways. The access shall be provided in accordance with the approved details prior to the development being first brought into use.

REASON:

To ensure that the A5 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980, in the interests of road safety.

CONDITION: 24

No part of the development shall be first brought into use until such time as the pedestrian and cycle access as generally shown on drawing number ADC1839-DR-021 Rev P2 has been implemented in full.

REASON:

To mitigate the impact of the development, in the general interests of highway safety and encouraging sustainable access in accordance with the National Planning Policy Framework (2021).

CONDITION: 25

The development shall not be first brought into use until a continuous footway/footpath link has been provided within the site between the proposed buildings and the existing bus stops on A5 Watling Street north-west of Dodwells Roundabout, in accordance with a scheme approved in writing by the Local Planning Authority in consultation with the Highway Authority.

REASON:

To mitigate the impact of the development, in the general interests of highway safety and encouraging sustainable access in accordance with the National Planning Policy Framework (2021)

CONDITION: 26

The applicant shall submit a Travel Plan (for each unit/occupier) prior to the first occupation of the unit to promote sustainable transport choices to the site, the measures proposed to be carried out within the plan to be approved by the Local Planning Authority in writing, in consultation with the County Council as Highway Authority. The measures (and any variations) so approved shall continue to be implemented in full at all time. The plan shall:

- (i) specify targets for the proportion of employees and visitors traveling to and from the site by foot, cycle, public transport, shared vehicles and other modes of transport which reduce emissions and the use of non-renewable fuels;
- (ii) set out measures designed to achieve those targets together with timescales and arrangements for their monitoring, review and continuous improvement;
- (iii) explain and justify the targets and measures by reference to the transport impact assessment submitted in support of this application;
- (iv) identify a senior manager of the business using the site with overall responsibility for the travel plan and a scheme for involving employees of the business in its implementation and development.

REASON:

To mitigate the impact of the development, in the general interests of highway safety and encouraging sustainable access in accordance with the National Planning Policy Framework (2021)

CONDITION: 27

Prior to the commencement of any construction work a Construction Traffic Management Plan (CTMP), including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with National Highways. The approved plan and timetable shall be adhered to throughout the construction period.

REASON:

To ensure that the A5 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980, in the interests of road safety.

CONDITION: 28

Prior to commencement a method statement and risk assessment in relation to the railway must be submitted to the Local Planning Authority (in consultation with Network Rail). The development shall then be carried out in accordance with the approved method statement.

REASON:

To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway.

CONDITION: 29

The developer is to submit details of suitable trespass proof fence adjacent to the boundary with the railway to the Local Planning Authority (in consultation with Network Rail). The approved details shall be installed prior to any building being first brought into use and shall be maintained in perpetuity.

REASON:

To protect the adjacent railway from unauthorised access

CONDITION: 30

Prior to any scaffolding works occurring within 10m of the railway boundary, details shall be submitted to the Local Planning Authority. The details shall be implemented as agreed with the Local Planning Authority (in consultation with Network Rail).

REASON:

In the interests of protecting the railway and its boundary from over-sailing scaffolding.

CONDITION: 31

Prior to any vibro-impact works on site, a risk assessment and method statement shall be submitted to the Local Planning Authority (in conjunction with Network Rail). The works shall then be carried out in accordance with the approved details.

REASON:

To prevent any piling works and vibration from de-stabilising or impacting the railway.

CONDITION: 32

Prior to any buildings first being brought into use, details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted to the Local Planning Authority (in consultation with Network Rail). The measures shall then be carried out in accordance with the approved details.

REASON:

To prevent the design and layout of the road and parking spaces from impacting the adjacent operational railway with accidental vehicle incursion.

Outline

CONDITION: 33

Application for approval of the reserved matters specified in Condition 35 below, accompanied by detailed plans and full particulars, must be made to the Local Planning Authority:

(a) for the first phase containing built development, before the expiration of three years from the date of this permission,

(b) for all subsequent phases, before the expiration of five years from the date of this permission.

REASON:

To comply with Section 92 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

CONDITION: 34

Each phase of development must be begun not later than the expiration of two years from the final approval of the last such matter to be approved in respect of that phase.

REASON:

To comply with Section 92 of the Town & Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act,2004

CONDITION: 35

Details of the following reserved matters shall be submitted to and approved in writing by the Local Planning Authority for each phase of development before any part of the development of that phase is commenced and shall be implemented as approved:

- a - Layout,
- b - Scale,
- c - Appearance,
- d - Access (excluding the site access) &
- e – Landscaping, including hard and soft landscaping, details of planting mix and species and quantity, size, species, position and the proposed time of planting of all trees to be planted.
- f - full details of finished floor levels of all buildings and ground levels of all access roads, parking areas and footways within that phase

REASON:

To ensure that the details of the development are acceptable to the Local Planning Authority.

CONDITION: 36

The reserved matters submitted under Condition 35 shall be strictly in accordance with the principles and parameters described and illustrated in the Design and Access Statement and the Plans within Condition 1 hereby approved. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity.

REASON:

To ensure a satisfactory appearance and impact of the development to accord with Policy SDC1 of the Local Plan (2019).

CONDITION: 37

If within a period of 10 years from the date of planting of any tree/shrub/hedge that tree/shrub/hedge, or any tree/shrub/hedge planted in replacement for it, is removed, uprooted, destroyed or dies, (or becomes in the opinion of the LPA seriously damaged or defective), another tree/shrub/hedge of the same species and size originally planted shall be planted at the same place, unless the LPA gives its written consent to any variations.

REASON:

In the interests of biodiversity and visual amenity in accordance with paragraph 174 of the National Planning Policy Framework (2021) and Policy SDC1 of the Local Plan (2019).

CONDITION: 38

The reserved matters submitted under condition 35 shall provide confirmation of the land-use classification(s) of that unit. The use of the buildings shall thereafter accord with the approved details.

REASON:

To ensure adequate access and parking arrangements are provided on site in the interests of highway safety in accordance with paragraph 111 of the National Planning Policy Framework (2021).

CONDITION: 39

The reserved matters submitted under condition 40, which relate to the west/south-west of the site, shall provide pedestrian and cycle links to land to the west/south-west of the site, should future development on the adjacent land be allocated or permitted prior to the determination of these reserved matters phases of development.

REASON:

To encourage sustainable access in accordance with the National Planning Policy Framework (2021).

CONDITION: 40

Full details of the siting, design and materials of the proposed cycle stores and (if required) bin stores for each phase shall be submitted to and approved in writing by the Local Planning Authority. The cycle stores and (if required) bin stores for each phase shall be provided, in accordance with the approved details before the any building being first brought into use within that phase.

REASON:

In the interest of visual amenity in accordance with Policy SDC1 of the Local Plan (2019).

CONDITION: 41

Ecology surveys are to be completed and submitted in support of reserved matters application for each phase. The ecology surveys supporting a reserved matters application should be no more than two years old at the date of submission of the reserved matters application.

REASON:

To ensure the development contributes to enhancement and management of biodiversity of the area to accord with paragraph 174 of the National Planning Policy Framework (2021).

CONDITION: 42

Prior to any building being first brought into use, a noise assessment shall be submitted and approved in writing by the Local Planning Authority to demonstrate compliance with the 'Vanguardia Padge Hall Farm 103178-WN-PN-0001 Baseline Conditions & Covid-19 Noise Survey 1st May 2020 rev R00 status For Information' and the 'ES Chapter 9 Environmental Statement September 2021' to comply with the construction noise levels and operational Phase noise levels. The noise assessment and predictions must relate to the design and use of each

building and shall include specific assessment of short duration noises using LAFmax dB including but not limited to reversing alarms for both daytime impact at noise sensitive receptors and at night-time with reference to 1999 World Health Organisation (WHO) Guidelines for Community Noise. The report shall include recommendations for any necessary acoustic mitigation measures to protect off-site residential receptors from any significant adverse impacts or loss of amenity and to ensure plant to be installed would achieve a BS 4142:2014:A1:2019 difference between the Rating Noise level and LA90,T background Noise Level dB(A) of not less than -5dB to reduce causing a creeping background noise. Any required noise mitigation measures shall be implemented prior to the building first being brought into use and maintained in perpetuity.

REASON:

In the interests of residential amenity and to ensure the details are acceptable to the Local Planning Authority in accordance with Policy SDC1 of the Local Plan (2019).

CONDITION: 43

The approved landscaping scheme relating to the area between the built development zone and the A5 road shall be laid out before any of the units approved under the outline element of the permission are first brought into use.

REASON:

In the interests of visual amenity and sustainability of the site in accordance with Policies SDC1 and SDC4 of the Local Plan (2019).

Full (i.e Plot 1 and main new site access)

CONDITION: 44

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON:

To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

CONDITION: 45

If audible reversing alarms are fitted to any vehicle operated on site, these shall only be of the broadband (white noise) alarm type. This shall include any delivery vehicles or plant operated on site.

REASON:

In the interests of residential amenity and to ensure the details are acceptable to the Local Planning Authority in accordance with Policy SDC1 of the Local Plan (2019).

CONDITION: 46

The building and associated access roads, parking areas and footways hereby approved in detail (plot 1) shall be delivered in accordance with the finished floor levels shown on the approved plans, including the drainage strategy plan drawing ref. 19-7712 SK0010P8.

REASON:

To ensure the proper development of the site.

CONDITION: 47

The development hereby permitted (including demolition but excluding archaeological investigation works) shall not commence until further bat survey of trees and buildings with bat roost potential has been carried out and a detailed mitigation plan including a schedule of works and timings has been submitted to and approved in writing by the Local Planning Authority. Such approved mitigation plan shall thereafter be implemented in full.

REASON:

To ensure that protected species are not harmed by the development in accordance with paragraph 179 of the National Planning Policy Framework (2021).

CONDITION: 48

The development shall be carried out in accordance with the submitted flood risk assessment (ref 19-7712-FRA dated 08/03/2022 Issue 9) including the following mitigation measures it details:

- Finished floor levels shall be set no lower than 600 mm above the 100 year plus climate change flood event.
- All built development to be confined to flood zone 1.
- No ground level raising with flood zones 2 or 3. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

REASON:

To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that the existing storage of flood water within the red line boundary is maintained in accordance with Policy SDC5 of the Local Plan (2019).

CONDITION: 49

No above ground works shall commence unless and until a comprehensive hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full accordance with the approved landscaping scheme and the soft landscaping shall be implemented no later than the first planting season following the development first being brought into use within that phase.

REASON:

To ensure the proper development of the site and in the interest of visual amenity in accordance with Policy SDC1 of the Local Plan (2019).

CONDITION: 50

Landscaping and planting details, including species mix, number and location of plants on the strategic earthworks bund to be created around the site perimeter as part of the site enabling and earthworks to create the development plateau must be submitted to the Local Planning Authority and implemented in accordance with the approved details in advance of the approved building on Plot 1 being first brought into use.

REASON:

In the interests of biodiversity and visual amenity in accordance with paragraph 174 of the National Planning Policy Framework (2021) and Policy SDC1 of the Local Plan (2019).

CONDITION: 51

If within a period of 10 years from the date of planting of any tree/shrub/hedge that tree/shrub/hedge, or any tree/shrub/hedge planted in replacement for it, is removed, uprooted, destroyed or dies, (or becomes in the opinion of the LPA seriously damaged or defective), another tree/shrub/hedge of the same species and size originally planted shall be planted at the same place, unless the LPA gives its written consent to any variations.

REASON:

In the interests of biodiversity and visual amenity in accordance with paragraph 174 of the National Planning Policy Framework (2021) and Policy SDC1 of the Local Plan (2019).

INFORMATIVE 1:

The following information will need to be provided when Condition 14 is discharged (numbered to match the condition):

2. It is recognised that the Environment Agency has given an indication of acceptance regarding the outfall into the Harrow Brook. At the detailed design stage, the LLFA will expect further details regarding this outfall and confirmation, ideally in the form of a Flood Risk Activities Permit (or confirmed exemption), as to the final approval of such design elements.
3. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.
 - a. For the 'Full' site: further consideration should be given.
 - i. The design to date assumes a 'Medium' pollution hazard index however a 'High' may be considered more appropriate given such description includes haulage yards, highly frequented lorry approaches to industrial estates amongst others – justification will be required of the current designation.
 - ii. Hazard Mitigation Indices have been provided regarding the proposed interceptors and justification of these will be required at the detailed design stage in line with manufacture recommendations. The management train could be revisited to pass water through as many features as possible.
 - iii. Pumps are required on the southern side of the Unit 1 building. Further details of these will be required and where feasible given levels, the LLFA suggest aboveground, shallow over the edge

drainage combined with overland flow routing is used to minimise the area draining to the pumps.

b. For the 'Outline' site, further details will be required demonstrating the use of above-ground SuDS, in line with the principles established as part of the 'full' application

4. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753. Of note to consider:

a. The location and design of sediment forebays.

b. The design of the proposed surface water pumping from the dock levellers

5. This should include:

a. Suitable representation of the proposed drainage scheme, details of design criteria used (incl. relevant scenarios such as a surcharged outfall or pump failure), and justification of such criteria where relevant.

b. Simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events

c. Results should demonstrate the performance of the drainage scheme including attenuation storage, flows in line with agreed discharge rates, potential flood volumes and network status. Results should be provided as a summary for each return period.

d. Evidence should be supported by a suitably labelled plan/schematic (including contributing areas) to allow suitable cross checking of calculations and the proposals.

6. Such overland flow routing should:

a. Support the drainage strategy to date showing retention of flood volumes in proximity of the drainage channels and across the wider site, demonstrate how runoff will be directed through the development

b. Consider property finished floor levels and thresholds in relation to exceedance flows. The LLFA recommend FFLs are set to a minimum of 150mm above surrounding ground levels.

c. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

INFORMATIVE 2:

In relation to all landscaping conditions, the **proposed tree planting** specification shall include details of the quantity, size, species, position and the proposed time of planting of all trees to be planted, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance. In addition, all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape should be similarly specified.

INFORMATIVE 3:

This planning permission is subject to pre-commencement conditions which require details/drawings to be submitted to and approved in writing by the Local Planning Authority

before ANY development may lawfully commence. Any development commenced in breach of these pre-commencement conditions will be unauthorised, a breach of planning control, and liable to immediate Enforcement and Stop Notice action.

INFORMATIVE 4:

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/fireguidancecommercialdomesticplanning

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 5:

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

INFORMATIVE 6:

Public rights of way should remain open and available for public use at all times unless closed by legal order and should not be obstructed by parked vehicles or by materials during any works. Any damage to the surface of any public right of way caused during the works should be made good. If it is proposed to temporarily close any public right of way during the works then an application for a Traffic Regulation Order must be made to Warwickshire County Council's (WCC) Rights of Way Team well in advance. Any disturbance or alteration to the surface of any public right of way requires the prior authorisation of WCC Right's of Way Team, as does the installation of any new gate or other structure on the public right of way.

INFORMATIVE 7:

This development is subject to a s106 legal agreement.

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.

Reference: R22/0383

Site Address: Land West Side of Heritage Close, Rugby

Description: Erection of 10 dwellings with access from Heritage Close, Cawston

Recommendation

1. Planning application R22/0383 be approved subject to:
 - a. the conditions and informatives set out in the draft decision notice appended to this report; and
 - b. the completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.
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.
3. The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

1.0 Introduction

1.1 This application is being reported to Planning Committee for determination because the proposed development had more than 15 letters of objection received and has been called to Committee by Councillor Moran.

2.0 Description of site

2.1 The site is vacant with grassland and other self-setting vegetation surrounded by wooden post and rail fencing. To the north of the site is Cawston Grange Primary School and Cawston Play Area. To the west and south of site is residential properties. To the east is Cawston Community Hall and accessed from Gerard Road via Heritage Close local shop units.

3.0 Description of proposals

3.1 This application seeks full planning permission for the erection of 10 dwellings with access from Heritage Close. The original scheme proposed 9no. 2 storey dwellings and 1 bungalow however in the assessment of the proposal an amended layout was proposed still consisting of 10 dwellings. The revised layout proposes 10no. 2 storey dwellings in 3 terrace groups. There are 4no. 4 bedroom dwellings and 6no. 3 bedroom dwellings proposed. Associated car parking, gardens and external works are also included.

4.0 Planning History

4.1 There has been no planning applications received by the Local Authority relating to the application site. The site was covered by the wider area development reference R/95/0313/21371

for Use of land for residential development, associated open space, school site, local centre, drainage works and highway works including connection to A4061 and temporary access to Lawford Lane.

4.2 Under the terms of the Section 106 agreement relating to this wider development area, the land included in this application was safeguarded for a period of time to enable the opportunity for the land to be brought forward (at open market values) as a neighbourhood centre. The neighbourhood centre could comprise of a range of uses such as a Doctor's Surgery site, a site for a Public House and a Neighbourhood Shopping Centre with associated accesses and car parking. Under the Section 106 agreement, the safeguarding provisions for this land remained in place until the first occupation of the 800th dwelling. After this point, any part of the land not sold for one the previously mentioned purposes would be released from the safeguarding obligations in the Section 106 agreement and brought forward for alternative uses.

4.3 The developers marketed the site over a prolonged period however no schemes came forward and by 2008 the 800th house has been occupied at which point the obligation was satisfied. Although it was hoped that the original purpose for the site would be developed no such scheme has been brought forward and is no longer required by the S106.

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

GP2: Settlement Hierarchy

GP1: Securing Sustainable Development

H1: Informing Housing Mix

HS5: Traffic Generation and Air Quality

HS4: Open Space, Sports Facilities and Recreation

NE1: Protecting Designated Biodiversity and Geodiversity Assets

SDC1: Sustainable Design

SDC9: Broadband and Mobile Internet

SDC6: Sustainable Drainage

SDC4: Sustainable Buildings

SDC2: Landscaping

D4: Planning Obligations

D3: Infrastructure and Implementation

D2: Parking Facilities

D1: Transport

National Planning Policy Framework, 2021 (NPPF)

Climate Change and Sustainable Design and Construction SPD 2023

Planning Obligations SPD

Cawston Parish Plan 2010

Technical consultation responses

WCC Ecology BIA metric requested and conditions provided. Metric received and loss of 0.91 units S106 contribution requested.

WCC Archaeology No objection subject to condition

NHS CWCCG No contributions sought

WCC Infrastructure No contributions sought

WCC Flood Authority Initial objections further information sought following receipt no objection subject to conditions

RBC Environmental Health No objection subject to conditions and informatives

RBC Landscape Officer No objection subject to condition

RBC Work Services No objection

Severn Trent Informative given

WCC Highways No objection subject to conditions

Third party comments

Parish Objection to initial design:

1. Safety – the layout of houses with parking at the rear of property could reduce the visibility for motorists on the Gerard Road island crossing. The land is situated between two other green spaces which sees children riding scooters or cycling between the two across the road. The Parish Council echoes the objections of WCC in this matter.

2. Ecology – This site while currently unkempt is a haven for wildlife and would be sad loss of green space for Cawston. The Parish Council would ask that a further ecological survey of the site be undertaken in spring or summer as the current site survey was carried out in November.

3. Density – the frontages of the proposed properties are very close in comparison to other properties around them on Gerard Road.

4. Parking – the development of the proposed site will see an increase in car owners and therefore it will impact on the traffic overall within Cawston. Parking particularly is likely to cause further issues as the proposed dwellings only have parking at the rear and it is likely that some residents may simply park on the road at the front of their property or take up a valuable space in car park which is in place to support the amenities and shops on Gerard Road.

Objection remained to redesign although noted the changes made.

Neighbours/ residents of Rugby 22 comments received

- Objection to use of land proposed
- Impact on parking and access
- Lack of infrastructure
- Loss of site for community use
- Loss of green space
- Enough houses in Cawston
- Loss of biodiversity
- Noise and air pollution from build
- School oversubscribed
- Pressure on amenities
- Adverse impact on residential amenity
- Overdevelopment
- Visual impact due to different design and materials to surrounding area
- Impact on nesting bird sites

Cllr Moran Objection:

- Loss of open space
- Loss of biodiversity
- Impact on highways
- Poor design

5.0 Assessment of proposals

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

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.

6.2 This is reflected in Section 2 of the NPPF which states that when considering development proposals, the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development.

6.3 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’.

6.4 The Local Plan for Rugby was adopted on the 4th June 2019. On adoption, the authority had a five-year supply of housing. The latest Annual Monitoring Report (AMR), published in October 2021, confirms this position. 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.

6.5 Policy GP2 of the Local Plan states that development will be allocated and supported in accordance with the settlement hierarchy. The application site is located within the Rugby town as defined in Policy GP2 of the Local Plan; this is the main focus of all development in the Borough. Development is permitted within existing boundaries and as part of allocated Sustainable Urban Extensions. This application complies with Policy GP2 of the Local Plan.

7.0 Character and Design

7.1 Policy SDC1 of the Local Plan states that development should demonstrate high quality, inclusive and sustainable design and new 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. All developments should aim to add to the overall quality of the areas in which they are situated.

7.2 During the process of the application the layout of the dwellings has been amended to reflect the character of the area with the three blocks of terrace continuing the pattern of

development from the south of the site adjacent to the public footpath and cycleway towards the play area. Landscaping is proposed to soften hard surfaces required for providing adequate parking provision. The new dwellings have been designed in conjunction with the application site providing private amenity space for the future occupiers.

7.3 The two storey terrace dwellings proposed are considered to blend with the existing streetscene and incorporate design features already present within the surrounding Cawston area. A **condition (6 in the draft decision)** will be attached to any permission granted requiring a full schedule of materials to be submitted to the Local Planning Authority prior to the commencement of above ground development. This will ensure the materials used are sympathetic to the immediate and wider surroundings and are visually acceptable.

7.4 Sufficient private amenity space with garden, bin storage and shed and cycle storage are included for each dwelling proposed. This application is assessed as complying with Policy SDC1 of the Local Plan.

7.5 Policy SDC4 requires all new buildings meet the Building Regulations requirement of 100 litres of water/person/day unless it can be demonstrated that it is financially unviable. A condition would be applied to the granting of any permission to comply with this requirement. **(condition 8)**

8.0 Impact on Residential Amenity

8.1 Section 12 of the NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SDC1 of the Local Plan states that proposals need to ensure that the living conditions of existing and future neighbouring occupiers are safeguarded.

8.2 Separation distances of over 20metres are proposed between the development included in this application and existing dwellings surrounding the application site. Separation distance combined with the existing and proposed boundary treatment ensures that there will be no materially adverse impacts on the occupiers of the dwellings in terms of loss of light, overbearing impact and overlooking. Off-street storage for wheeled bins, including storage recycling to serve all properties is provided in the proposal.

8.3 It is therefore considered that the amenity of neighbouring residents is maintained and compliant with Policy SDC1.

9.0 Ecological Considerations

9.1 Section 15 of the NPPF states that the planning system:

- should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species.

9.2 Policy NE1 of the Local Plan states that The Council will protect designated areas and species of international, national and local importance for biodiversity and geodiversity.

9.3 The existing habitat on site consists of semi-improved grassland, tall ruderal continuous scrub and scattered scrub. A Preliminary Ecological Appraisal and Biodiversity Impact Assessment metrics show a loss to biodiversity of 0.91 units. From the submitted metrics and the

lack of scope for habitat creation with the proposed site layout a gain cannot be achieved on this application site and a S106 contribution for biodiversity would be used to compensate for the loss through appropriate habitat creation or enhancements in line with the hierarchy of mitigation. Species specific enhancements including bird and bat boxes incorporated in the fabric of the buildings are included in the dwelling plans. Close boarded fencing should include hedgehog highways. A landscape and ecological management plan condition would be attached subject to the granting of any permission to incorporate these measures. (condition 20)

9.4 A construction and environmental management plan condition (condition 19) would be attached subject to the granting of any permission due to the site’s use for commuting and to ensure no animals are harmed through development. Post construction lighting scheme would also be subject to condition (condition 21) to minimise impact on wildlife and particularly any habitats created.

9.5 To secure the specifics of the soft landscaping details provided in terms of tree, hedge and shrub planting to the satisfaction of the Local Planning Authority (condition 18) is included in the appended draft decision subject to planning permission being granted.

9.6 As a result of the proposed scheme being subject to a Section 106 agreement, condition and informative this application is considered in accordance with Policy NE1 and Section 15 of the NPPF.

10.0 Impact on Highway Safety

10.1 Policy D2 of the Local Plan states that planning permission will only be granted for development incorporating adequate and satisfactory parking facilities including provision for motorcycles, cycles and for people with disabilities, based on the Borough Council’s Standards. The Planning Obligations SPD and Appendix 5 of the Local Plan outlines the provision required.

10.2 The table below provides a breakdown of the total requirements for parking provision for dwellings proposed within this application. For clarity 3-bedroom properties seek provision for 2 spaces to be provided and 4-bedroom properties seek provision for 3 spaces.

Parking Provision

Plot No.	No. Beds	SPD Requirements	Parking Provision	Complies Yes/No
1	4	3	3	Yes
2	3	2	2	Yes
3	3	2	2	Yes
4	4	3	3	Yes
5	4	3	3	Yes
6	3	2	2	Yes
7	3	2	2	Yes
8	3	2	2	Yes
9	3	2	2	Yes
10	4	3	3	Yes
	Total requirements	24	24	Yes

10.3 The parking provision outlined in the submitted plans of 24 parking spaces meets the Local Plan parking standards of a three or four bedroom dwelling within the low access zone. Each dwelling is allocated to be provided with an electric charging point and the provision of such secured via **condition 9** included in the draft decision notice. Each property is also provided with secure and covered cycle parking.

10.4 Given the compliance with Appendix 5 of the Local Plan and SPD on Planning Obligations it is considered that the scheme would not result in an adverse impact on parking provision within the development. It is therefore considered that there will be no materially adverse impacts on parking provision within the surrounding area.

10.5 Warwickshire County Council Highways initially objected to the proposal raising issues with elements of the scheme and requesting a Stage 1 Road Safety Audit. Based on the assessment and appraisal of the revised plans alongside the Stage 1 Road Safety Audit and associated Designers Response, the Highway Authority has no objection to the planning application subject to conditions.

10.6 Confirmation has been received from the Highway Authority that the proposed access roads are not considered appropriate for adoption as highway maintainable at public expense, however the revised plans adequately mitigate the concerns raised in the original Highway Authority objections. It is therefore considered that the private accesses and associated facilities as proposed would not have an unacceptable impact on the safe and efficient operation of the highway.

10.7 As such the Highway Authority has no objection to the planning application subject to appropriate conditions and informatives (**condition 11-13**). It is therefore considered that this proposal will not have an adverse impact on highway safety and complies with Policy D2.

11.0 Flooding

11.1 When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- o Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- o Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

11.2 Whilst the application site is located within Flood Zone 1 which has a low probability of flooding as the application constitutes major development the Warwickshire County Council (Flood Risk Management) team have been consulted on the application.

11.3 Warwickshire County Council (Flood Risk Management) initially objected to the application on the grounds that insufficient information has been submitted relating to surface water drainage. The additional information was submitted with the application and re-consultation was carried out accordingly. It has been confirmed from Warwickshire County Council (Flood Risk Management) that they have no objections subject to conditions (**condition 15-17**).

12.0 Air Quality

12.1 Policy HS5 requires that development within the Air Quality Management Area as defined in Appendix 8 of the Local Plan that would generate any new floorspace must achieve or exceed air quality neutral standards. If air quality neutral standards are not met, points 2, 3 and 4 of the policy detail how developments should address the impacts of poor air quality, including mitigation measures.

12.2 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.”

12.3 It is recognised that the current proposal increases floorspace within the Air Quality Management Area and as such policy HS5 is relevant. The proposal introduces new boilers and increases car parking by 24 spaces. Therefore, there will be a material increase of emissions from the proposed development compared with the emissions of the existing use/development. Within the context of point 1 of the policy, the development is not considered to be air quality neutral. As a result, mitigation as detailed in points 2 to 4 of the policy are required.

12.4 In this instance the following on site mitigation measures are proposed:

- Ultra-low emission boilers
- 10 electric car charging points (1 per dwelling)
- Cycle storage area for each dwelling

12.5 Taken as a whole, it is considered that the above package of mitigation measures meet the requirements of points 2-4 of the policy and as such complies with policy HS5. The details will be secured by an appropriately worded **condition (7&9)**.

12.6 As the development is within the Rugby Air Quality Management Area for 10 dwellings with 24 parking spaces RBC Environmental Health have considered the ‘EPUK and IAQM Land-Use Planning & Development Control: Planning for Air Quality January 2017’. The development meets the criteria in table 6.1 Stage 1 Criteria to proceed to stage 2. As such a stage 2 assessment as per table 6.2 Indicative Criteria for requiring and air quality assessment shall be followed. It should be noted that this assessment is different to the proposals noted with regard to planning policy HS5 and the air quality neutral/mitigation works. The required assessment will be secured by **condition 22** of the draft decision.

13.0 Archaeology

13.1 The proposed development lies in an area of significant archaeological potential. Several archaeological features, including prehistoric enclosures and linear features survive to the immediate north-east of the proposed development site (Warwickshire Historic Environment Record MWA 4145, 5684). Archaeological trial trenching across this area in 2000 recovered struck flints and Iron Age material, whilst more recent fieldwork in 2011-12 identified extensive Iron Age and Romano-British features, including cremations. A scatter of Mesolithic flints has also been recorded in the vicinity of the site (MWA 7246). There is therefore a potential for the proposed development to disturb archaeological deposits dating to the prehistoric and later periods.

13.2 WCC Archaeology do not wish to object to the development but do consider that some archaeological work should be required if consent is forthcoming. This taking a phased approach, the first phase of which would comprise an archaeological evaluation by trial trenching.

13.3 A condition (condition 10) would be required subject to the granting of any approval to require a Written Scheme of Investigation, archaeological evaluative fieldwork and archaeological mitigation strategy to be provided.

14.0 Landscaping

14.1 Local Plan Policy SDC2 states that the landscape aspects of a development proposal will be required to form an integral part of the overall design. A high standard of appropriate hard and soft landscaping will be required.

14.2 Following consultation with the Local Authorities Landscape Officer they have no objection to the proposal subject to further soft landscaping details being provided in terms of tree, hedge and shrub planting. A condition (condition 18) is attached to the draft decision subject to the granting of any permission to approve and secure implantation of this landscaping.

15.0 Planning Obligations

15.1 Paragraphs 54, 56 and 57 of the Framework, policies D3 and D4 of the Local Plan and the Planning Obligations SPD set out the need to consider whether financial contributions and planning obligations could be sought to mitigate against the impacts of a development and make otherwise unacceptable development acceptable.

15.2 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) makes it clear that these obligations should only be sought where they are:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

If a requested planning obligation does not comply with all of these tests, then it is not possible for the Council to take this into account when determining the application. It is within this context that the Council has made and received a number of requests for planning obligations as detailed below. It is considered that all of these requests meet the necessary tests and are therefore CIL compliant.

15.3 Policy D4 of the Local Plan Policy along with the Planning Obligations SPD states that the type, amount and phasing of contributions sought from developers will be necessary to make the development acceptable, directly related, and fairly and reasonably related in scale to the development proposed. Policy HS4 states that residential development of 10 dwellings and above shall provide or contribute towards the attainment of the Council's open space standards.

15.4 The SPD on Planning Obligations states that an off-site contribution is required, subject to negotiation with the Council, in this instance a contribution is required towards the costs of the open space provision. It has been confirmed that the contribution would be used to provide the following:

- Ongoing maintenance and long-term refurbishment of Cawston park
- Pitch improvements to Alwyn Road

15.5 Warwickshire County Council (Ecology) have confirmed that due to the net loss of -0.91 in biodiversity units a contribution is required as any net loss in contrary to the NPPF and would need to be addressed through an offsetting agreement to create habitats further afield.

16.0 Heads of Terms

16.1 In summary the contributions required for this proposal have been highlighted as per the table below:

Obligations	Requirement	Trigger
Open Space	Improvements to Cawston open space and Alwyn Road £67,165	Commencement of development
Biodiversity	To mitigate biodiversity loss on site £60,657 (indicative figure)	Prior to commencement of development

16.2 Local planning authorities should ensure that the combined total impact of planning conditions, highway agreements and obligations does not threaten the viability of the sites and scale of development identified in the development plan.

16.3 If the committee resolves to approve the proposal, this will be subject to the completion of an agreement by way of a section 106 covering the aforementioned heads of terms.

16.4 In relation to any financial contributions or commuted sums sought through a s.106 agreement, the financial contributions or commuted sums set out in this report will be adjusted for inflation for the period from resolution to grant to completion of the s.106 agreement. In addition, any financial contributions or commuted sums sought through a s.106 agreement will be subject to indexation from the completion of the s.106 agreement until the date that financial contribution or commuted sum falls due. Interest will be payable on all overdue financial contributions and commuted sums.

16.5 Subject to the completion of a section 106 agreement the development would be in accordance with Policy D3 of the Local Plan.

17.0 Planning Balance and Conclusion

17.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

17.2 The NPPF sets out a presumption in favour of sustainable development and advises decision-takers to approve a development proposal that accords with the development plan without delay. The NPPF at paragraph 7 identifies the three dimensions to sustainability, those being economic, social and environmental. Paragraph 8 goes on to advise that in order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

17.3 From an economic perspective the proposed new dwellings would result in money being invested in construction on the site, employment relating to construction jobs over the build period, new household spending in the Borough, a contribution to the viability of local retail uses, services and businesses and additional Council Tax revenue. Such matters would have a positive impact on the local economy and prosperity of the Borough which weighs in favour of the application. As such, the proposed development would satisfy the economic role of sustainable development.

17.4 From a social perspective the proposed development of 10 dwellings, would make a positive contribution towards housing needs within the Borough. As such, the proposed development would satisfy the social role of sustainable development.

17.5 From an environmental perspective the potential adverse impacts of the proposed development in relation to the use of the land, accessibility, highway safety, flood risk, drainage, air quality, noise, visual amenity, residential amenity and water conservation have all been considered. Whilst there would be a net loss in biodiversity, this loss would be mitigated through conditions and S106 agreement.

17.6 Therefore, the development of the site would result in significant social and economic benefits as well as environmental benefits. Paragraph 8 of the NPPF is clear that the 3 roles should not be taken in isolation but that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously. The identified benefits would mean, on balance, that the proposal would represent sustainable development in terms of the NPPF and is therefore considered to accord with the Development Plan and the NPPF.

17.7 The proposal would respect the scale and character of the surrounding area, would not adversely affect the amenities of the occupiers of neighbouring properties, and would not impact upon highway safety.

18.0 Recommendation

1. Planning application R22/0383 be approved subject to:
 - a. the conditions and informatives set out in the draft decision notice appended to this report; and
 - b. the completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.
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.
3. The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

DRAFT DECISION

REFERENCE NO:
R22/0383

DATE APPLICATION VALID:
27-Apr-2022

APPLICANT:

Balvinder Singh, Poonah Investments Limited Poonah Investments Limited, 12 Regent Street, Rugby, CV21 2QF

AGENT:

Richard Cooke, Marrons Planning Marrons Planning, Bridgeway House, Bridgeway, Stratford-Upon-Avon, CV37 6YX

ADDRESS OF DEVELOPMENT:

Land West Side Of, Heritage Close, Rugby

APPLICATION DESCRIPTION:

Erection of 10 dwellings with access from Heritage Close, Cawston

CONDITIONS, REASONS AND INFORMATIVES:

CONDITION 1:

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

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:

<u>Plan</u>	<u>Ref</u>	<u>Date received</u>
Topographical Survey	Dwg No. P9860	27/04/2022
Site location Plan	Dwg No. 4126-01 Rev A	03/10/2022
Existing site plan	Dwg No. 4126-02 Rev A	03/10/2022
Proposed site plan	Dwg No. 412605 Rev J	07/02/2023
Vehicle Tracking	Dwg No. 23532-01 Rev C	15/12/2022
Block 1 Floorplans	Dwg No. 4126-35 Rev A	24/09/2022
Block 1 Elevations Sheet 1 of 2	Dwg No. 4126-36 Rev A	24/09/2022
Block 1 Elevations Sheet 2 of 2	Dwg No. 4126-37 Rev A	24/09/2022
Block 2 Floorplans	Dwg No. 4126-38 Rev A	24/09/2022
Block 2 Elevations	Dwg No. 4126-39 Rev A	24/09/2022
Block 3 Floorplans	Dwg No. 4126-40 Rev A	24/09/2022
Block 3 Elevations	Dwg No. 4126-41 Rev A	24/09/2022

Report

Drainage Strategy Project No.21-0700 HCCR-BSP-ZZ-XX-RP-C-0001-P04_Drainage_Strategy received 23/11/2022

Preliminary Ecological Appraisal & Biodiversity Impact Assessment Project-GE0408 received 03/10/2022

PEA Appendix 3 received 03/10/2022

PEA Appendix 4 received 03/10/2022
Road Safety Audit Response Report Ref: 23532-02 received 15/12/2022
Environmental Noise Survey Report No. 21854-1 received 27/04/2022
Phase I Site Appraisal P9860 December 2021 received 27/04/2022

REASON:

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

CONDITION 3:

Prior to the first occupation of each dwelling broadband infrastructure shall be provided to that dwelling to allow broadband services to be provided.

REASON:

To provide broadband connectivity for future occupiers.

CONDITION 4:

No above ground development shall commence unless and until details of all proposed walls, fences and gates, including elevations, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON:

In the interest of visual amenity.

CONDITION 5:

Full details of the siting, design and materials of the proposed bin and cycle stores as shown on Proposed site plan Dwg No. 412605 Rev J shall be submitted to and approved in writing by the Local Planning Authority. The bin and cycle stores shall be provided, in accordance with the approved details before the first occupation of any dwelling and maintained in perpetuity.

REASON:

In the interest of visual and residential amenity and in the interests of air quality.

CONDITION 6:

No above ground development shall commence unless and until full details of the colour, finish and texture of all new materials to be used on all external surfaces, together with samples of the facing bricks and roof tiles have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON:

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

CONDITION 7:

Prior to occupation, each dwelling must be installed with an ultra-low emission boiler to meet the minimum standard of less than 40mgNO_x/kWh per dwelling. An ultra-low emission boiler to meet this minimum standard will be maintained in perpetuity.

REASON:

To provide on-site measures relating to air quality to meet the mitigation requirements of policy HS5.

CONDITION 8:

The dwellings hereby approved shall incorporate measures to limit water use to no more than 110 litres per person per day within the home in accordance with the optional standard 36 (2b) of Approved Document G of the Building Regulations 2010 (as amended).

REASON:

In the interests of sustainability and water efficiency.

CONDITION 9:

Prior to the first occupation of each dwelling a passive electric vehicle charging point shall be provided to that dwelling as shown on Proposed site plan Dwg No. 412605 Rev J and maintained in perpetuity.

REASON:

To encourage the use of electric vehicles in the interest of sustainability and in the interest of air quality.

CONDITION 10:

No development shall commence unless and until:

- a) A Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.
- b) The programme of archaeological evaluative work and associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken. A report detailing the results of this fieldwork shall be submitted to the Local Planning Authority.
- c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.

REASON:

In the interest of archaeology.

CONDITION 11:

No dwelling in Plots 1-5 shall be occupied until the access bellmouth has been laid out and constructed within the public highway in general accordance with drawing number 4126-05 Revision J.

REASON:

In the interest of highway safety.

CONDITION 12:

No dwelling in Plots 6-10 shall be occupied until the public highway vehicular access footway crossing has been laid out and constructed in general accordance with drawing number 4126-05 Revision J.

REASON:

In the interest of highway safety.

CONDITION 13:

Prior to first occupation of any dwelling the accesses to the site for vehicles shall not be used until they have been surfaced with a bound macadam material for a distance of 12 metres as measured from the near edge of the public highway carriageway.

REASON:

In the interest of highway safety.

CONDITION 14:

No development shall commence unless and until a Construction Method Statement / Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details relating to:

- identify suitable areas for the parking of contractors and visitors and the unloading and storage of materials
- the control of noise and vibration emissions from construction activities including groundworks and the formation of infrastructure including arrangements to monitor noise emissions from the development site during the construction phase
- the control of dust including arrangements to monitor dust emissions from the development site during the construction phase
- measures to reduce mud deposition and debris offsite from vehicles leaving the site.

Development shall be carried out in compliance with the approved construction method statement / management plan.

REASON:

In the interest of highway safety.

CONDITION 15:

No development shall take place until a detailed surface water drainage scheme for the site, based on the sustainable drainage principles outlined within the approved surface water drainage strategy (ref: HCCR-BSP-ZZ-XX-RP-C-0001-P04_Drainage_Strategy), has been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details prior to occupation of the final dwelling. The scheme to be submitted shall:

1. Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 3.5l/s/ha for the site in line with the approved strategy.
2. Where the drainage scheme proposes to connect into a 3rd party asset, for example a public sewer, further information should be provided regarding the ownership, purpose, location and condition of this asset along with confirmation of the right to connect into it. This could take the form of land ownership plans showing riparian ownership, land drainage consent, flood risk activity permit or agreement under Section 106 of the Water Industry Act (1991).
3. It is noted detailed scheme drawings have been provided, where relevant provide updated drawings / plans illustrating the proposed sustainable surface water drainage scheme.
4. Provide detail drawings including cross sections, of proposed features such as bio-retention areas, attenuation features, and control/outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.

5. Where relevant, provide updated network level calculations demonstrating the performance of the proposed system.
6. Provide plans such as external levels plans, supporting the exceedance and overland flow routing and demonstrating how water will be directed to the proposed bio-retention areas. Such overland flow routing should:
 - a. Demonstrate how runoff will be directed through the development without exposing properties to flood risk.
 - b. Consider property finished floor levels and thresholds in relation to exceedance flows. The LLFA recommend FFLs are set to a minimum of 150mm above surrounding ground levels.
 - c. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

REASON:

To prevent the increased risk of flooding; to improve and protect water quality; and to improve habitat and amenity

CONDITION 16:

No occupation shall take place until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (ref: HCCR-BSP-ZZ-XX-RP-C-0001-P04_Drainage_Strategy) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.
2. Any As-Built Drawings and accompanying photos
3. Results of any performance testing undertaken as a part of the application process (if required / necessary)
4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
5. Confirmation that the system is free from defects, damage and foreign objects

REASON:

To secure the satisfactory drainage of the site in accordance with the agreed strategy, the NPPF and Local Planning Policy.

CONDITION 17:

No occupation of the development shall take place until a detailed, site specific maintenance plan is provided to the Local Planning Authority in consultation with the LLFA. Such maintenance plan should

1. Provide the name of the party responsible, including contact name, address, email address and phone number
 2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
 3. Provide details on how surface water each relevant feature shall be maintained and managed for the life time of the development.
 4. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance
- Development shall be carried out in compliance with the approved maintenance plan.

REASON:

To ensure the future maintenance of the sustainable drainage structures.

CONDITION 18:

No works or development shall take place until a final specification of all proposed tree planting has been approved in writing by the Local Planning Authority. This specification will include details of the quantity, size, species, position and the proposed time of planting of all trees to be planted, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance. In addition all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape should be similarly specified. If within a period of 10 years from the date of planting of any tree/shrub/hedge that tree/shrub/hedge, or any tree/shrub/hedge planted in replacement for it, is removed, uprooted, destroyed or dies, (or becomes in the opinion of the Local Planning Authority seriously damaged or defective), another tree/shrub/hedge of the same species and size originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variations. The development shall be carried out in accordance with the approved details.

REASON:

the interests of biodiversity and visual amenity.

CONDITION 19:

The development hereby permitted, including site clearance, shall not commence until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. In discharging this condition, the Local Planning Authority expect to see details concerning pre-commencement checks and precautionary working methods for nesting birds, badger and hedgehog. Appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on site should be detailed within the document. The agreed Construction and Environmental Management Plan shall thereafter be implemented in full.

REASON:

To ensure that protected species are not harmed by the development.

CONDITION 20:

The development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan should include details of planting and maintenance of all new planting. Details of species used and sourcing of plants should be included. The plan should also include details of habitat enhancement/creation measures and management, such as native species planting, wildflower grassland creation, woodland and hedgerow creation/enhancement, and provision of habitat for protected and notable species (including location, number and type of bat and bird boxes, location of log piles). Such approved measures shall thereafter be implemented in full.

REASON:

To ensure a net biodiversity gain in accordance with NPPF.

CONDITION 21:

The development hereby permitted shall not commence until details of all external light fittings and external light columns have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. In discharging this condition, the Local Planning Authority expects lighting to be restricted on newly created habitat and to be kept to a minimum at night across the whole

site in order to minimise impact on emerging and foraging bats. This could be achieved in the following ways:

- Lighting should be directed away from vegetated areas
- Lighting should be shielded to avoid spillage onto vegetated areas
- The brightness of lights should be as low as legally possible;
- Lighting should be timed to provide some dark periods;
- Connections to areas important for foraging should contain unlit stretches.

REASON:

In accordance with NPPF.

CONDITION 22:

Prior to occupation, an air quality assessment shall be submitted to and approved in writing by the Local Planning Authority. This will take into consideration the impact of traffic emissions on and associated with the proposed new housing development. Development shall not be carried out other than in accordance with the approved details. Regard may be had to the EPUK & IAQM Land-Use Planning & Development Control: Planning For Air Quality January 2017.

REASON:

In the interests of residential amenity and to ensure the details are acceptable to the Local Planning Authority

CONDITION 23:

No development other than that required to be carried out as part of an approved scheme of remediation shall commence until condition (a) to (d) below have been complied with. If unexpected contamination is found after development has begun, development shall be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the local planning authority until condition (d) below has been complied with in relation to that contamination.

(a) An investigation and risk assessment shall be completed 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. The contents of the scheme shall be subject to approval in writing by the local planning authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report shall be subject to approval in writing by the local planning authority. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to human health, existing or proposed property and buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
- (iii) an appraisal of remedial options, and proposal of the preferred option(s) to be conducted in accordance with UK Government and the Environment Agency's Land Contamination Risk Management (LCRM) 8th October 2020.

(b) 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 and subject to approval in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works. 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 and subject to approval in writing by the local planning authority.

(d) In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition (a) and where remediation is necessary a remediation scheme shall be prepared in accordance with the requirements of condition (b) which shall be subject to approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to approval in writing by the local planning authority in accordance with condition (c).

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 offsite receptors.

CONDITION 24:

Prior to the first occupation of the dwellings the bird and bat boxes shown on plan Proposed site plan Dwg No. 412605 Rev J shall be provided and retained in perpetuity.

REASON:

In the interest of biodiversity.

CONDITION 25:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any order revoking or re-enacting that order and those approved by detail of Condition 4, no wall, fence, gate or other means of enclosure shall be erected, constructed or placed in front of the dwellings.

REASON:

In the interest of visual amenity.

INFORMATIVE 1:

It is a legal requirement that all new properties are numbered and roads named and in this respect you must apply for Street Naming and Numbering at the earliest opportunity for both new or changes to existing properties, including development revisions. Failure to do this in good time can delay the installation of services and/or prevent the sale of properties.

To register the properties on a development and receive correct addressing or to amend an existing address please complete an application form for Street Naming and Numbering. The form can be accessed at:

https://www.rugby.gov.uk/info/20084/planning_control/76/street_naming_and_numbering .

INFORMATIVE 2:

This planning permission is subject to pre-commencement conditions which require details/drawings to be submitted to and approved in writing by the Local Planning Authority before ANY development may lawfully commence. Any development commenced in breach of these pre-commencement conditions will be unauthorised, a breach of planning control, and liable to immediate Enforcement and Stop Notice action.

INFORMATIVE 3:

This development is subject to a s106 legal agreement.

INFORMATIVE 4:

As outlined within the condition, the strategy should be treated as a minimum at this stage of the design. Further consideration should be given during the next stage of the design to incorporate additional, localised source control SuDS such as green roofs, rain-gardens and tree pits as part of a 'SuDS management train' approach to provide water quality, amenity and bio-diversity benefits and increase the resilience within the design.

At the 'discharge of condition' stage proposals for surface water drainage should be approaching a level of detail suitable for tender or construction. Documentation should show the drainage scheme including SuDS features, specific details (e.g. standard details or cross sections) and demonstrate the performance and of the system through calculations and exceedance management respectively. Such scheme should be in line with the original planning application/permission and where significant changes are made, justification should be provided.

INFORMATIVE 5:

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

INFORMATIVE 6:

This development will be subject to separate enforcement regimes including, but not limited to, the Housing Act 2004, building regulations and Council's Standards of Amenity. Advice should be sought from Housing Enforcement on (01788) 533857 prior to any work commencing.

INFORMATIVE 7:

Environmental Services advise that in order to reduce the likelihood of local residents being subjected to adverse levels of noise annoyance during construction, work on site should not occur outside the following hours: -

Monday - Friday - 7.30 a.m. - 18.00 p.m.,

Saturday - 8.30 a.m. - 13.00 p.m.

No work on Sundays & Bank Holidays.

INFORMATIVE 8:

Condition numbers 11-13 require works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must enter into a Highway Works Agreement with the Highway Authority under the provisions of Section 184 of the Highways Act 1980. Application to enter into such an agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution.

Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less ten days, notice will be required. For works lasting longer than 10 days, three months notice will be required.

INFORMATIVE 9:

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 10:

With Rugby's Hedgehog Improvement Area status for this planning application all fencing/gravel boards/gates/walls on boundary lines should be specified to have occasional CD size gaps (13cm x 13cm) as a simple very low cost measure for ensuring boundaries are accessible for hedgehogs and wide range of species to enable roaming for habitat/food/mates etc across the development providing links between gardens and also provide links to and from public open space, encouraging colonisation and preventing habitat fragmentation.

Reference: R22/0722

Site Address: 50 Windsor Street, Rugby, Warwickshire, CV21 3NY

Description: Loft conversion and change of use to Sui Generis (7-bed HMO)

Recommendation

1. Planning application R22/0722 be approved subject to:
 - a. the conditions and informatives set out in the draft decision notice appended to this report.
 - b. the completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.
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.
3. The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

1.0 Introduction

- 1.1 The application is being reported to the Planning Committee in accordance with the Scheme of Delegation, as Councillor Harrington has requested the application be determined by the Planning Committee due to concerns regarding:
 - Noise and disturbance due to the extra people in the house compared to normal.
 - Traffic generation – up to 7 cars could be in the area plus 7 different sets of family and friends visiting the HMO. The facilities would not cope with extra.
 - Traffic and parking – with up to 7 cars, currently is hard to park on that street.
 - Highway safety – as it's a narrow street getting past would make it difficult. This will make it harder for emergency services to attend or go down the street.
- 1.2 The Planning Committee on Wednesday 8th February 2023 voted to defer determining the planning application so that a Committee site visit could be undertaken.
- 1.3 During the Committee meeting members raised concerns in relation to the impact this application may have on parking in the area and the little parking information they have to make a decision. Since February's Planning Committee, the applicant has observed and photographed parking availability along Windsor Street at different dates and times during the day. This is assessed within section 12 of the report.

2.0 Description of site and surrounding area

- 2.1 The application site lies within the Rugby urban area approximately 800 metres (0.5 miles) from the town centre and approximately 800 metres (0.5 miles) from the train station. The

application dwelling is a mid-terraced two-storey 3 bedroom property located on Windsor Street. The property has a two-storey rear projecting outrigger with an existing single storey extension attached to the rear. The property is finished in a cream painted pebbledash and concrete tiles on the roof. There is an alleyway between the application dwelling and No. 52 Windsor Street which allows access to the rear private amenity space. The property is subject to on-street parking.

- 2.2 The surrounding properties on Windsor Street are generally formed in a linear arrangement and of a similar era to that of the application dwelling with bay windows common and a range of finishes present in the streetscene.
- 2.3 A search of the public register of licensed houses in multiple occupation (February 2023) shows there are 199 licensed HMO's within the Borough. Windsor Street has 3 licensed HMO's:
- No. 8 Windsor Street: permitted occupants – 6
 - No. 32 Windsor Street: permitted occupants – 8
 - No. 40 Windsor Street: permitted occupants – 6
- 2.4 There are 89 separate addresses within Windsor Street and 3 licensed HMO's, which equates to approximately 3.37% of the street. One additional HMO would equate to 4.49% of the street in use for registered HMO housing.

3.0 **Description of proposals**

- 3.1 This application seeks full planning permission for the change of use from a dwellinghouse (C3) into a 7 bedroom house in multiple occupation (HMO) (Sui Generis), an 'L' shaped dormer and minor external alterations. Refuse bin storage and secure cycle storage provision will be made available in the rear garden.
- 3.2 It should be noted that not all conversions of residential properties to HMO's require planning permission. A change of use of a C3 dwellinghouse to a small HMO (Use Class C4) where the HMO is occupied by between three and six unrelated individuals does not require planning permission. Therefore, changing the use of a C3 dwellinghouse to a HMO with more than six residents (Use Class Sui Generis) would require planning permission. In this case the application seeks seven occupants therefore planning permission is required.
- 3.3 The 'L' shaped dormer will be located on the main rear roof slope and on the roof slope of the rear projecting two-storey outrigger. The part of the 'L' shaped dormer to be on the main rear roof slope will have dimensions of approximately: width – 6.0 metres, depth – 3.7 metres and flat roof height – 2.4 metres. The part of the 'L' shaped dormer to be on the projecting two storey outrigger will have dimensions of approximately: width – 3.0 metres, depth – 5.7 metres and flat roof height – 2.4 metres. The 'L' shaped dormer will have a volume of approximately 47 cubic metres. The dormer will be tile hung. Two windows are to be inserted in the rear elevation and one window inserted in the side elevation of the proposed dormer.
- 3.4 The ground floor will comprise of two bedrooms and an open plan kitchen and lounge area. The first floor will comprise of three bedrooms and two bedrooms are proposed on the second floor. All bedrooms will have ensuite bathrooms and will be single occupancy meaning there will be a maximum of seven occupants living at the property.

- 3.5 Minor external alterations are proposed which include the insertion of a velux skylight in the front roof slope. One existing window at ground floor level on the rear elevation will be removed and replaced by a door and a window on the side elevation at ground floor level will be removed and replaced by a full height window.
- 3.6 In the rear garden a cycle storage shelter is proposed which will have dimensions of approximately: width – 3.3 metres, length – 6.1 metres and flat roof height – 2.5 metres. The shelter will be of facing brick construction and will be able to accommodate at least seven bicycles. The bicycle storage shelter could be built under permitted development. Also to the rear will be the bin storage area. The bins will be stored at the rear of the property and will be moved kerbside on collection days.
- 3.7 Internal and external works have begun at the property. The internal alterations do not require planning permission. Works to the dormer has begun. On a site inspection on 17/01/2023 the only external works that appear to have started were the installation of a dormer window within the main rear roof slope. Under permitted development, a dormer with a volume of up to 40 cubic metres could be constructed on a terraced property without planning permission. The part of the dormer in question is approximately 27 cubic metres so there has been no breach of planning control. The use of the property as a HMO has not commenced.

4.0 **Relevant planning history**

- 4.1 No relevant planning history.

5.0 **Relevant Planning Policies and Guidance**

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.

Rugby Borough Local Plan 2011-2031 (June 2019)

Policy GP2: Settlement Hierarchy

Policy HS5: Traffic Generation and Air Quality, Noise and Vibration

Policy NE1: Protecting Designated Biodiversity and Geodiversity Assets

Policy SDC1: Sustainable Design

Policy D2: Parking Facilities

Policy D3: Infrastructure and Implementation

Policy D4: Planning Obligations

Supplementary Planning Documents

Climate Change & Sustainable Design and Construction SPD (January 2023)

Air Quality SPD (July 2021)

Planning Obligations SPD (March 2012)

National Planning Policy Framework – 2021

Section 9: Promoting sustainable transport

Section 12: Achieving well-designed places

Section 15: Conserving and enhancing the natural environment

6.0 Technical consultation responses

- 6.1 WCC Highway Authority – initially objected due to insufficient information to determine whether the proposed HMO will create further demand for parking in an area which already has a significant demand for on-street parking and whether additional demand can be accommodated without impacting on existing residents parking amenity or highway safety. The Highway Authority note that vehicles park close to the junction and on the pavement blocking the visibility of Sun Street which has a highway safety impact. The Highway Authority requested a parking survey to determine whether additional parking demand generated by the development could be accommodated without impacting on existing residents parking amenity or highway safety.

The Highway Authority at a later date removed their initial objection subject to a condition (*condition 4*) and obligation in regards to the implementation of a TRO (Traffic Regulation Order) (double yellow lines) at the junction of Windsor Street and Sun Street. With the agreement to contribute £3,000 to implement the TRO, the Highway Authority are able to mitigate the concerns of highway safety.

- 6.2 WCC Ecology – building appears to be well-sealed with interlocking concrete tiled roof. Recommend a bat note, nesting bird note and biodiversity enhancement note are attached as informatives (*informatives 5, 6 and 7 respectively*).
- 6.3 Warwickshire Fire & Rescue – no response received.
- 6.4 RBC Environmental Health – recommend a previously unidentified contamination condition, air quality informative, construction hours informative, asbestos informative and HMO license informative (*condition 8, informatives 1, 2, 3 and 4 respectively*).

Environmental Health initially recommended an air quality neutral/mitigation condition; however, the applicant has since submitted an air quality neutral statement and boiler details to negate the need for a condition requesting such information. Environmental Health are satisfied with the proposed development, providing the suggested mitigation details are implemented in full.

- 6.5 RBC Works Services – has no objection to the application. Works Services have recommend an informative (*informative 8*) regarding collection of refuse, recycling, and green bins.

7.0 Third party comments

- 7.1 Councillor Harrington – raised health and safety concerns in regard to building work and requested the application be determined by the Planning Committee due to concerns regarding:
- Noise and disturbance due to the extra people in the house compared to normal.
 - Traffic generation – up to 7 cars could be in the area plus 7 different sets of family and friends visiting the HMO. The facilities would not cope with extra.
 - Traffic and parking – with up to 7 cars, currently is hard to park on that street.
 - Highway safety – as it's a narrow street getting past would make it difficult. This will make it harder for emergency services to attend or go down the street.

7.2 Neighbours – neighbours notified and a site notice displayed with three household objections received.

Summary of the objections received:

- Negative impact on the value of our property and surrounding properties.
- Uncontrolled increase in HMO's in Benn Ward is having a detrimental effect on the area.
- Impact parking in the area.
- Cars parked on double yellow line making it dangerous for pedestrians and disabled.
- Construction work is being carried out with a disregard to neighbours and health and safety regulations.
- Other general concerns regarding the building work and damage to property.
- Concerns that building works had started prior to planning permission.
- Can't see how a family home can be converted into a 7 bedroomed property.
- Occupants expected to only have bikes which isn't realistic long term and the road is a nightmare to park on.
- Already at least four houses that are multiple occupancy.
- Many neighbours rent and the street community has all but vanished.
- Not unusual to have to reverse up or down the road when driving if another vehicle comes from the opposite direction.
- Dormer is horrendous and out of place for the size of the house.

*Concerns in relation to health and safety, possible damage to property and impact on property values are not material planning considerations.

8.0 **Assessment of proposals**

8.1 The main considerations in respect of this application are as follows:

9. Principle of Development;
10. Character and Design;
11. Impact on Residential Amenity;
12. Highway Safety and Parking;
13. Ecological Considerations;
14. Air Quality;
15. Planning Obligations;
16. Other matters; and
17. Conclusion and Recommendation.

9.0 Principle of Development

9.1 Policy GP2 of the Local Plan states that development will be allocated and supported in accordance with the settlement hierarchy.

9.2 The application site is located within Rugby town as defined by Policy GP2. Rugby town is the main focus for all development in the Borough and development is permitted within existing boundaries. Rugby Town is considered to be the most sustainable location within Rugby Borough, providing the best access to a range of services and facilities.

9.3 The application is considered to be in accordance with Policy GP2 of the Local Plan.

10.0 Character and Design

- 10.1 Policy SDC1 of the Local Plan states that development should demonstrate high quality, inclusive and sustainable design and that proposals will only be supported where the scale, density and design responds to the character of the area in which they are situated. Factors including the massing, height, landscape, layout, materials and access are a key consideration in the determination of planning applications.
- 10.2 Section 12, paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 126 further states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 10.3 Although it is considered that the proposed dormer is of a large size and scale, the overall volume is approximately 47 cubic metres which is only of a marginally greater volume than what could be achieved under permitted development (40 cubic metres). In addition, the dormer is located to the rear of the property and the dormer will not project above the ridgeline of the existing roof. Given that this is a mid-terraced property, the dormer will not be overly visible from the streetscene and will therefore not have a significant impact on the visual amenity of the area. The proposed face and sides of the dormer will comprise of hung concrete tiles. A condition (*condition 3*) will be included for the concrete tiles to be of a similar visual appearance to those on the existing house, to ensure the dormer integrates into the design of the existing dwelling.
- 10.4 In terms of assessing the external alterations, the velux skylight to be inserted in the front roof slope is not considered to be a prominent feature and would therefore not have an unduly detrimental impact on the character and appearance of the area, or the streetscene. Additionally, rooflights can typically be installed under permitted development. The two windows to be replaced (one with a door and the other with a full height window) are to the rear of the property and will not have a material impact on the streetscene.
- 10.5 The provision of a bin storage area to the rear will ensure that firstly there is adequate off-street storage space for bins and reduces the likelihood that bins will be stored in public view. The cycle storage shelter, which could be built under permitted development, is also to the rear of the property so will not have a significant impact on the character and appearance of the area.
- 10.6 It is considered that the application is in accordance with Policy SDC1 of the Local Plan and Section 12 of the NPPF.

11.0 Impact on Residential Amenity

- 11.1 Policy SDC1 of the Local Plan states that proposals for new development will ensure that the living conditions of existing and future neighbouring occupiers are safeguarded.
- 11.2 Section 12, paragraph 130 (f) of the NPPF states decisions should ensure developments provide a high standard of amenity for existing and future users.
- 11.3 The dormer is proposed to have three windows. Two in the rear elevation and one in the side elevation facing No. 52 Windsor Street. The separation distance between the rear of

the two storey outrigger and the rear of No. 24 Bridge Street (property directly to the rear) is approximately 16 metres. The proposed windows in the rear elevation of the dormer will not cause significant additional overlooking over and above the existing windows at first floor level to the properties to the rear on Bridge Street or to the neighbouring properties either side of the application dwelling given that the windows would not be closer than those at first floor level. No. 48 has a small terrace which according to the approved application is used for drying laundry. The window in the rear elevation of the dormer will cause a degree of overlooking to this terrace but given the relationship, it will not result in considerable direct overlooking. In addition a dormer, albeit with a slightly smaller volume, could be constructed which has windows in a similar location without planning permission. The window to be inserted in the side elevation of the dormer is recommended to be conditioned to be obscure glazed to ensure it protects the amenities of No. 52 Windsor Street (*condition 6*). The dormer will not cause any significant loss of light to any adjoining property when considering the existing situation, the dormers relationship with the existing property and that it won't project above the main roof or outrigger's roof ridge. For similar reasons, the dormer is not considered to create an overbearing impact upon the neighbouring properties.

- 11.4 The proposed velux skylight will not cause significant overlooking over and above the existing windows on the front elevation of the property. Similarly, replacing an existing window with a door and replacing a window with a full height window will not cause any significant additional loss of privacy to the neighbouring properties.
- 11.5 The cycle storage shelter will not cause any detrimental loss of light to any surrounding property when considering the height of the building, existing light levels and built form. The cycle store and bin storage area can be secured by condition to ensure they are available prior to first occupation of any room (*condition 5*). As the property benefits from an alleyway between itself and No. 52 Windsor Street, bins can be brought out onto the kerbside on collection day. An informative (*informative 9*) is recommended to encourage the disposal of waste appropriately in the bins provided on site and to ensure their collection (*informative 8*). The remaining external amenity space is considered to be of an acceptable size for the intended number of future occupiers of the HMO.
- 11.6 Although the proposal may increase the number of residents at the property, the property will remain residential and provide a home for occupants. Environmental Health have raised no noise concerns. The HMO will be subject to a separate licensing process to ensure compliance with legislation separate to planning. If the planning application is approved, any noise, waste, parking or antisocial behaviour complaints would be dealt with separately. Possible disturbance from building work is a temporary issue whilst the building works are being carried out and would not be a reason to refuse planning permission. An informative is included with good practice guidelines for appropriate working hours within residential areas. Overall, the proposals would not have an unduly detrimental impact on the amenities of the surrounding properties.
- 11.7 It is considered that the application is in accordance with Policy SDC1 of the Local Plan and Section 12 of the NPPF.

12.0 Highway Safety and Parking

- 12.1 Policy D2 of the Local Plan states that planning permission will only be granted for development incorporating adequate and satisfactory parking facilities including provision for motor cycles, cycles and for people with disabilities (or impaired mobility), based on the Borough Council's Standards.
- 12.2 Section 9, paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 12.3 The parking standards within the Local Plan state that each HMO will be considered on its own merits.
- 12.4 It is acknowledged that the property may have an increase in the number of occupants over the current use which may increase the number of associated vehicles. However, it is considered on balance that there is sufficient parking facilities to support this application when considering:
- a. The application dwelling is located in a highly sustainable location with the town centre (~800 metres) and train station (~800 metres) in close proximity. Additionally, there are bus stops in the vicinity such as on Clifton Road. The site is in an area with access to a range of services and facilities which are accessible by foot, bicycle and public transport.
 - b. The applicant is providing secure undercover cycle storage to the rear of the property which reduces the reliance on the private car and helps shift towards sustainable modes of travel.
 - c. On two separate site visits to the property (September 2022 and January 2023) the percentage of available parking on Windsor Street was over 25%. However, it is noted that the visits were at times when parking demand would likely not be at its greatest level.
 - d. In addition, since February's Planning Committee, the applicant has observed and evidenced parking availability along Windsor Street on different dates and times during the day, including peak times, as recorded below:
 - o 02/03/2023 at 09:00 which shows that there were approximately 12 parking spaces available.
 - o 09/02/2023 at 13:30 which shows that there were approximately 19 parking spaces available.
 - o 01/03/2023 at 18:30 which shows that there were approximately 9 parking spaces available.

The evidence submitted shows that although there is typically less parking availability in the morning and evening periods, there are parking spaces available during typical peak and non-peak times. It can therefore be concluded that this planning application will not cause a detrimental impact on parking availability and amenity in the area, especially when considering the property can be converted to a six occupant HMO without planning permission as outlined in point e below.

- e. The property could be converted to a six occupant HMO without planning permission and the potential additional demand for parking generated by the one extra occupant will not be significant. *Condition 7* is recommended to limit the HMO to no more than seven occupants at any one time. This will help ensure that the area has adequate parking provision and that the additional demand created by more occupants would not be detrimental to the residential amenities of the existing and future neighbouring occupiers.
- 12.5 WCC Highway Authority initially objected to the application due to the increase in demand for parking generated by this application which may have an impact on highway safety with vehicles potentially parking close to/on the junction with Sun Street which would block visibility and disrupt the free flow of traffic.
- 12.6 The junction with Sun Street currently has no TRO to prevent vehicles parking on/close to the junction. The junction has bollards to discourage vehicle parking at the junction. To address the highway safety concerns raised by the Highway Authority the applicant proposed and agreed to contribute towards a TRO (double yellow lines) on the public highway junction of Windsor Street and Sun Street. With the agreement to implement the TRO, the Highway Authority are able to mitigate concerns of highway safety and the Civil Parking Enforcement team as well as the police are able to fine/remove dangerously parked vehicles. The Highway Authority therefore has no objection to the application subject to a condition (*condition 4*) and the planning obligation outlined in the heads of terms later in the report. With the existing TRO at the junction with Clifton Road and the TRO to be implemented at the junction with Sun Street, it is considered that vehicles will be constrained to parking where they will not have a detrimental impact on highway safety and operation.
- 12.7 The application is considered to be in accordance with Policy D2 of the Local Plan and Section 9 of the NPPF.
- 13.0 Ecological Considerations
- 13.1 Policy NE1 of the Local Plan states that the Council will protect designated areas and species of international, national and local importance for biodiversity and geodiversity. Furthermore, development will be expected to deliver a net gain in biodiversity and planning permission will be refused if significant harm to biodiversity cannot be avoided, mitigated or compensated for.
- 13.2 Section 15 of the NPPF states that the planning system should contribute to and enhance the natural and local environment. The planning system should also promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species.
- 13.3 WCC Ecology commented that the building appears to be well-sealed and recommend a bat note, nesting bird note and biodiversity enhancement note are attached to the decision notice (*informatives 5, 6 and 7 respectively*). The proposed works are not anticipated to impact upon protected species.
- 13.4 The application is considered to be in accordance with Policy NE1 of the Local Plan and Section 15 of the NPPF.

14.0 Air Quality

- 14.1 Policy HS5 states that development of more than 1,000 sqm of floorspace or any development within the Air Quality Management Area that generates new floorspace must achieve or exceed air quality neutral standards or address the impacts of poor air quality by mitigating their effects. The Council seeks to reduce air pollution in order to contribute to achieving national air quality objectives.
- 14.2 It is recognised that the current proposal impacts on the Air Quality Management Area and as such policy HS5 is relevant. The applicant has submitted an air quality neutral statement and boiler details. The boiler proposed is a 'Baxi Megaflo 32kw Condensing System Boiler' which is an 'A' rated boiler. The boiler has a high efficiency, lowering carbon emissions. The applicant is also promoting the use of bicycles rather than the private car through the provision of secure undercover bicycle storage which will assist in lowering emissions in the Air Quality Management Area. Environmental Health have commented that they are satisfied with what is proposed as long as both are implemented, which will be secured through *condition 2 and 5*. In addition, *informative 1* is recommended which identifies various initiatives which assist in reducing the impact upon the Air Quality Management Area.
- 14.3 The application is considered to be in accordance with Policy HS5 of the Local Plan.

15.0 Planning Obligations

- 15.1 Paragraphs 54, 56 and 57 of the Framework, policies D3 and D4 of the Local Plan and the Planning Obligations SPD set out the need to consider whether financial contributions and planning obligations could be sought to mitigate against the impacts of a development and make otherwise unacceptable development acceptable.
- 15.2 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) makes it clear that these obligations should only be sought where they are:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.

If a requested planning obligation does not comply with all of these tests, then it is not possible for the Council to take this into account when determining the application. It is within this context that the Council has received a request for a planning obligation from WCC Highway Authority, as detailed below. It is considered that this request meets the necessary tests and is therefore CIL compliant.

- 15.3 WCC Highway Authority has requested a sum of £3,000 for the implementation of a Traffic Regulation Order to install double yellow lines on the public highway junction of Windsor Street and Sun Street in the interests of highway safety which is to be secured through a Section 106 agreement.

Heads of Terms

- 15.4 In summary the contribution required for this proposal has been highlighted as per the table below:

Obligations	Requirement	Trigger
Warwickshire County Council Highway Authority	Requests a sum of £3,000 for the implementation of a Traffic Regulation Order to install double yellow lines on the public highway junction of Windsor Street and Sun Street.	Prior to occupation of any room.

15.5 Local planning authorities should ensure that the combined total impact of planning conditions, highway agreements and obligations does not threaten the viability of the sites and scale of development identified in the development plan.

15.6 If the committee resolves to approve the proposal, this will be subject to the completion of an agreement by way of a section 106 (s.106) covering the aforementioned heads of terms.

15.7 In relation to any financial contributions or commuted sums sought through a s.106 agreement, the financial contributions or commuted sums set out in this report will be adjusted for inflation for the period from resolution to grant to completion of the s.106 agreement. In addition, any financial contributions or commuted sums sought through a s.106 agreement will be subject to indexation from the completion of the s.106 agreement until the date that financial contribution or commuted sum falls due. Interest will be payable on all overdue financial contributions and commuted sums.

15.8 Subject to the completion of a section 106 agreement the development would be in accordance with Policy D3 of the Local Plan.

16.0 Other matters

16.1 Objections have been received with concerns over the number of HMO's in the area. Whilst it is acknowledged that there are a number of HMO's within the locality, which have introduced an alternative type of sustainably located residential accommodation being provided, there is no policy position or constraint that would prevent further changes of use from houses to multiple occupation accommodation. The application must be determined in accordance with the currently adopted Development Plan unless material considerations indicate otherwise.

17.0 Conclusion and Recommendation

17.1 The site is located within the most sustainable location in the borough with access to a range of services and facilities. The dormer and the majority of the other external works are to the rear of the property therefore not adversely impacting the character and appearance of the area. The proposals will have little adverse impact on the amenities of the adjoining properties. The proposals are unlikely to have a detrimental impact on highway safety which is mitigated by the obligation towards the implementation of a TRO. The application is not envisaged to have a detrimental impact upon the Air Quality Management Area or protected species.

17.2 On balance, it is concluded that the proposal constitutes sustainable development. It complies with the Development Plan and there are no material considerations which indicate that the proposal should be refused. In accordance with Section 38(6) of the

Planning and Compulsory Purchase Act 2004 and having regard to material considerations including the Framework, it is considered that planning permission should be approved.

17.3 Recommendation

1. Planning application R22/0722 be approved subject to:
 - a. the conditions and informatives set out in the draft decision notice appended to this report.
 - b. the completion of a legal agreement to secure the necessary financial contributions and/or planning obligations as indicatively outlined in the heads of terms within this report.
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.
3. The Chief Officer for Growth and Investment (in consultation with the Planning Committee Chairman) be given delegated authority to negotiate and agree the detailed terms of the legal agreement which may include the addition to, variation of or removal of financial contributions and/or planning obligations outlined in the heads of terms within this report.

DRAFT DECISION

REFERENCE NO:
R22/0722

DATE APPLICATION VALID:
16-Sep-2022

APPLICANT:

Mr Justin Lai, JCL PROPERTY GROUP LTD, Asm House, 103a Keymer Road, Hassocks, BN6 8QL

AGENT:

Mr Ray Yim, ABACUS PROPERTY NETWORK LTD, 3 Gatehouse Close, Hillmorton, Rugby, CV21 4EA

ADDRESS OF DEVELOPMENT:

50, Windsor Street, Rugby, Warwickshire, CV21 3NY

APPLICATION DESCRIPTION:

Loft conversion and change of use to Sui Generis (7-bed HMO)

CONDITIONS, REASONS AND INFORMATIVES:

CONDITION 1:

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

REASON 1:

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 Council on 16th September 2022.

Design & Access Statement received by the Council on 14th July 2022.

BR01 - 50WS EXISTING received by the Council on 15th September 2022.

BR01 - 50WS PROPOSED received by the Council on 15th September 2022.

BR02 - 50WS EXISTING received by the Council on 15th September 2022.

BR02 - 50WS PROPOSED (Drawing no. MD-100117-PL-00D) received by the Council on 15th September 2022.

BR03 - 50WS EXISTING received by the Council on 15th September 2022.

BR03 - 50WS PROPOSED received by the Council on 04th November 2022.

Front & Side Elevations and Floor Plan of Cycle Shelter (Drawing no. PL03) received by the Council on 06th September 2022.

Air quality neutral statement received by the Council on 04th November 2022.

Baxi Megaflow 32kw System Boiler as detailed in Baxi Range Guide received by the Council on 04th November 2022.

REASON 2:

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

CONDITION 3:

The hung tiles to be used on the face and sides of the proposed dormer shall be of a similar visual appearance to the tiles on the existing house.

REASON 3:

To ensure a satisfactory external appearance and for the avoidance of doubt.

CONDITION 4:

The development shall not be occupied until the public highway junction at Windsor Street and Sun Street has been improved so as to provide double yellow lines, in accordance with a scheme to be approved in writing by the Local Planning Authority in consultation with the Highway Authority.

REASON 4:

In the interests of highway safety and operation.

CONDITION 5:

Prior to the first occupation of any room, the cycle storage shelter and bin storage area as shown on BR01 - 50WS PROPOSED and cycle storage shelter detailed on Front & Side Elevations and Floor Plan of Cycle Shelter (Drawing no. PL03) must be implemented and shall remain available in perpetuity.

REASON 5:

In the interest of visual and residential amenity.

CONDITION 6:

The second-floor window to be formed in the side elevation of the proposed dormer shall not be glazed or reglazed other than with obscure glass and shall be non-opening below a height of 1.7 metres measured from the internal finished floor level. The window shall be retained as such thereafter.

REASON 6:

To protect the residential amenity of neighbouring properties.

CONDITION 7:

The application site at 50, Windsor Street, Rugby, Warwickshire, CV21 3NY shall be limited to no more than 7 occupants at any one time.

REASON 7:

To help ensure the area has adequate parking provision and in the interests of residential amenity.

CONDITION 8:

In the event that contamination is found at any time when carrying out the development hereby permitted 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 8:

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 offsite receptors.

INFORMATIVE 1:

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 ultra-low emission boilers (<40mg/kWh) if gas is used for space/water heating, increased tree planting, green walls and roofs, the incorporation of electric vehicle charging points on any car parking or provision of secure cycle storage. 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 Such measures contribute as mitigation for air quality purposes. Further information can be obtained from Environmental Health on 01788 533857 or email ept@rugby.gov.uk

Should an Air Source Heat Pump be proposed for installation, it should be ensured that the noise from such plant will not adversely affect residential amenity in the area. These units can create noticeable noise levels which may affect neighbouring dwellings so noise mitigation may be necessary to avoid complaints or possible formal action under other legislation.

INFORMATIVE 2:

Environmental Services advise that in order to reduce the likelihood of local residents being subjected to adverse levels of noise annoyance during construction, work on site should not occur outside the following hours: -

Monday - Friday - 7.30 a.m. - 18.00 p.m.,

Saturday - 8.30 a.m. - 13.00 p.m.

No work on Sundays & Bank Holidays.

INFORMATIVE 3:

If required, prior to any demolition, redevelopment or refurbishment works taking place an appropriate Asbestos Survey should be undertaken by an asbestos licensed/authorised company/person and any recommendations implemented. For pre-demolition assessment the asbestos survey is fully intrusive and will involve a destructive inspection, as necessary, to gain access to all areas. Where presence of asbestos is suspected the Health and Safety Executive (HSE) and Environment Agency must be notified and special waste regulations complied with; asbestos removal activities fall under the remit of the HSE.

INFORMATIVE 4:

The applicant is advised that the development must comply with legislation dealing with houses in multiple occupation (HMOs). The landlord should contact ept@rugby.gov.uk to request an

HMO licence application and property inspection prior to commencement of works and occupation.

INFORMATIVE 5:

Buildings of all ages and trees with suitable features (i.e. rot-holes, cracks, fissures) are frequently used by roosting bats. 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. Where a bat 'roost' is present a licence may be necessary to carry out any works. Further information about species licensing and legislation can be obtained from the Species Licensing Service on 0208 261089. The applicant is advised that to ensure no bats are endangered during destructive works, the roof tiles should be removed carefully by hand. If evidence of bats is found during works, work should stop immediately and Natural England must be contacted on 02080 261089 for advice on the best way to proceed.

INFORMATIVE 6:

Work should avoid disturbance to nesting birds. Birds can nest in many places including buildings, trees, shrubs, dense ivy, and bramble/rose scrub. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended). The main nesting season lasts approximately from March to September inclusive, so work should ideally take place outside these dates if at all possible. N.B birds can nest at any time, and the site should ideally be checked by a suitably qualified ecologist for their presence immediately before work starts, especially if during the breeding season.

INFORMATIVE 7:

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 8:

Refuse, recycling and green bins must be presented kerbside for collection by 7.30 a.m. on morning of collection and returned back to the property after emptying.

INFORMATIVE 9:

The occupiers of the HMO should dispose of waste appropriately in the refuse, recycling and green bins provided within the site as shown on the proposed site plan.

INFORMATIVE 10:

Planning permission is subject to a S106 legal agreement.

Reference: R15/2017

Site Address: Top Park, Top Road, Barnacle

Description: 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 18th 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 6th April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27th August 2013 to provide a permanent permission on-site.

Recommendation

1. Planning application R15/2017 be approved subject to:
 - a. Referral to the Planning Casework Unit; and
 - b. the conditions and informatives set out in the draft decision notice appended to this report.
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.

1. Introduction:

- 1.1. This application is being reported to Planning Committee for determination because the proposed development falls within the definition of major developments and more than 15 letters of objection have been received.
- 1.2. It is important to note that this is simply an application to vary a specific planning condition on an existing planning permission rather than being a full, outline or reserved matters application. These applications are often referred to as a "section 73" application and are still determined in accordance with the development plan.
- 1.3. National Planning Practice Guidance (PPG) sets out that "Local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission." Essentially, the assessment should focus on what has changed significantly since the original permission was granted to decide whether the proposed variation of condition is now acceptable.
- 1.4. The original planning application was determined in August 2013. The development plan at that time was the Rugby Borough Core Strategy (2011) and the saved policies of the Rugby Borough Local Plan (2006). Material considerations included the National Planning Policy Framework (2011), Planning Policy for Traveller Sites (2012); Circular 11/95: Use of Conditions in Planning Permission; and the Southern Staffordshire and Northern Warwickshire Gypsy and Traveller Accommodation Assessment (GTAA) (February 2008).
- 1.5. The development plan for this area is now the Rugby Borough Council Local Plan (2019). Material considerations include an updated National Planning Policy Framework (2021) and

Planning Policy for Traveller Sites (2015). Circular 11/95 has now been cancelled and replaced by national Planning Practice Guidance. The GTAA has also been replaced by the Rugby Borough Council Gypsy and Traveller Accommodation Assessment Study (GTAA) (Sep 2022).

- 1.6. In determining this application, it is necessary to consider whether the policies in the new development plan, and any material considerations, have changed significantly from those against which the application was originally determined against. It then needs to be considered if any of these changes, either individually or cumulatively, warrant agreeing to now vary the temporary planning permission condition and grant permanent permission.
- 1.7. A successful section 73 application takes effect as a new and independent permission to carry out the same development as previously permitted, but subject to the new or amended condition(s), or without compliance with a condition(s). They do not 'amend' pre-existing permissions. Rather, they establish new ones and leave the original planning permission intact and unamended.

2. Background:

- 2.1. The use of the application site as a residential caravan site by gypsies and travellers commenced in April 2003 without planning permission. A retrospective application to retain the use of the land as a residential caravan site for 10 gypsy families was subsequently submitted. Since this time there have been a number of planning decisions relating to the site which has resulted in a series of temporary planning permissions being granted at appeal.
- 2.2. The most recent decision was in August 2013 where temporary permission was granted by the Secretary of State for the use of the land as a residential caravan site by gypsies and travellers. Two of the conditions attached to the permission specified that the use should cease two years after the decision (i.e. on 27th August 2015) and that no more than 34 caravans should be stored on the site (with no more than 11 of these being residential mobile homes). There were no conditions making the permission personal to named individuals but a condition was imposed restricting occupation to gypsies and travellers only.

3. Proposal:

- 3.1. This application now under consideration was submitted on 26th August 2015, i.e. one day before the temporary permission expired. The application simply seeks to vary the condition limiting the temporary permission to two years in duration and allow the permanent use of this land as a residential caravan site by gypsies and travellers.

4. Site Description

- 4.1. The application site comprises of a broadly rectangular area of land to the south of Top Road within the designated West Midlands Green Belt. It is about 0.8 km from the village of Barnacle, about 1 km from the village of Bulkington and about 2 km north-east of Coventry. It extends to about 0.9 hectares in area and measures about 37 metres wide by 236 metres deep. There is an existing access point off Top Road which leads through gates into a single private access drive constructed from tarmac which runs along the north-western site boundary.
- 4.2. The site itself has been divided into six distinct sections which contain a total of 10 plots. There are 24 pitches on these plots with the number of caravans fluctuating over time. The surface of each plot is constructed from hardstanding consisting of either stone, pebbles, brick paving or tarmac. Septic tanks are currently used to provide foul drainage for each plot. A number of brick built amenity blocks are located on the plots in addition to a number of movable amenity trailers. The plots also contain a range of outbuildings and structures including sheds, raised

platforms, brick built steps to mobile homes, low brick walls, timber cabin, gazebo and children's play area.

- 4.3. Each plot is enclosed by boundary treatments which include brick walls and gated accesses to the north-western boundary and timber fencing to the south-eastern boundary. The boundary treatments between each plot are constructed from timber fencing and brick walls.
- 4.4. The land to the immediate north-west of the application site contains six unauthorised gypsy and traveller plots. These are the subject of separate planning applications. The surface of each plot is predominately constructed from hardstanding with some garden areas. The plots are enclosed by timber fencing and contain static mobile homes, touring caravans and sheds. Four of the plots are accessed off the single private access drive that also serves Top Park. The other two plots are accessed off an access track located beyond the north-western boundary which joins Top Road. Prior to this land being occupied by gypsy and traveller plots it was comprised of a number of defined parcels which were used for both equestrian and agricultural purposes.
- 4.5. The parcels adjoining the rear half of the site to the north-west contain a number of buildings which are authorised for use as stables and barns together with areas of associated hardstanding. The parcels are enclosed by 2 metre high timber fencing to all boundaries with the exception of the south-eastern boundary which is defined by 1.50 metre high timber fencing and gated accesses onto the application site's private access drive.
- 4.6. Beyond the equestrian and agricultural parcels to the north-west is an open agricultural field which is defined by hedgerows and extends to the edge of Coventry Road. There is also a ribbon development consisting of a dwelling, agricultural buildings and gypsy sites located in a linear fashion fronting Coventry Road at a distance of approximately 200 metres from the site.
- 4.7. To the south-west of the application site is an open agricultural field which is defined by hedgerows and extends to the edge of a public footpath which carries the Coventry Way between Coventry Road and Barnacle. The land in this location rises gradually to the south.
- 4.8. To the south-east of the application site is an open agricultural field used for grazing by horses. The field is defined by hedgerows and post and rail fencing. There is an existing access point off Top Road to this field which leads through a field gate into a single access track constructed from hardstanding to stable buildings and derelict outbuildings. Permission was granted for the replacement of the stable block and tack room on this site with a twin unit mobile home in April 2018 (ref: R18/0247). Beyond this are further stables, a menage and horse walker with associated land used for grazing by horses. Adjoining this is an area of land known at the Paddocks which contains a paddock, three residential gypsy pitches and two day rooms. There is an existing access point off Top Road to these plots which leads through a field gate into a single access track constructed from hardstanding. This use is currently unauthorised with planning permission having been refused for the permanent retention of this in July 2018 (ref: R17/1251). To the south-east of this are open agricultural fields which extends to the village of Barnacle.
- 4.9. To the north of the application site is the public highway of Top Road which serves as one of the main access routes linking the village of Barnacle with the village of Bulkington. Beyond this road is a number of agricultural fields enclosed by hedgerows. A ribbon development comprising of a small number of residential dwellings fronting onto Coventry Road are located in a linear fashion at a distance of approximately 250 metres from the site.

5. Relevant Planning History (Application Site):

R10/2298: 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 18th January 2008) including the erection of six temporary amenity blocks (resubmission of previously withdrawn application R10/0959 dated 26/11/2010). Refused 06/04/2011. Appeal C allowed 27/08/2013 (ref: APP/E3715/A/11/2153749). Note: condition 1 granted temporary permission until 27/08/2015. This application is hereafter referred to as "the original application" within this report.

R10/0959: 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 18th January 2008) including the erection of six temporary amenity blocks. Withdrawn 26/11/2010.

R09/0691/VARI: Retention of use of land and ancillary operational development as a residential caravan site for 10 gypsy families-variation of condition 2 of the appeal decision ref no. APP/E3715/A/06/2030623 dated Jan 2008 to change occupation of plot 4 & 5. Approved 23/09/2009.

R08/1837/VARI: Retention of use of land and ancillary operational development as a residential caravan site for 10 gypsy families - Variation of condition 3 of the appeal decision ref No. APP/E3715/A/06/2030623 dated 18th January 2008 to allow additional accommodation. Approved 10/02/2009.

R06/0743/PLN: Continuation of use of land as a residential caravan site for 10no. gypsy families and retention of ancillary operational development. Refused 06/07/2006. Appeal allowed 18/01/2008 (ref: APP/E3715/A/06/2030623). Note: Temporary permission expiring 18/07/2010.

R05/0827/22761/P: Continuation of use of land as a residential caravan site for 10no. gypsy families and retention of ancillary operational development for a temporary two year period. Refused 19/10/2005.

R03/0393/22761/P: Use of land as a residential caravan site for 10 gypsy families. Refused 10/06/2003. Appeal C dismissed 20/02/2004 (ref: APP/E3715/A/03/1123948). Note: Appeal amended enforcement notice to allow 18 months for use to cease.

R02/0329/22761/P: Part retention of stable block (3 stables and tack room) and part of an associated hardstanding. Approved 21/08/2002.

R01/1068/22761/P: Retention of building comprising seven stables, tack room and store and associated hardstanding. Refused 05/02/2002.

6. Relevant Planning Enforcement History (Application Site):

R10/2298: Enforcement notice issued 28th April 2011 and served 3rd 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 27th August 2013, the enforcement notice be corrected and quashed, and 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 28th April 2011 and served 3rd May 2011. Requiring removal of hard-standings, fencing not associated with the authorised use, amenity buildings, and restoration of the land to its former condition by seeding in place of the hard-standings. Appeal B (APP/E3715/C/11/2154137) allowed on 27th August 2013, the enforcement notice be quashed, and 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, or 6 months from the cessation of the use of the site as a residential caravan site, whichever is the sooner.

R03/0393/22761/P: Enforcement notice issued and served 8th July 2003. Breach of planning control: Change of use, without planning permission, of the land from paddock and in respect of the building stables to a mixed use for the siting of residential caravans, trailers and commercial storage, gymnasium and utility room. Appeal A (ref: APP/E3715/C/03/1124483) dismissed and enforcement notice upheld with variations 20th February 2004.

R03/0393/22761/P: Enforcement notice issued and served 8th July 2003. Breach of planning control: Unauthorised formation of hardstanding, erection of fencing and the erection of external lighting. Appeal B (ref: APP/E3715/C/03/1124483) dismissed and enforcement notice upheld with corrections and variations 20th February 2004.

7. Relevant Planning History (Land to North-West of Site):

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. Under consideration – decision pending.

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. Under consideration – decision pending.

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. Under consideration – decision pending.

R22/0665: 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. Under consideration – decision pending.

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. Under consideration – decision pending.

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. Under consideration – decision pending.

R20/0192: Change of Use of Paddock Land to allow the siting of one 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 for the siting of one mobile home. Withdrawn 05/10/22.

R20/0195: Change of Use of Paddock Land to allow the siting of one mobile home. Withdrawn 05/10/22.

R20/0196: Change of Use of a Paddock for the siting of one mobile home. Withdrawn 05/10/22.

R20/0148: One mobile home. Withdrawn 05/10/22.

R19/1235: Erection of 4no. stables and 1no. tack room to replace existing stables destroyed by a fire. Approved 11/11/2019.

R17/0892: Erection of one barn for the storage of hay and straw in connection with the grazing of horses and creation of new hardstanding access track. Refused 01/09/17.

R15/0977: Erection of dog kennels. Refused 06/08/2015. [Note this has been built so unauthorised development – Check with Jo as case officer and Barry what action will be taken].

R14/1846: Erection of stable for temporary period - amendment to previous application R14/1177. Approved 22/10/14. Note: Temporary permission expiring 27/08/15.

R14/1177: Construction of a 3 bay stable block and concrete hardstanding. Approved 06/08/14. Note: Temporary permission expiring 27/08/15.

R14/1034: Retrospective permission for proposed stable block (amendment to previously approved scheme). Approved 03/12/14. Note: permanent planning permission.

R14/0597: Erection of a hay barn (retrospective). Approved 10/12/14. Note: permanent planning permission.

R14/0580: Construction of stable block & store with concrete hardstanding. Approved 23/05/2014. Note: Temporary permission expiring 27/08/2015.

R13/2160: Construction of stable with concrete hardstanding. Refused 24/12/13.

R13/1767: Proposed erection of a stable block and associated hardstanding. Approved 17/10/13. Note: permanent planning permission.

R13/1970: Construction of stable block & store with concrete hardstanding. Refused 23/12/13.

R08/1524/PLN: Erection of stables and a tack room. Refused 14/11/2008.

R08/1510/PLN: Replacement of timber stable walls with brick. Refused

R08/0778/PLN: Use of land as residential caravan site for gypsy families, comprising 7 no pitches for residential purposes and 3no pitches for use as horse paddocks together with ancillary works. Refused 24/07/08. Appeal dismissed 30/03/09 (ref: APP/E3715/A/08/2081469).

An injunction has been placed on the adjoining land to the immediate northwest of the site to prevent unauthorised development from taking place.

8. Relevant Planning History (Land to South-East of Site):

R20/1041: Erection of stable building and hay barn, together with the laying of hardstanding (retrospective). Approved 30/07/2021.

R18/0247: Land at Top Road Between Top Park and The Paddocks, Top Road, Barnacle. Proposed replacement of stable block and tack room with building with a twin unit mobile home (Resubmission of R15/0309). Approved 27/04/2018.

R17/1251: The Paddocks, Top Road, Barnacle. Change of use for the mixed use of land as a paddock and the permanent retention of three residential gypsy pitches including two day rooms with associated access and entrance gates. Refused 19/07/2018.

R15/2015: Retention of the use of land as a private gipsy and traveller caravan site consisting of 2 pitches (pitch 1 with 2 static caravans and pitch 2 with one static and one touring caravan) and associated works. Invalid - withdrawn by planning department 05/06/2017.

R15/2010: The mixed use of land as a paddock and for the siting of residential caravans, trailers and commercial vehicles, including the formation of hard standings and the erection of timber shed buildings insofar as it relate to the creation of 2 pitches only (Variation of condition 1 and 2 of R12/0833 refused on 28/11/2012 but allowed on appeal on 5th August 2014). Invalid - withdrawn by planning department 05/06/2017.

R15/0309: Proposed replacement of stable block and tack room with building with a twin unit mobile home. Refused 21/06/2016.

R14/2319: 1 The Paddocks, Top Road, Barnacle. Change of use of land for the siting of two residential caravans, formation of hardstanding, erection of a timber shed for amenities, widening of existing access, erection of panelled fencing and works associated with the change of use. Refused 27/04/2017.

R14/1861: The Paddocks, Top Road, Barnacle. Proposed erection of a four bay stable block to replace previous stables and creation of hardstanding area. Approved 28/11/2014. Note: Temporary permission expiring 27/08/2015.

R12/1832: Demolition of existing stable block and erection of replacement stable block and tack room, together with associated works. Approved 16/10/2013.

R12/0843: The change of use of land from a paddock to a mixed use of a paddock and for the siting of residential caravans, trailers and commercial vehicles, and the formation of hard standings and erection of timber sheds in so far as it relates to the creation of one pitch only (variation of condition 3 of appeal reference APP/E3715/C/11/2150565-70 dated 12/12/11 to allow no more than two static caravans). Refused 30/01/2013.

R12/0833: Land on the south side of Top Road, Barnacle. The mixed use of land as a paddock and for the siting of residential caravans, trailers and commercial vehicles, including the

formation of hard standings and the erection of timber shed buildings insofar as it relate to the creation of 2 pitches only. Refused 28/11/2012. Appeal allowed 05/08/2014 (ref: APP/E3715/A/13/2192742). Note: Temporary permission expiring 27/08/15.

R10/1730: Land on the south side of Top Road, Barnacle. Change of use of land for use as a residential caravan site for gypsy families, comprising of 3 no. pitches and the siting of 3 mobile homes and 3 touring caravans including ancillary works and the erection of three timber buildings (part retrospective). Refused 01/12/2010. Appeal against enforcement notices allowed 12/12/2011 (ref: APP/E3715/A/10/2142674). Note: Temporary permission expiring 12/12/2014.

R10/1147: Land at Top Road (WK 269589), Barnacle. Retention of stables, menage, horse walker and associated fencing. Approved 25/11/2010.

R07/2155/PLN: Land at Top Road (WK 269589), Barnacle. Retention of stables. Approved 04/04/2008.

9. Technical Consultation Responses:

Coventry City Council	No objection with comment
Environment Agency	No objection subject to condition
Environmental Health	No objection subject to conditions and informatives
Gas Plant Protection	No response
Nuneaton and Bedworth Borough Council	No objection with comment
Severn Trent Water	No objection subject to condition
Tree/Landscape	No response
Warwickshire Police	No objection
WCC Highways	No objection subject to conditions
WCC Ecology	No objection
WCC Fire and Rescue	No objection subject to condition and informative
WCC Flood Risk Management	No comment
WCC Gypsy and Traveller Service	No objection with comment
WCC Rights of Way	No objection

10. Technical Consultation Responses:

Cllr Pacey-Day (Wolvey and Shilton Ward) Objection
- Agree with comments made by Shilton and Barnacle Parish Council.

Shilton and Barnacle Parish Council Objection
- Inappropriate development in Green Belt.
- Size, scale and number pitches has significant and detrimental impact on open nature area.
- Visible from all directions.
- Located in area characterised by open countryside with agricultural fields and paddocks.
- Large caravan site incongruous and at odds with surrounding landscape.
- Flat nature area with caravans and blocks visible at distance.
- Increased visibility at night when artificial lights are used in unlit rural area.
- Any visual screening would exacerbate impact on area.
- Located next to Coventry Way footpath so detrimental impact on natural environment evident to walkers.
- Site not well located for occupants.

- Closest shops and community facilities in Bulkington with travel by car to village with parking problems or walk along 50mph road which is unlit and without separate pedestrian footpath part way.
- Full safety assessment from Highway Authority prior to determination to assure child occupants walking route not at unacceptable risk.
- Schooling only accessible by car – not on bus route or school service.
- Accessibility issues indicates unsuitable as sustainable long term residential location.
- Personal circumstances occupants demonstrates need somewhere to live but does not support very significant impact Top Park occupancy has on Green Belt.
- Government's Planning Policy for Traveller Sites (PPTS) makes clear traveller sites in Green Belt inappropriate.
- PPTS - subject to the best interests of the child, personal circumstance and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
- Proposal fails all 4 considerations set out in paragraph 26 of PPTS, i.e. development land in open countryside, not well planned, no soft landscaping, appearance jars with surrounding area, no facilities or opportunities for child play areas so play in road outside site, and site comprised totally hardstanding and surrounded by fencing/gates.
- PPTS - absence up-to-date five year supply deliverable sites not significant consideration where proposal is in Green Belt.
- Uncertainty about Top Park for too long so unacceptable for residents in vicinity and occupants.
- No planning policy or guidance indicating suitable or acceptable location to live.
- Council should refuse and assist occupants to find appropriate accommodation.

Residents (25) Objection

- Inappropriate development in Green Belt.
- Significant harm to Green Belt.
- Impact on openness.
- Encroachment of Green Belt.
- Against five purposes of including land in Green Belt set out in national policy.
- Detrimental to rural aspect of land.
- Contrary to national and development plan policies.
- Government's Planning Policy for Traveller Sites states unmet need and personal circumstances do not outweigh harm to Green Belt.
- Temporary permission previously granted to allow time to find alternative site owing to lack of suitable and available pitches elsewhere.
- Permanent site not needed if occupants are travellers.
- No permanent permission until gypsy and traveller sites allocated in emerging Local Plan.
- No evidence of sequential approach to development or attempt to find alternative site.
- Council not obliged to supply alternative pitches.
- Council should provide an official site for travellers.
- Alternative sites at Council owned site in Ryton declined.
- General caravan park would not be allowed in Green Belt so traveller sites should not be allowed.
- Should enforce removal of unauthorised site.
- Very special circumstances required to allow.
- Personal circumstances of applicants do not demonstrate need to live in this location.
- No special circumstances or needs put forward for applicants.
- No evidence occupants site now same as considered at appeal inquiry.
- Occupants now on site different to those on site at time of first application in 2003.
- Occupants do not travel and use site for residential/economic reasons.
- Occupants do not travel and Planning Policy for Traveller Sites indicated should therefore be refused.

- Applicant's extended family not in Parish so must reside in alternative accommodation.
- No justification why applicant's extended family must reside on same site.
- Application should be treated same as for settled community.
- Occupants do not comply with planning rules.
- Site too big in relation to settled community.
- Too many gypsy and traveller sites in local area.
- Unreasonable concentration of gypsy/traveller sites in one area.
- Overpowering number for small village.
- Area reached saturation.
- Need to consider cumulative impact with existing authorised and unauthorised sites.
- 17 traveller sites within 1 mile radius unacceptable.
- 12 traveller sites around Barnacle.
- 29 unauthorised pitches around Bulkington, Barnacle and Shilton.
- Concentration and disproportionate number of travellers in area stated at refusal of appeal in 1989.
- Countryside being eroded by sprawl of unplanned developments.
- Greater amount of development on site than shown on plans.
- Further development taken place on site since last appeal inquiry thereby consolidating development.
- Development out of character with rural farmland.
- Harm to visual amenity.
- Land flat so greater visual impact in countryside over distance and direction.
- Site particularly visible in winter in contrast to rural area.
- Increased visibility at night when artificial lights are used.
- Site apparent to Barnacle.
- Application site can be seen from public road and public footpath.
- Landscape Capacity Survey completed to assess impact of wind farms on landscape of Borough but no gypsy and traveller sites.
- Significant weight needed for cumulative landscape impact of gypsy and traveller sites rather than individual site assessment on merits.
- Barnacle is local needs settlement with limited community facilities and public transport.
- Unsustainable location with no paths, verges or public transport.
- Nearest shops and facilities in Bulkington so not accessible and struggling to cope with demand.
- No convenient walking options to schools, medical facilities and local services.
- Significant impact on highway network.
- Traffic noise and volumes through Bulkington, Shilton and Barnacle increased since occupation sites.
- Top Road is narrow country lane not suited to high volumes traffic.
- Villages can't sustain further traffic increases.
- Speeding traffic through Barnacle and associated pedestrian safety issues.
- Extra traffic resulting in degradation of road surfaces and verges having ruts and churned up.
- Pedestrian safety issues and no pavement or lighting around site.
- Fatal accident on Coventry Road demonstrates pedestrian safety issues.
- Roads closed to move mobile homes and blocked on other occasions.
- Allowing unauthorised development to become permanent would set precedent and encourage others.
- If allow will soon apply to extend site.
- Six amenity blocks not acceptable owing to Green Belt location and permanency.
- Increase of flooding during heavy rain.
- Must be fire danger due to overcrowding.
- Spacing between caravans in model caravan site guidance ignored so fire safety risk.
- Breach of Barnacle residents human rights.

- Land to west of site rejected as being unsuitable for travellers.
- Change of use from existing dwelling not acceptable.
- Integration and social cohesion required.
- Applicants not integrated into local community.
- Anti-social behaviour.
- Loss of electricity to village.
- Litter and fly tipping along Top Road.
- More noise.
- Loss of privacy.
- Lack of infrastructure to support large traveller community.
- Environmental damage due to loss of natural vegetation.
- Existing cess tanks inadequate for size of site.
- Raw sewerage discharged into ditches causing environmental, health and contamination concerns.

11. Development Plan and Material Considerations:

11.1. 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.

11.2. The Statutory Development Plan for the area relevant to this application site comprises of the Rugby Borough Council Local Plan 2019. The relevant policies are outlined below.

11.3. Rugby Borough Council Local Plan 2019

GP1: Securing Sustainable Development

GP2: Settlement Hierarchy

DS2: Sites for Gypsy, Travellers and Travelling Showpeople

HS1: Healthy, Safe and Inclusive Communities

HS5: Traffic Generation, Air Quality, Noise and Vibration

NE1: Protecting Designated Biodiversity and Geodiversity Assets

NE3: Landscape Protection and Enhancement

SDC1: Sustainable Design

SDC2: Landscaping

SDC3: Protecting and Enhancing the Historic Environment

SDC4: Sustainable Buildings

SDC5: Flood Risk Management

SDC6: Sustainable Drainage

SDC7: Protection of Water Environment and Water Supply

SDC9: Broadband and Mobile Internet

D1: Transport

D2: Parking Facilities

D3: Infrastructure and Implementation

11.4. Supplementary Planning Documents (SPDs)

Climate Change and Sustainable Design and Construction SPD (2023)

11.5. Material Considerations

National Planning Policy Framework (NPPF or “the Framework”) (2021)

National Planning Practice Guidance (PPG)

Planning Policy for Traveller Sites (PPTS) (2015)

Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

12. Assessment of Proposal:

12.1. Key Issues

Section 13	Settlement Hierarchy
Section 14	Appropriateness of Development in Green Belt
Section 15	Openness and Purposes of the Green Belt
Section 16	Character and Appearance
Section 17	Location and Accessibility
Section 18	Scale and Impact on Infrastructure, Services and Facilities
Section 19	Intentional Unauthorised Development
Section 20	Gypsy and Traveller Accommodation Need and Land Supply
Section 21	Meeting the Need for Gypsy and Traveller Accommodation
Section 22	Alternative Sites
Section 23	Personal Need and Circumstances of the Occupants
Section 24	Other Considerations
Section 25	Planning Balance and Sustainability of Development

13. Settlement Hierarchy

- 13.1. Policy GP2 of the Local Plan outlines a sequential settlement hierarchy which seeks to ensure that development is directed to the most sustainable locations within the Borough. In this case the application site is located within the West Midlands Green Belt which is classified as being the least sequentially preferable location for development. The policy consequently sets out that development will be resisted in such areas unless permitted by national policy on Green Belts.
- 13.2. It is considered that policy GP2 is not significantly different to policy CS1 of the Core Strategy which the original application was assessed against. This is because the sequential settlement hierarchy in policy CS1 also stated that Green Belt sites are the least sequentially preferable locations for development with a need to defer to national policy for what is permitted.

14. Appropriateness of Development in Green Belt

- 14.1. National policy on Green Belts is set out within the Framework at section 13 and PPTS. Paragraph 147 is particularly relevant and stipulates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 14.2. Inappropriate development includes both the construction of new buildings other than those that fall within the exceptions in paragraph 149 of the Framework; and other forms of development not listed in paragraph 150 of the Framework.
- 14.3. The use of land and ancillary operational development as a residential caravan site does not fall within the paragraph 147 and 150 exceptions and categories. The proposed development would therefore be inappropriate development. This is confirmed in paragraph 16 of the PPTS which states that "Traveller sites (temporary or permanent) in the Green Belt are inappropriate development."
- 14.4. In accordance with paragraph 147 of the Framework, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. This is the same conclusion that was reached when the original application was determined.

15. Openness and Purposes of the Green Belt

- 15.1. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belts are their openness and their permanence. It is important to note that openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
- 15.2. The application site extends to about 0.9 hectares in area with the proposed site layout plan showing that this would contain 24 touring caravans and 11 mobile homes (i.e. 35 caravans in total). In addition, there would be related operational development, including amenity blocks, outbuildings, hardstanding, fencing and walls as well as vehicles, domestic paraphernalia and other items arising from residential occupation.
- 15.3. When considered in the context of its preceding lawful use for agriculture, the proposed development would constitute an intrusion into previously undeveloped countryside. As a consequence, the nature and amount of development would clearly affect the spatial aspect of the openness of the Green Belt, substantially reducing it in net terms. Furthermore, this development would readily be visible from public vantage points in the immediate and wider surrounding area. It would therefore clearly affect the visual aspect of the openness of the Green Belt. It is accepted that touring caravans are more transient features, but when present they also reduce openness, as can vehicles. As a result, it is considered that this would cause significant harm to the openness of the Green Belt. This is the same conclusion that was reached when the original application was determined.
- 15.4. Aside from the impact on openness, paragraph 138 of the Framework sets out that the Green Belt serves five purposes: (a) to check the unrestricted sprawl of large built up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 15.5. In this case, the nature of the proposed development, as described above, is such that it would result in considerable encroachment into the countryside thereby causing significant harm to this purpose of including land in the Green Belt. However, in relation to the other four purposes of including land within the Green Belt it is considered that no harm would arise. This is the same conclusion that was reached when the original application was determined.

16. Character and Appearance

- 16.1. Section 12 of the Framework and policies DS2, NE3, SDC1 and SDC2 of the Local Plan set out the importance of good design and landscaping in new developments. They also set out the importance of considering the impact of development on the landscape.
- 16.2. The site is not within an area designated at national or local level for its landscape value. Nevertheless, the effect on the character of the area must be considered in accordance with the Local Plan policies listed above. The Landscape Assessment of the Borough of Rugby (2006) places the site in the Village Farmlands sub-division of the High Cross Plateau landscape character area. The characteristics of the Village Farmlands area include a small scale, mainly pastoral, hedged landscape, closely associated with nucleated village settlements around the plateau fringe, clusters of houses and farmsteads, narrow winding lanes, small-hedged fields and a varied, intimate landscape. The overall sensitivity of the

landscape is described as high, having regard to high visibility and a coherent small-scale cultural pattern.

- 16.3. Other development, including caravan sites, are present in the surrounding area. The nearest caravan sites are The Paddocks and those on Coventry Road. However, caravan sites do not appear as a dominant element in the landscape. The prevailing character around the site is one of agricultural land, with field hedges limiting its open character to some extent. Development along part of Coventry Road provides a background from some viewpoints and forms a loose ribbon rather than a consolidated settlement. Other development can be seen more distantly. It is within this context that the application site appears as a large block of ad-hoc development. It is detached from and appears unrelated to the nearest villages of Barnacle and Bulkington. The development is a large and incongruous addition in the countryside and is significantly harmful to the prevailing character.
- 16.4. A significant adverse visual impact results from the presence of caravans, related operational development and vehicles on the site. This effect is apparent in public viewpoints from parts of Top Road to the north and east of the site and from part of the Coventry Way, a long distance footpath which passes to the south of the site. There are also longer distance views from parts of Coventry Road. Views are reduced from some vantage points by roadside hedges, particularly when they are in leaf.
- 16.5. There is limited scope for landscaping within the site, although planting along the roadside could be enhanced. The potential to provide further planting along the eastern boundary of the site has previously been explored. However, it was concluded that although this would reduce views of the site from that direction in time, is unlikely to result in successful assimilation of the site into its surroundings.
- 16.6. Paragraph 25 of the PPTS sets out that new traveller site development in open countryside away from existing settlements should be resisted. The application site is located in the open countryside. Having regard to the degree of separation from Barnacle and Bulkington, the development would be inconsistent with this element of PPTS.
- 16.7. Gypsy and traveller sites are often found in rural areas. A degree of visual impact is not uncommon and it is not necessary to completely hide sites from view. Nevertheless, having regard to the scale of this site, its considerable visual impact weighs against the application. The development would conflict with policies DS2, NE3, SDC1 and SDC2 insofar as it would have a harmful effect on the area's character and fail to sympathetically assimilate into its surroundings.
- 16.8. It is considered that these policies DS2, NE3, SDC1 and SDC2 are not significantly different to saved Local Plan policy GP2 and policies CS16 and CS22 of the Core Strategy against which the original application was assessed against. This is because the heart of these policies was to protect the character and appearance of different areas. The same conclusion was reached when the original application was determined, i.e. the development would have a harmful effect on the area's character and fail to sympathetically assimilate into its surroundings.

17. Location and Accessibility

- 17.1. The supporting text to the settlement hierarchy outlined in policy GP2 of the Local Plan outlines that "development away from the defined settlements of the Borough is unlikely to meet all of the elements of sustainable development, particularly the access to a range of facilities. Any proposals would need to demonstrate that the overall social and economic benefits outweigh the disadvantages of a location which is relatively remote from facilities." Further to this, the first criteria of policy DS2 of the Local Plan requires that gypsy and traveller sites afford good

access to services such as schools and health facilities. This is consistent with policy HS1 of the Local Plan which offers support to proposals which provide good access to local shops, employment opportunities, services, schools and community facilities.

- 17.2. The application site is located beyond settlement boundaries in open countryside. Barnacle is not far from the site, but it is a small settlement with few facilities and services. There is a village hall and a chapel, and a very limited bus service. A good range of facilities and services, including primary schools, medical services and shops, is available in Bulkington, which is about 1 mile (1.6km) from the site. In terms of distance it is theoretically feasible to access Bulkington by walking or cycling in preference to the use of private cars. However, Top Road and part of Coventry Road has no footway meaning 0.5km of the journey would need to be on roads or verges. The speed limit on these roads is 60mph and 50mph respectively. On top of this there are no street lights on this section of the route followed by no to sparse isolate street lights where the footway starts along Coventry Road. Particularly after dark, the nature of this route through open countryside would not encourage trips on foot to Bulkington.
- 17.3. There is no definition of what amounts to good access in policy DS2 of the Local Plan and no specific reference to access by car only as being unacceptable. The Framework sets out that significant development should be focussed on locations which are or can be made sustainable in terms of transport choices. It also accepts that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Furthermore, the PPTS only refers to enabling access to education, health, welfare and employment infrastructure. It does not refer to access being by sustainable modes of transport only.
- 17.4. It is necessary to be realistic about the availability of alternative means of transport to the car in accessing local services from rural locations. In this instance it is likely that the vast majority of trips to and from the site would be made by car. This is generally considered to be the least sustainable mode of transport. However, Bulkington would be quickly and easily reached from the site in this way. It would therefore provide convenient access to schools, medical facilities and other local services. In particular, the occupants of the site would have the benefit of access to local health services and the children would be able to attend school on a regular basis.
- 17.5. For the above reasons, the proposed development would comply with policies DS2 and HS1 of the Local Plan. It is considered that these policies are not significantly different to the policies against which the original application was assessed against. This is because the heart of these policies was to achieve sustainable development by locating it where reliance on the private car is minimised through a good range of alternative transport options. The same conclusion was reached when the original application was determined, i.e. most journeys would be by private car and the site would be reasonably well located with regard to accessibility.

18. Scale and Impact on Infrastructure, Services and Facilities

- 18.1. The third criteria of policy DS2 of the Local Plan sets out that gypsy and traveller development will be supported where the development is appropriate in scale compared with the size of nearby settlements. This is consistent with paragraph 12 of the PPTS which sets out that “When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” On a related point, policy D3 further sets out that the delivery of new development will depend on sufficient capacity being available in existing infrastructure.
- 18.2. It is acknowledged that there are a number of other gypsy and traveller sites in the wider area. The objections to the application have included expressions of concern that the cumulative effect would be to dominate the nearest settled community of Barnacle in a manner inconsistent with paragraph 12 of the PPTS. Nevertheless, the application site is physically

well separated from Barnacle and the occupants use services in Bulkington. Notwithstanding its size, it is not considered that it would dominate Barnacle or Bulkington. Furthermore, it is not considered that the cumulative effect of this site with other gypsy and traveller sites would be likely to dominate its character or the settled communities within it.

- 18.3. It has not been shown that the development would place undue pressure on local infrastructure, services or facilities in Bulkington. No service or infrastructure provided has objected to the proposed development or requested developer contributions to offset any evidenced impacts. Indeed, the occupants of this site have been living here since April 2003, i.e. for nearly 20 years. The occupants are registered at local GP surgeries and the children are able to attend local schools. Any impact from the occupants on local infrastructure, services or facilities would consequently already be accounted for.
- 18.4. For the above reasons, the proposed development would comply with policies DS2 and D3 of the Local Plan. It is considered that these policies are not significantly different to the policies against which the original application was assessed against. This is because the heart of these policies was to ensure the scale of such sites does not dominate the nearest settled community whilst also ensuring no undue pressure would be placed upon local services. The same conclusion was reached when the original application was determined, i.e. the proposed site would not dominate the area and there is no evidence of undue pressure being placed on local services.

19. Intentional Unauthorised Development

- 19.1. The use of the application site as a residential caravan site by gypsies and travellers commenced in April 2003 without planning permission. A retrospective application to retain the use of the land as a residential caravan site for 10 gypsy families was subsequently submitted. Since this time there have been a number of planning decisions relating to the site which has resulted in a series of temporary planning permissions being granted at appeal.
- 19.2. A Written Ministerial Statement (WMS) dated 31st August 2015 establishes that Intentional Unauthorised Development (IUD) is a material consideration to be weighed in the determination of planning applications and appeals. However, the WMS sets out that "This policy applies to all new planning applications and appeals received from 31 August 2015." This application now under consideration was submitted on 26th August 2015. The policy concerning IUD as set out in the WMS therefore cannot be taken into account in the determination of this application.

20. Gypsy and Traveller Accommodation Need and Land Supply

- 20.1. Policy DS2 of the Local Plan sets out a need for 61 gypsy and traveller pitches between 2017 and 2032. This figure is based on a Gypsy and Traveller Accommodation Assessment (GTAA) which was carried out in 2017. Policy DS2 and the GTAA 2017 were considered by the Local Plan Inspector prior to the publication of the Local Plan in 2019. Since 2017 a total of 23 pitches have been approved. To meet the identified need the Council should have granted permission for 35 pitches in this time so has fallen short of meeting the need by 12 pitches. This means that the Council need to approve another 38 pitches between now and 2032 in order to meet the identified need in policy DS2.
- 20.2. Policy DS2 further states that the GTAA will be updated on a regular basis and that pitch allocation requirements will be updated through the GTAA process. In this respect the Council has very recently published a new GTAA dated September 2022. In accordance with the PPTS definition of gypsies and travellers, it identifies a current need for 56 pitches to be provided between 2022 and 2037. It notes that 29 of these pitches need to be provided within the first 5 year period from 2022-2027.

- 20.3. However, on 31st October 2022 the Court of Appeal handed down a judgment which held that the Government's planning definition of "gypsies and travellers" in PPTS is unlawfully discriminatory (Lisa Smith v SSLUHC [2022] EWCA Civ 1391). A decision to refuse planning permission for a permanent site which applied that definition was quashed. This judgment has implications on the need outlined above. This is because that need was calculated based on a definition of gypsies and travellers which has now been found to be unlawfully discriminatory.
- 20.4. The need for new gypsy and traveller pitches could therefore be higher than has been calculated in the GTAA 2022 using the PPTS definition of gypsies and travellers. In this respect, the GTAA also provided a needs figure based on ethnic identity. This means that it calculates the needs of any individual who identifies as being a member of one of the main groups of Gypsies and Travellers in Britain, i.e. English (Romany) Gypsies, Scottish Travellers and Welsh Travellers. Using the ethnic definition of gypsies and travellers, it identifies a current need for 79 pitches to be provided between 2022 and 2037. It notes that 56 of these pitches need to be provided within the first 5 year period from 2022-2027.
- 20.5. The need for new gypsy and traveller pitches between 2022 and 2037 is therefore between 56 to 79 pitches. Regardless of which definition is used, it is clear that there is significant need for new pitches in the Borough.
- 20.6. The PPTS sets out a requirement for Council's to demonstrate an up-to-date 5-year supply of deliverable gypsy and traveller sites to meet the identified need. In this case the Council has a zero 5-year supply of deliverable gypsy and traveller sites.
- 20.7. Paragraph 27 states that "If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission ... The exception is where the proposal is on land designated as Green Belt ..." As the application site is in the Green Belt, the zero 5-year land supply does not have to be taken into account as a significant material consideration. Notwithstanding this, the fact the Council has a zero 5-year land supply is helpful in understanding the scale of the challenge the Council is facing to meet the needs it has identified for new gypsy and traveller pitches.
- 20.8. Critically, it is important to note that the need for new gypsy and traveller pitches set out in policy DS2 of the Local Plan is significantly different to policy CS22 of the Core Strategy which was used in the assessment of the original application. Policy CS22 set out a need for 98 pitches between 2007 and 2026. It noted the need to provide 15 of these pitches between 2021 and 2026 and was based on a GTAA produced in 2008. Moreover, the GTAA 2022 is a material consideration which has changed significantly since the original permission was granted. The need set out in both policy DS22 and the GTAA 2022 provides an up-to-date understanding of how many gypsy and traveller pitches are required in the Borough. This is a critical consideration to weigh into the planning balance to determine whether to allow the variation of condition to grant permanent permission.

21. Meeting the Need for Gypsy and Traveller Accommodation

- 21.1. Policy DS2 of the Local Plan sets out that the Council will allocate land in a separate Gypsy and Traveller Site Allocations DPD to meet the requirements for gypsy, travellers and travelling showpeople's accommodation as identified by the GTAA 2017. Further commitments to do this in line with the Local Development Scheme were given in the explanatory text accompanying this policy.
- 21.2. In October 2022 the Council carried out a public consultation on the Gypsy and Travellers Site Allocations Development Plan Document (DPD) - Issues and Options. This was the first stage in the process of adopting a DPD that would ultimately provide sites for the gypsy and travelling

community. The consultation document did not allocate sites and noted that would follow at a later stage. The document rather dealt with general issues around overall levels of provision and possible locations for sites. It was accompanied by a call for sites for the travelling community. A 'call for sites' is an opportunity for developers, landowners and other interested parties to put forward sites for development within the Borough that they believe are suitable for development as a gypsy and traveller site.

- 21.3. Development Strategy has confirmed that they received no responses to the call for sites. This means that the Council does not have any clear site options it could allocate to meet the identified gypsy and traveller need. In February 2023 a decision was consequently taken to cease work on a Gypsy and Traveller Site Allocations DPD. It is instead proposed to deal with this issue and how to meet the identified need as part of a Local Plan review. This will invariably not be a quick process with the issues and options stage not currently scheduled until summer 2023.
- 21.4. The implication of the above is that the Council has identified a need for between 56 to 79 gypsy and traveller pitches and has no immediate way of meeting that need through the plan process. The Council is instead reliant on received and approving windfall sites, such as this application, to meet that identified need. However, as identified above, the Council currently has a zero supply of gypsy and traveller pitches.
- 21.5. In this respect, the application site contains 12 pitches which are counted within the 56 to 79 pitch need. Granting permanent permission for this application would consequently meet 21% to 15% of that total need. If permanent permission is not granted then this need would remain unmet. This is considered to be a significant material consideration which weighs in favour of the application.
- 21.6. The above is further compounded by the fact that when the original application was determined at appeal in August 2013, the Council advised the Inspector that a Site Allocation DPD would be adopted in May 2014. The Council contented that it would allocate enough gypsy and traveller pitches in that DPD to meet the need identified at that time. The Inspector considered this and commented strongly as follows:
- 21.7. *“Based on the Council’s timetable, a site allocation DPD will be adopted in May 2014 and will take account of an updated GTAA. Nevertheless, the Council has failed to identify and allocate sufficient sites over a long period. It did not comply with the requirements of the former Circular 1/2006 to bring forward sufficient sites. There has been a failure of policy which has contributed to the inadequate provision of sites in the Borough. It has hindered the ability of the traveller community to get access to appropriate sites and to pursue their traditional way of life. Nor does it reflect adequate consideration of the welfare and personal accommodation needs of travellers. The granting of permanent planning permission would contribute to meeting the unmet need for sites in the Borough. The site is privately provided, so that the development would accord with one of the aims in paragraph 4 of PPTS, to promote more private site provision while recognising that there will always be those who cannot provide their own sites.*
- 21.8. *Although the Council referred to the possibility of provision of traveller sites within two planned urban extensions, there is no policy requirement for such provision. Nor is there any substantive evidence that such provision is likely. The high proportion of the Borough which is within the Green Belt suggests that at least some future sites are likely to be in the Green Belt, as are the appeal site and the Woodside Park site. However, as DPD preparation is at a preliminary stage it is too early to reach firm conclusions on this matter or on the likely extent of harm to the Green Belt from any further sites within it.*

- 21.9. *I conclude that the substantial unmet need for sites weighs in the appellants' favour. The failure of the development plan to provide sufficient sites over a long period, with the resulting effects of that failure on the traveller community, also weighs in favour of allowing the appeals. Paragraph 25 of PPTS provides that the absence of a 5 year supply of deliverable sites should be a significant material consideration in respect of a temporary permission. However, paragraph 28 allows a 12 month period before this provision applies. The Council's site allocation DPD will not be completed within that 12 month period. Nevertheless, the provisions of paragraph 25 are not yet in operation and the absence of a 5 year supply of traveller sites at this stage does not weigh additionally in favour of the development.*
- 21.10. The commitment to prepare and adopt a Site Allocations DPD that would address the need played a significant role in the Inspector granting temporary permission. The Inspector reasoned that:
- 21.11. *"In this case, planning circumstances are expected to change following the adoption of the Council's site allocations DPD, which is expected in May 2014. Taking that into account, and allowing for a further period for sites to gain planning permission and become available, I consider a period of 3 years to be appropriate for consideration of a temporary planning permission, rather than the 5 years suggested by the appellants."*
- 21.12. As it turned out, a Site Allocation DPD was not adopted in 2014 and the DPD was ultimately not pursued. The 2019 Local Plan also did not allocate any land for gypsy and traveller pitches. It again deferred the allocation of those sites to consideration within a separate Gypsy and Traveller Site Allocations DPD. As detailed above, this too is not being pursued. There has consequently been a significant policy vacuum in meeting the identified needs of the gypsy and traveller community over many years. This is a matter which carries significant weight in favour of the application.
- 21.13. It is clear that the policy vacuum amounts to a significant a material consideration which has changed since the original permission was granted. Indeed, the temporary permission was granted on the understanding that gypsy and traveller pitches would be granted in a Site Allocations DPD in 2014. As this has not happened, it follows that this is a critical consideration to weigh into the planning balance to determine whether to allow the variation of condition to grant permanent permission.

22. Alternative Sites

- 22.1. Paragraph 24 of the PPTS sets out the need to consider the availability (or lack) of alternative accommodation for the applicants. However, in seeking to determine the availability of alternative sites for residential gypsy use, there is no requirement in planning policy or case law for an applicant to prove that no other sites are available or that particular needs could not be met from another site. This was confirmed in the Court of Appeal judgment for *South Cambridgeshire DC v Secretary of State for Communities and Local Government and Julie Brown* [2008] EWCA Civ 1010.
- 22.2. As detailed in the section above, in October 2022 the Council undertook a call for sites for gypsy and traveller pitches. This provided an opportunity for developers, landowners and other interested parties to put forward sites for development within the Borough which they believe are suitable for development as a gypsy and traveller site. No responses were received. A previous call for sites in early 2016 did result in a limited number of responses but all of these alternative sites were in the Green Belt as well. This helps to demonstrate that there are no readily available alternative sites in the Borough.
- 22.3. Aside from this, Officers have also undertaken their own search and spoken to owners of existing sites. This was approached flexibly to see if there were any alternative sites which

could accommodate some or all of the households on the application site. The potential for one additional plot at the existing Woodside site was identified. An owner of another site also claimed they could accommodate an additional 4-5 pitches as an extension to their existing site. However, both of these sites are located within the Green Belt where near identical issues to that noted above were identified. In any event, these potential pitches would not be able to accommodate all the pitches and households currently on the application site. Given the lack of planning permission for the sites, together with other issues, it was concluded that it would not be reasonable to argue that they are suitable, available, affordable and acceptable alternative.

- 22.4. The gypsy and traveller liaison officers at both Warwickshire County Council (WCC) and Coventry City Council (CCC) were approached to establish whether they had any sites with vacancies. WCC advised that all of the pitches on their sites were currently occupied with a waiting list in place for any new vacancies. They confirmed that WCC do not have any plans in place to increase their provision. They advised that they were not aware of any vacancies elsewhere in the County and did not know of any other sites being developed with pitches that would become available on the market.
- 22.5. CCC advised that all of the pitches on their site were currently occupied with a waiting list in place for any new vacancies. They confirmed that CCC do not have any plans in place to increase their provision. They advised that they were not aware of any vacancies elsewhere in the City and did not know of any other sites being developed with pitches that would become available on the market.
- 22.6. In addition to the above, it is important to be aware that since the occupant's first moved onto the application site in 2003, the Council has consistently and strongly put forward an existing site called Woodside as a realistic alternative site. Woodside is located in Ryton-on-Dunsmore. It has an extensive history but essentially it was a large, unmanaged, Green Belt Gypsy and traveller site in multiple ownerships. Although it had been a pleasant site when it was originally bought, the conditions soon declined dramatically. There were significant crime, anti-social behaviour and environmental issues which resulted in many families leaving the site resulting in vacant pitches. In 2006 the Council obtained grant funding to buy and redevelop the park. The site was subsequently greatly improved which resulted in the provision of a mix of privately owned plots and social tenants with a warden service.
- 22.7. A review of the past appeal decisions for the application site reveals that Inspectors gave substantial weight to the prospect of accommodating residents from the application site on Woodside instead. The Council was able to make a convincing case that although the site was in a poor condition, the improvements would lead to the creation of a viable alternative site without some of the harms that would arise from the application site. A series of temporary permissions were granted to allow time for this to be explored and then for improvement works to be carried out.
- 22.8. However, the latest appeal decision for this original application outlined the following: *"My overall conclusion on this issue is that the Woodside Park site does not currently provide a suitable, available, affordable and acceptable alternative site for those occupying the appeal site. Nor has it been shown that there is any other such site. This matter weighs in the appellants' favour."* One of the key issues was that the Council had originally contended that all of the occupants of the application site could be located on the Woodside site. Over time, the plots at Woodside were occupied by other gypsy and traveller households though. At the time of the appeal in 2013, the Council only had 3 pitches left to offer on Woodside and became reliant on other privately owned pitches here. The Inspector noted that the intentions of the owners of the private pitches was not known and that they were unable to conclude they were realistic alternatives.

- 22.9. Since the appeal decision in 2013, the 3 Council pitches at Woodside have now been occupied. A visit to Woodside revealed that 3 private plots were vacant but were not considered to be suitable for occupation in their current conditions. In any event, the landowners are unknown and it is not possible to confirm whether they are available or will become available for occupation. In summary, it is clear that Woodside no longer offers a realistic or viable alternative for those occupying the application site.
- 22.10. Overall, it is clear that there are no alternative sites where the occupants of the application site could go. They have lived on the application site for nearly 20 years. Despite a series of different efforts and ideas it has not been possible to find a suitable alternative site for the occupants in all this time. If permission was refused then the families living on the site would need to leave. The question then becomes where would they go? In the absence of a realistic alternative and given the number of occupants living at the site, it is highly likely that they would have to revert to roadside camping or the use of encampments. It could also result in the occupants moving onto other unauthorised sites. In the event of the latter, historical trends indicate that such sites are highly likely to be in the Green Belt. This would then result in the same issues considered here needing to be addressed. The lack of alternative sites therefore weighs significantly in favour of the application.
- 22.11. It is clear that the lack of alternative sites has become more acute since the original permission was granted. In 2013 there was a small number of limited pitches available. The recent call for sites resulted in no alternative sites being put forward. There is also a lack of any public or private sites available. This amounts to a significant material consideration which has changed since the original permission was granted. It follows that this is a critical consideration to weigh into the planning balance to determine whether to allow the variation of condition to grant permanent permission.

23. Personal Need and Circumstances of the Occupants

- 23.1. At the appeal for the original planning application the Inspector noted the following in respect of the personal accommodation needs of those living on the application site:
- 23.2. *“The site is occupied by 24 households. There has been some turnover of occupants since the site was first established in 2003. This is not a surprising feature in the traveller population and I do not consider it to weigh against the appellants. I see no reason to doubt that many of those on the site have developed family, social, education and health care connections locally. The appellants’ need is for a settled base from which to access health, education and other services. The site is also well-placed for access to the motorway network, facilitating travelling for work purposes. The size of the site enables family and other social relationships to be maintained. Were these appeals to fail it is likely that those living on the site would be required to leave it, resulting in an interference with their home, with their private and family life and with their ability to pursue of a traveller lifestyle. These matters should weigh in the appellants’ favour.”*
- 23.3. A subsequent visit to the site confirmed there were 22 households at the site. This is consistent with what the Inspector found when noting that such fluctuations in numbers is to be expected. The same conclusions reached by the Inspector remain valid and true to this day. The conclusions reached in regard to the personal need of the occupants of the application site should again weigh in favour of the application.
- 23.4. At the appeal for the original planning application the Inspector noted the following in respect of the personal circumstances of those living on the application site:
- 23.5. *“The nature and extent of medical conditions referred to by the appellants is not particularly unusual. If the site residents were required to leave, and in the absence of an alternative site,*

it is likely that there would be serious disruption to the education of those children currently at school locally and of those expected to attend in the near future. Some of the evidence submitted (Docs 9 and 10) suggests the need to address poor levels of attendance by some of the children. Nevertheless I consider that personal circumstances should carry some weight in favour of the development.”

- 23.6. A subsequent visit to the site confirmed that the same conclusions reached by the Inspector remain valid and true to this day. In relation to the children who attend school locally it is considered that it would be in their best interests to remain in a settled location where they can receive education. The conclusions reached in regard to the personal circumstances of the occupants of the application site should again weigh in favour of the application.

24. Other Considerations

- 24.1. Policy DS2 of the Local Plan includes criteria against which proposals for gypsy and traveller sites will be assessed. Those not addressed in this report relate to issues concerning technical issues and matters such as access, layout and amenity. These matters were considered when the original application was assessed, albeit under different policies, and were found to be acceptable. It is considered that these matters do not go to the heart of the issues and questions raised by this application to simply vary condition 1 and grant permanent permission.
- 24.2. As noted at the appeal for the original application, “The development is likely to result in significant additional vehicle movements on Top Road and other local roads. However, there was no objection by the Highway Authority and the planning application which led to Appeal C was not refused on highway safety grounds. Nor do traffic movements on the wider network, including those causing concern to local residents, necessarily arise only from the appeal site. The Environment Agency did not object to the development on grounds of flood risk or pollution and matters relating to foul and surface water drainage can be addressed by condition if planning permission is granted.” It is considered that these comments remain valid and no significant material considerations have arisen which would warrant a different view being taken.
- 24.3. WCC Fire and Rescue have requested a planning condition requiring details of the provision of adequate water supplies, necessary for fire fighting purposes at the site. Although this condition was not imposed on the original permission it is considered that this would be necessary if permanent permission is granted in order to protect the safety of the occupants in case of a fire. Condition X is therefore proposed to secure this.

25. Planning Balance and Conclusion

- 25.1. Policy GP1 of the Local Plan outlines that the Council will determine applications in accordance with the presumption of sustainable development set out in the Framework. Paragraph 11 of the Framework sets out that for decision-taking this has two parts. The first part (paragraph 11(c)) outlines that this means “approving development proposals that accord with an up-to-date development plan without delay”. The Local Plan was adopted in June 2019 and is considered to be an up-to-date development plan. A straightforward neutral balancing exercise must therefore be carried out to weigh up whether the identified harm caused by the proposed development would be outweighed the benefits.
- 25.2. In this case the application site is located in the Green Belt. Policy GP2 of the Local Plan is therefore relevant and sets out that development will be resisted in such areas unless permitted by national policy on Green Belts. In this case the proposed scheme would be inappropriate development in the Green Belt and should not be approved except in very special circumstances. In accordance with paragraph 148 of the Framework, 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.

- 25.3. Paragraph 148 of the Framework says that substantial weight should be given to any harm to the Green Belt. It is considered that substantial weight should be given to the harm to the Green Belt through inappropriate development, to the harm to openness and to harm through conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. Having regard to the substantial scale of the site, considerable weight should also be given to the harm to the character of the area and to that arising from adverse visual impact. More limited weight should attach to overcrowding.
- 25.4. With regard to matters weighing in the applicants' favour, the substantial need for gypsy and traveller sites cannot be understated. In accordance with policy DS2 of the Local Plan there is a requirement to approve another 38 pitches between now and 2032 in order to meet this need. However, the latest September 2022 GTAA indicates a need for between 56 and 79 pitches (depending on what definition is used) by 2037. Of these it confirms that a total of 29 pitches are required between now and 2027. The Council currently has no way to meet that need. The five year land supply for gypsy and traveller pitches stands at zero. This proposal to grant permanent permission on a site which has been occupied for nearly 20 years would instantly provide 12 pitches towards meeting that need. That would be 31% of the need identified in policy DS2 need and 21 or 41% of the need identified in the GTAA 2022. If permanent permission is not granted then this figure would remain at zero with no current way of meeting that need. These are matters which carry substantial weight in favour of the proposed development.
- 25.5. The Council has not allocated any gypsy and traveller sites within a planning policy document over the nearly 20 year period the application site has been occupied. Most recently, a decision to cease work on a Gypsy and Traveller Site Allocations DPD, in favour of allocating sites as part of a wider Local Plan review, has created further uncertainty and delays in meeting the identified need. This policy vacuum is a matter which carries substantial weight in favour of the proposed development.
- 25.6. The lack of alternative sites for where all the occupiers on this site could go is a key determinative factor to weigh up in this planning balance. For a period of nearly ten years, up until 2013, a significant degree of weight and reliance was placed on trying to accommodate the occupants of the application site on an alternative site called Woodside. Since this time it has been accepted that there are no suitable, available, affordable and acceptable alternative sites for those occupying the application site. In 2013 it was then reasoned that a Site Allocations DPD scheduled for adoption in 2014 would allocate an alternative site. This did not happen and no alternative sites have been found. The situation has now become even more acute because a recent call for sites to try and identify land available for new gypsy and traveller pitches yielded no response. A previous call for sites 7 years ago only yielded very limited responses for a small number of pitches within the Green Belt where the same issues being encountered here were identified. On top of this, enquiries with gypsy liaison officers and direct enquiries and searches for alternative sites has confirmed there are no alternative sites. This is a matter which carries substantial weight in favour of the proposed development.
- 25.7. This ultimately all leads to the question of what would happen if permanent permission for this development was refused. The occupiers of this site have lived in this location for nearly 20 years. Their need for accommodation has been accepted with attempts to provide this through a suggested relocation to Woodside and then an alternative site to be allocated in a development plan. These attempts have come to nothing leaving the occupants in limbo for 20 years with the threat of being told to leave the site hanging over them when each temporary permission came to an end.

- 25.8. If permission was refused, in the absence of a realistic alternative site and given the number of occupants living at the site, it is highly likely that they would have to revert to roadside camping or the use of encampments. It could also result in the occupants moving onto other unauthorised sites. In the event of the latter, historical trends indicate that such sites are highly likely to be in the Green Belt. This would then result in the same issues considered here needing to be addressed. This is a matter which carries substantial weight in favour of the proposed development.
- 25.9. Considerable weight should be given to the site residents' personal need for a settled site and the related interference with their human rights and ability to pursue a traveller lifestyle if they are required to leave the appeal site. More limited weight should accrue to personal circumstances.
- 25.10. 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 PPTS 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 the 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.
- 25.11. Overall, it is considered that the totality of harm arising from the development would now clearly be outweighed by other considerations. Very special circumstances necessary for the granting of permanent planning permission therefore do exist. Accordingly, the proposal would not conflict with policy GP2 of the Local Plan and Green Belt policy in Section 13 of the Framework.
- 25.12. In view of the above, the proposed development would comply with the Development Plan and no material considerations have been identified which indicate that the development should not be approved. Having regard to national policy and the presumption in favour of sustainable development it is therefore considered that the proposal would comply with policy GP1 of the Local Plan.
- 25.13. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and having regard to material considerations including the Framework, it is considered that the application should be approved subject to conditions and informatives.

26. Recommendation:

- 26.1. (1) Planning application R15/2017 be approved subject to:
- a) Referral to the Planning Casework Unit; and
 - b) the conditions and informatives set out in the draft decision notice appended to this report.

- (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:
R15/2017

DATE APPLICATION VALID:
26-Aug-2015

APPLICANT:

Mr B Gaskin and others, Top Park, Top Road, Barnacle, Coventry, CV7 9LE

AGENT:

Mr Philip Brown, Philip Brown Associates, 74 Park Road, Rugby, CV21 2QX

ADDRESS OF DEVELOPMENT:

TOP PARK, TOP ROAD, BARNACLE, CV7 9LE

APPLICATION DESCRIPTION:

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 18th 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 6th April 2011 and allowed on appeals 11/2153638, 11/2154137 and 11/2153749 dated 27th August 2013 to provide a permanent permission on-site.

CONDITIONS:

CONDITION 1:

The permanent use of the land hereby permitted shall be deemed to have taken effect from [date of issue].

REASON:

For the avoidance of doubt.

CONDITION 2:

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites.

REASON:

To protect the Green Belt from inappropriate development.

CONDITION 3:

There shall be no more than 34 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended, stationed on the land, of which no more than 11 shall be a residential mobile home.

REASON:

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

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 shall not be carried out other than in accordance with the following plans and details approved in writing by the Local Planning Authority on 9th October 2014 in relation to condition 6 of planning permission reference R10/2298:

- Letter dated 25/10/14.
- Site Layout Plan relating to plots 1 to 5 received by the LPA on the 25/10/14.
- Amend Site Layout Plan relating to plots 6 to 10 received by the LPA on the 23/05/14.
- Amenity Building A and B received by the LPA on the 25/10/14.
- Amenity Building C received by the LPA on the 25/10/14.
- Amended Amenity Building D Floor Plan, End Elevations, Front and Rear Elevation received by the LPA on the 09/10/14.
- Eterna Bulkhead Light detailing.

REASON:

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

CONDITION 7:

Within six months of the date of this permission, permanent drainage plans for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall then be implemented in accordance with the approved details within six months of the date the details are approved.

REASON:

To ensure the development is provided with a satisfactory permanent means of drainage, to ensure that there is no deterioration in water quality of the local watercourses and to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

CONDITION 8:

Within six months of the date of this permission, a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall then be implemented in accordance with the approved details within six months of the date the details are approved.

REASON:

In the interest of fire safety.

INFORMATIVES**INFORMATIVE 1:**

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

INFORMATIVE 2:

Warwickshire Fire and Rescue Service has advised of the need for the site to comply with the following:

- Fire Points. These should be established so that no caravan or site building is more than thirty metres from a fire point. They should be housed in a weather-proof structure, easily accessible and clearly and conspicuously marked "FIRE POINT".
- Fire Fighting Equipment. Where water standpipes are provided and there is a water supply of sufficient pressure and flow to project a jet of water approximately 5 metres from the nozzle, such water standpipes should be situated at each fire point. There should also be a reel that complies with British Standard 5306 Part 1, with a hose not less than 30 metres long, having a means of connection to a water standpipe (preferably a screw thread connection) with a water supply of sufficient pressure and terminating in a small hand control nozzle. Hoses should be housed in a box painted red and marked "HOSE REEL".
- Where standpipes are not provided but there is a water supply of sufficient pressure and flow, fire hydrants should be installed within 100 metres of every caravan standing.
- Hydrants should conform to British Standard 750. Access to hydrants and other water supplies should not be obstructed or obscured.
- Where standpipes are not provided or the water pressure or flow is not sufficient, each fire point should be provided with either water extinguishers BS EN 3 (2 x 9 litre) or a water tank of at least 500 litres capacity fitted with a hinged cover, 2 buckets and 1 hand-pump or bucket pump.
- Fire Warning. A means of raising the alarm in the event of a fire should be provided at each fire point. This could be by means of a manually operated sounder, eg metal triangle with a striker, gong or hand operated siren. The advice of the fire authority should be sought on an appropriate system.
- Maintenance. All alarm and fire fighting equipment should be installed, tested and maintained in working order by a competent person and be available for inspection by, or on behalf of, the licensing authority. A log-book should be kept to record all tests and any remedial action.
- All equipment susceptible to damage by frost should be suitably protected.
- Fire Notices. A clearly written and conspicuous notice should be provided and maintained at each fire point to indicate the action to be taken in case of fire and the location of the nearest telephone. This notice should include the following: "On discovering a fire: i) Ensure the caravan or site building involved is evacuated. ii) Raise the alarm. iii) Call the fire brigade (the nearest telephone is sited ...). iv) Attack the fire using the fire fighting equipment provided, if safe to do so. It is in the interest of all occupiers of this site to be familiar with the above routine and the method of operating the fire alarm and fire fighting equipment."
- Fire Hazards. Long grass and vegetation should be cut at frequent and regular intervals where necessary to prevent it becoming a fire hazard to caravans, buildings or other installations on the site. Any such cuttings should be removed from the vicinity

of caravans. The space beneath and between caravans should not be used for the storage of combustible materials.

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.

DRAFT

Reference: R22/0637

Site Address: 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 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. Application ongoing
(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)

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, and
- Contempt for injunction and laws.

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 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 April 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.
- 6.8 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.
- 6.9 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, and
 - Familial and cultural links to other occupiers of Top Park and relatives living in close proximity to the site.
- 6.10 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.
- 6.11 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.
- 6.12 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.

6.13 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 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. 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 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**).

6.18 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 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.

6.19 *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.

6.20 *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 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.

- 6.21 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 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.
- 6.23 *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 both families to maintain the degree of privacy that they prefer.
- 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 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.
- 6.25 *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 19.

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 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.

6.28 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.9 to 6.12 (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.

6.29 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 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.

- 6.30 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.
- 7.0 Visual impact
- 7.1 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.
- 7.2 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.
- 7.3 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 6.20 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).

- 7.4 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 6.22 of this report).
- 7.5 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**).
- 7.6 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 6.25 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.
- 7.7 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 6.17 and 6.18 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 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 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.5 The scheme is acceptable in terms of scale, character and appearance.
- 12.6 There are no highway safety concerns.
- 12.7 There are no environmental concerns.
- 12.8 There are no biodiversity concerns or necessary provision or protection measures.
- 12.9 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.
- 12.10 **Condition 3** will tie the use of Plot 19 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.11 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.12 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.13 **Condition 6** will make the permission personal to the applicant and his successors in title.
- 12.14 **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.

- 12.15 **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.
- 12.16 **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.
- 12.17 **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.
- 12.18 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.19 **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.
- 12.20 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.21 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.
- 12.22 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)
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 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:

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 5:

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 6:

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 ensure the proper developments of the site, and in the interests of residential and visual amenity.

CONDITION 7:

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 8:

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. Any replacement mobile homes should only be brought on to site once arrangements have been made to remove the existing mobile homes on the day the replacements arrive.

REASON:

To ensure the proper development of the site.

CONDITION 9:

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

INFORMATIVE 4:

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 Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email ept@rugby.gov.uk

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: R22/0664

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.

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 and 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 14-16 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
R22/0665	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	Application ongoing

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)

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)

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, and
- Contempt for injunction and laws.

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 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.

- 6.8 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.
- 6.9 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 resides on Plot 1 Top Park and is in declining health due to chronic health conditions. He and his wife also care for his sister-in-law, who 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.
- 6.10 In support of the first factor, the LPA have been provided with letters from the primary school attended by the three 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 primary education.
- 6.11 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.
- 6.12 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 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.
- 6.13 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 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 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. 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 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**).

6.19 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 16 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 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.

6.21 *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 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.

6.22 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. 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.

6.24 *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 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.

6.26 *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 16.
- 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 6.9 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 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.
- 6.30 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 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.

- 6.31 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 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.
- 7.2 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.
- 7.3 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).

- 7.4 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).
- 7.5 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**).
- 7.6 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 6.25 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.
- 7.7 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 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 settles 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 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 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 6.25 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 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 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 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.5 The scheme is acceptable in terms of scale, character and appearance.
- 12.6 There are no highway safety concerns.
- 12.7 There are no environmental concerns.
- 12.8 There are no biodiversity concerns or necessary provision or protection measures.
- 12.9 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.
- 12.10 **Condition 3** will tie the use of Plot 16 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.11 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.12 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.13 **Condition 6** will make the permission personal to the applicant, his spouse, his children, his mother and his sister-in-law.
- 12.14 **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.
- 12.15 **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.
- 12.16 **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.

- 12.17 **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.
- 12.18 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.19 **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.
- 12.20 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.21 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.
- 12.22 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 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 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 Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email 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)

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, and
- Contempt for injunction and laws.

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 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.
- 6.8 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.
- 6.9 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.
- 6.10 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.
- 6.11 In support of the second factor, the LPA has received confirmation that both of his children's families residing on the site are expecting a baby this year, with one mother expecting her fourth child and one expecting her first.
- 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 the educational needs of the children and the needs of the expectant mothers, 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 and the expectant mothers' access to pre-natal and post-natal care. 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 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. 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 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**).

- 6.18 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 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.
- 6.19 *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 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.
- 6.20 *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 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.
- 6.21 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 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.
- 6.23 *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 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.
- 6.24 *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 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.
- 6.25 *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 17.
- 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 6.9 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 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.

- 6.30 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 special exceptional 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.
- 7.0 Visual impact
- 7.1 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.
- 7.2 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.
- 7.3 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 6.20 and 6.21 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).
- 7.4 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 6.21 of this report).

- 7.5 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 6.24 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**).
- 7.6 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 6.24 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.
- 7.7 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 6.17 and 6.18 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 settles 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 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 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 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.5 The scheme is acceptable in terms of scale, character and appearance.
- 12.6 There are no highway safety concerns.
- 12.7 There are no environmental concerns.
- 12.8 There are no biodiversity concerns or necessary provision or protection measures.
- 12.9 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.
- 12.10 **Condition 3** will tie the use of Plot 17 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.11 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.12 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.13 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.14 **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.
- 12.15 **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.
- 12.16 **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.
- 12.17 **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.

- 12.18 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.19 **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.
- 12.20 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.21 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.
- 12.22 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 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 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.

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 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 Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email 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: R22/0666

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	Application ongoing
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- 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. Application ongoing
- (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)**

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 - 12no. 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, and
- Contempt for injunction and laws.

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 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.
- 6.8 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.
- 6.9 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.
- 6.10 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.
- 6.11 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).
- 6.12 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 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.

6.13 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. 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 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).

6.18 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 18 in particular.

6.19 *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.

6.20 *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 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.

6.21 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 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.
- 6.23 *Is the development well laid out to provide adequate space and privacy for residents?*
Please see Paragraphs 6.17 and 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.
- 6.24 *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 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.
- 6.25 *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 18.
- 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 6.9 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 in three children being made homeless. As well as potentially having serious repercussions for the health and wellbeing of these children (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 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.
- 7.0 Visual impact
- 7.1 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.
- 7.2 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.
- 7.3 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 6.20 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).
- 7.4 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 6.21 of this report).

- 7.5 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 6.22 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**).
- 7.6 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.
- 7.7 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 6.17 and 6.18 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 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 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.
- 12.5 The scheme is acceptable in terms of scale, character and appearance.
- 12.6 There are no highway safety concerns.
- 12.7 There are no environmental concerns.
- 12.8 There are no biodiversity concerns or necessary provision or protection measures.
- 12.9 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.
- 12.10 **Condition 3** will tie the use of Plot 18 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.11 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.12 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.13 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.14 **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.
- 12.15 **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.
- 12.16 **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.

- 12.17 **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.
- 12.18 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.19 **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.
- 12.20 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.21 The development complies with all relevant local and national planning policies.
- 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:
R22/0666

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 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 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.

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 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 Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email 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. A two tier climbing frame is located in the north-eastern corner of the site. 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) but almost 10 years after the formation of the oldest plots on Top Park (which lie on the opposite side of the access road to Plot 14). 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. Application ongoing
(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. Application ongoing
(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)
- R22/1055 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)

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

National Planning Policy Framework, 2021 (NPPF)

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.

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

Third party comments

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 - 12no. 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, and
- Contempt for injunction and laws.

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 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.
- 6.8 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.
- 6.9 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.
- 6.10 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.
- 6.11 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.
- 6.12 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:-

- 6.13 *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.
- 6.14 *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.
- 6.15 *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. 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.
- 6.16 *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**).
- 6.17 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.

6.18 *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.

6.19 *Does the development 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 tourer 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.

6.20 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).

6.21 Whilst 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.

6.22 *Is the development well laid out to provide adequate space and privacy for residents?*

Please see Paragraph 6.16. 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 within the site equally and all benefit from the various structures and open spaces within the plot.

6.23 *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.

6.24 *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.

6.25 *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.

6.26 *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.

- 6.27 A summary of the applicant's case for being considered as a very special circumstance can be found in Paragraphs 6.9 to 6.11 (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.
- 6.28 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.
- 6.29 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.
- 6.30 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.

- 6.31 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 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.
- 7.2 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.
- 7.3 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 6.19 to 6.21 (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).
- 7.4 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).
- 7.5 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 6.20 and 6.21 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**).

- 7.6 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 6.23 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.
- 7.7 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 6.23 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 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 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.

12.5 The scheme is acceptable in terms of scale, character and appearance.

12.6 There are no highway safety concerns.

12.7 There are no environmental concerns.

12.8 There are no biodiversity concerns or necessary provision or protection measures.

12.9 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.

- 12.10 **Condition 3** will tie the use of Plot 14 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.11 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.12 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.13 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.14 **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.
- 12.15 **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.
- 12.16 **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.
- 12.17 **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.
- 12.18 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.19 **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.
- 12.20 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.21 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.

12.22 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, Coventry, CV7 9FS

ADDRESS OF DEVELOPMENT:

Plot 14, Top Park, Top Road, Barnacle, Coventry, 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 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 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.

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 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 Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email 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: 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.

(Plot 19)

R22/0664 Retention of 1no. pitch for Gypsy and Traveller use, including Application ongoing

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)

R22/0665 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)

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 - 12no. 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, and
- Contempt for injunction and laws.

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 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.

- 6.8 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.
- 6.9 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.
- 6.10 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.
- 6.11 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.
- 6.12 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.

6.13 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. 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 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**).

- 6.18 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 15 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 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.
- 6.20 *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 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 tourers 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.
- 6.21 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 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.

- 6.23 *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 15.

- 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 6.9 to 6.11 (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 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.
- 6.30 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.
- 7.0 Visual impact
- 7.1 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.
- 7.2 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.
- 7.3 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 6.20 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).
- 7.4 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).

- 7.5 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 6.21 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 home (**Condition 12**).
- 7.6 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 6.24 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.
- 7.7 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 6.17 and 6.18 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 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 Authorising this currently unauthorised site would help reduce the identified shortfall in provision within the borough.

- 12.5 The scheme is acceptable in terms of scale, character and appearance.
- 12.6 There are no highway safety concerns.
- 12.7 There are no environmental concerns.
- 12.8 There are no biodiversity concerns or necessary provision or protection measures.
- 12.9 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.
- 12.10 **Condition 3** will tie the use of Plot 15 to Gypsy and Traveller accommodation only and prevent commercial use.
- 12.11 **Condition 4** will prevent commercial activity including storage of plant, machinery and materials and the transfer or burning of materials.
- 12.12 **Condition 5** will prevent the bringing onto site and storage on site of vehicles over 3.5 tonnes.
- 12.13 **Condition 6** will make the permission personal to the applicant, his spouse, his children and their families.
- 12.14 **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.
- 12.15 **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.
- 12.16 **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.
- 12.17 **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.
- 12.18 **Condition 11** will prevent the installation of any additional external lighting without the prior written agreement of the LPA.
- 12.19 **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.

- 12.20 **Condition 13** will set out the required action in the event that previously unidentified contamination is discovered on the site in the future.
- 12.21 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.
- 12.22 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:
R22/1055

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 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 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 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.

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 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 Such measures contribute towards improving air quality. Further information can be obtained from Environmental Health on 01788 533857 or email 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.

AGENDA MANAGEMENT SHEET

Report Title:	Delegated Decisions - 19 January to 22 February 2023
Name of Committee:	Planning Committee
Date of Meeting:	15 March 2023
Report Director:	Chief Officer - Growth and Investment
Portfolio:	Growth and Investment
Ward Relevance:	All
Prior Consultation:	None
Contact Officer:	Chief Officer - Growth and Investment
Public or Private:	Public
Report Subject to Call-In:	No
Report En-Bloc:	No
Forward Plan:	No
Corporate Priorities:	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) Corporate Strategy 2021-2024 <input type="checkbox"/> This report does not specifically relate to any Council priorities but
(C) Climate (E) Economy (HC) Health and Communities (O) Organisation	
Summary:	The report lists the decisions taken by the Head of Growth and Investment under delegated powers.
Financial Implications:	There are no financial implications for this report.
Risk Management Implications:	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 - 15 March 2023

Delegated Decisions - 19 January to 22 February 2023

Public Report of the Chief Officer - Growth and Investment

Recommendation

The report be noted.

Name of Meeting: Planning Committee
Date of Meeting: 15 March 2023
Subject Matter: Delegated Decisions - 19 January to 22 February 2023
Originating Department: Growth and Investment

DO ANY BACKGROUND PAPERS APPLY YES NO

LIST OF BACKGROUND PAPERS

Doc No	Title of Document and Hyperlink

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.

Exempt information is contained in the following documents:

Doc No	Relevant Paragraph of Schedule 12A

DECISIONS TAKEN BY THE CHIEF OFFICER FOR GROWTH AND INVESTMENT UNDER DELEGATED POWERS

Report Run From 19/01/2023 To 22/02/2023

APPENDIX 1

Delegated

8 Weeks Advert

Applications Approved

R22/1338 8 Weeks Advert Approval 26/01/2023	159-183, LAWFORD ROAD, RUGBY, CV21 2HX	Double sided internally illuminated totem pole sign
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R22/1080 8 Weeks Advert Approval 02/02/2023	THE DUN COW, THE GREEN, DUNCHURCH, RUGBY, CV22 6NJ	Advertisement Consent for 5 signs, Including a plaque, a- board and 3 wall mounted aluminium panels
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8 Weeks PA Applications

Applications Refused

R22/0847 8 Weeks PA Refusal 25/01/2023	SPARROW HALL BARN, COMBE FIELDS ROAD, COOMBE FIELDS, COVENTRY, CV7 9JP	Retention of outbuilding and extension on the south elevation, and change of use to form two holiday lets.
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R22/1251 8 Weeks PA Refusal 26/01/2023	Land To the rear of Orchard House, Lawford Lane, Rugby, CV22 7QS	Proposed 3 bedroom detached bungalow
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Delegated

8 Weeks PA Applications Applications Refused

Land On The South Side Of,
Spring Street, Rugby

R22/0653
8 Weeks PA
Refusal
15/02/2023

Demolition of existing building and structures and erection of five no. dwellings and an apartment building comprising four no. apartments together with associated works including utilisation of existing accesses, provision of new parking areas, private amenity areas and landscaping. Previously approved for outline planning under ref. R18/1765

Applications Approved

R22/1272
8 Weeks PA
Approval
19/01/2023

54, LAWFORD ROAD, RUGBY,
RUGBY, CV21 2EA

Erection of a canopy with roller shutters, relocation of existing sign board

R22/0565
8 Weeks PA
Approval
20/01/2023

1, Friendly House, Clarence
Road, Rugby, CV21 2JB

Erection of a single-storey outbuilding to be used as home office and gym.

R22/0886
8 Weeks PA
Approval

5, BLOXAM PLACE, RUGBY,
RUGBY, CV21 3DS

Delegated

8 Weeks PA Applications Applications Approved

20/01/2023

To carry out a full re-roofing of the existing pitched ceremony room roof. Intention is to replace the existing defective slate roof tile covering in its entirety with new fibre cement slate by CEDRAL - Thrutone Textured (Natural Textured Finish) colour Blue-Black

R22/1219
8 Weeks PA
Approval
20/01/2023

LAND TO THE NORTHEAST OF
THE MAVERICK AND THE
BUNGALOW, BILTON FIELDS
FARM LANE, RUGBY, CV22
6RU

Variation of condition 12 imposed on planning permission R20/0237 (Variation of condition 14 of R19/1139 (Erection of five dwellings) dated 19th December 2019 to amend footpath and passing bays, approved 16th June 2020) to relocate new connecting footpath

R22/1266
8 Weeks PA
Approval
20/01/2023

UNIT 11, JUNCTION ONE,
LEICESTER ROAD, RUGBY,
CV21 1RW

Alterations and extensions to existing building; new drivethru booth; access door and extended manager's office; new external furniture, fencing and associated works

R22/1101
8 Weeks PA

12, Foxglove Close, Rugby,
CV23 0TS

Delegated

8 Weeks PA Applications Applications Approved

Approval
23/01/2023

Replacement of fence panels to side 5.7 meters in length and 1.95 meters in height - new timber gates to front 2.6 wide and 1.85 in height.

R22/1232
8 Weeks PA
Approval
25/01/2023

LAND AND BUILDINGS ON THE
SOUTH EAST SIDE OF,
DUNCHURCH HALL,
DUNCHURCH, CV22 6PD

Variation of condition 2 of R21/1054 'Building new buttresses to strengthen existing boundary wall' to alter the details previously approved.

R22/0837
8 Weeks PA
Approval
26/01/2023

30, AVONDALE ROAD,
BRANDON, COVENTRY, CV8
3HS

Application for a Dropped kerb to the front on property and the erection of a Retaining wall and steps to the side and rear of driveway, Fencing to the boundary of No 28 & 30 Avondale Road, replacement of current hedge and hard surfacing of Driveway.

R22/1010
8 Weeks PA
Approval
26/01/2023

67 , Balcombe Road, Hillmorton,
Rugby, Warwickshire, CV22 5JD

Erection of two storey side extension, single storey wrap around extension.

Delegated

8 Weeks PA Applications Applications Approved

R22/1036 8 Weeks PA Approval 26/01/2023	WILLOUGHBROOK, LONDON ROAD, WILLOUGHBY, CV23 8BL	Retention of log cabin for permanent occupation by essential worker
R22/1231 8 Weeks PA Approval 26/01/2023	70, St Andrews Crescent, Rugby, CV22 5PH	New ramp and hand rails to front elevation
R22/1305 8 Weeks PA Approval 26/01/2023	6 WYCH ELM CLOSE, BILTON, RUGBY, CV22 7TH	Extension to existing garage, single storey side and porch extension
R22/0912 8 Weeks PA Approval 27/01/2023	BREACH HOUSE, COALPIT LANE, WOLVEY, HINCKLEY, LE10 3HD	Variation of Condition 2 for application R01/1025/21755/P. The variation seeks the continuation of use for repair and maintenance of agricultural machinery.
R22/1250 8 Weeks PA Approval 27/01/2023	35, VIADUCT CLOSE, RUGBY, CV21 3FD	Conversion of garage to liveable accommodation.

Delegated

8 Weeks PA Applications Applications Approved

R22/1167 8 Weeks PA Approval 30/01/2023	College Of Policing, LEAMINGTON ROAD, RYTON- ON-DUNSMORE, COVENTRY, CV8 3EN	Variation of condition 4 of R13/0158 (Retention of 2 generators, substation and diesel tank) to allow retention for up to 5 years.
R22/1267 8 Weeks PA Approval 30/01/2023	13, RUGBY LANE, STRETTON- ON-DUNSMORE, RUGBY, CV23 9JH	Single Storey Rear Extension with Flat Roof to go along side the Existing Extension at the Rear of the Property.
R22/0836 8 Weeks PA Approval 31/01/2023	THE HAVEN, SCHOOL LANE, HILL, RUGBY, CV23 8DX	Creation of single bedroom annexe unit within existing dwelling for holiday rent, single storey side extension to form entrance porch to annexe, single storey porch to front of the property and installation of PV solar panels to the roof on the front roofslope
R22/1005 8 Weeks PA Approval 31/01/2023	Land accessed from Main Street, Monks Kirby	Change of use of land from agricultural to equestrian and erection of new stable building including hard standing for vehicular parking.

Delegated

8 Weeks PA Applications

Applications Approved

R22/1168

8 Weeks PA

Approval

31/01/2023

College Of Policing,
LEAMINGTON ROAD, RYTON-
ON-DUNSMORE, COVENTRY,
CV8 3EN

Variation of condition 4 of
R13/0694 (Retention of single
storey temporary building,
canopies and covered link with
associated works) to allow
retention for up to 5 years.

R22/1309

8 Weeks PA

Approval

31/01/2023

GLEBE FARM INDUSTRIAL
ESTATE, 5, TIBER WAY,
RUGBY, RUGBY, CV21 1ED

partial change of use from vehicle
recovery garage (B2) to MOT
test station (sui generis)

R22/0571

8 Weeks PA

Approval

01/02/2023

LESSINGHAM HOUSE,
BIRDINGBURY ROAD,
LEAMINGTON HASTINGS,
RUGBY, CV23 8DY

Coach House renovation,
replacement/extension of
agricultural outbuildings, and
provision of open green waste
garden store.

R22/1315

8 Weeks PA

Approval

01/02/2023

PAILTON PASTURES FARM,
MONTILO LANE, RUGBY, CV23
0QN

Agricultural building for grain and
machinery storage

R22/1003

8 Weeks PA

LAND AT, ALMOND GROVE,
NEWBOLD, RUGBY,

Delegated

8 Weeks PA Applications Applications Approved

Approval 02/02/2023		Outline planning permission for the construction of one dwelling and garage. All matters reserved except for means of access.
R22/1263 8 Weeks PA Approval 02/02/2023	26, THE ORCHARD, MARTON, RUGBY, CV23 9RP	Single storey front extension
R22/1332 8 Weeks PA Approval 02/02/2023	77, Edyvean Close, Rugby, Warwickshire, CV22 6LD	Two storey rear extension
R22/1170 8 Weeks PA Approval 06/02/2023	College Of Policing, LEAMINGTON ROAD, RYTON- ON-DUNSMORE, COVENTRY, CV8 3EN	Variation of condition 3 of R13/0702 (Retention of temporary construction access to A423 Oxford Road) to allow retention for up to 5 years.
R22/1345 8 Weeks PA Approval 06/02/2023	69, Constable Road, Hillmorton, Rugby, Warwickshire, CV21 4DA	First floor side extension

Delegated

8 Weeks PA Applications Applications Approved

R22/1362 8 Weeks PA Approval 06/02/2023	THE HONEY POT, MAIN STREET, BOURTON-ON- DUNSMORE, RUGBY, CV23 9QS	Single storey rear extension to replace existing conservatory
R22/0927 8 Weeks PA Approval 07/02/2023	UNIT 5, HOLLOWELL WAY, RUGBY, CV21 1LT	First floor extension to beauty salon
R22/1105 8 Weeks PA Approval 07/02/2023	44 , Vernon Avenue, Rugby, Warwickshire, CV22 5HP	PROPOSED 1.5 STOREY GARDEN ROOM WITH HOME OFFICE ABOVE
R22/1117 8 Weeks PA Approval 07/02/2023	26, LAND ADJACENT TO, THE GREEN, LONG LAWFORD, RUGBY, CV23 9BL	Erection of new dwelling with associated parking
R22/1285 8 Weeks PA Approval 07/02/2023	9, Bank Street, Rugby, CV21 2QE	New security grille
	4, SISKIN CLOSE, RUGBY,	

Delegated

8 Weeks PA Applications Applications Approved

CV23 0WJ

R22/1343
8 Weeks PA
Approval
07/02/2023

PROPOSED CONVERSION OF
GARAGE TO A STUDY,
INCLUDING HARDSTANDING
FOR AN ADDITIONAL OFF
ROAD PARKING SPACE

R21/0196
8 Weeks PA
Approval
08/02/2023

RUGBY TOWN JUNIOR
FOOTBALL CLUB, KILSBY
LANE, RUGBY, CV21 4PN

Outline Application: Proposed
building to provide a ground floor
fitness room and first floor
education centre with all matters
reserved

R22/0749
8 Weeks PA
Approval
08/02/2023

1, VICTORIA AVENUE, RUGBY,
CV21 2BY

Conversion of a single residential
dwelling to 2no. 1 bedroom
apartments (retrospective).

R22/1346
8 Weeks PA
Approval
08/02/2023

16, Epsom Road, Rugby, CV22
7PF

Single storey rear extension

R23/0001
8 Weeks PA
Approval
08/02/2023

ORWELL HOUSE, 7,
LILBOURNE ROAD, CLIFTON
UPON DUNSMORE, RUGBY,
CV23 0BD

Proposed single storey side
extension to form study/office
(part-retrospective)

Delegated

8 Weeks PA Applications Applications Approved

THE VISITORS CENTRE,
BRINKLOW ROAD, COOMBE
FIELDS, COVENTRY, CV3 2AB

R23/0055
8 Weeks PA
Approval
09/02/2023

Installation of 96 solar panels on the roof of the Coombe Abbey Country Park visitor's centre. This application is an amendment from application R20/0282

R22/0085
8 Weeks PA
Approval
10/02/2023

BARNYARD CARS, HALL
FARM, BROWNSOVER LANE,
RUGBY, CV21 1HY

Application for the variation of condition 2 within the decision notice of R19/0524 (original application R13/0317). This previous application gained consent for the Use of land for the storage of motor vehicles, together with valeting and sales (by appointment only) for Barnyard Trade Cars LTD. This application seeks to extend this current use of the land for a further 3 year period.

R22/1069
8 Weeks PA
Approval
10/02/2023

GILWOOD HOUSE, MAIN
STREET, FRANKTON, RUGBY,
CV23 9PB

Two storey side extension to form Study and Sitting area of the ground floor and an En-suite on the first. Single storey Porch to front elevation. Overall exterior aesthetic upgraded with new materials.

Delegated

8 Weeks PA Applications Applications Approved

R22/1342 8 Weeks PA Approval 10/02/2023	6, Yarrow Close, Brownsover, Rugby, Warwickshire, CV23 0TU	Single storey rear extension.
R23/0010 8 Weeks PA Approval 10/02/2023	41, VERNON AVENUE, RUGBY, CV22 5HP	Single storey rear extension
R22/0616 8 Weeks PA Approval 13/02/2023	CAWSTON HOUSE, THURLASTON DRIVE, RUGBY, RUGBY, CV22 7SE	Variation of Condition 2: amendment to approved plans (reference E665) - Extension to Lime Tree Village to form CCRC including 30 bed care home, 47 extra care cottages (Use Class C2) 12 extra care apartments (use class C2) associated communal facilities, open space, and car parking - Substitution of 10 approved extra care cottages with 10 extra care cottages with changed design and layout
R22/1060 8 Weeks PA Approval 13/02/2023	28, COOMBE DRIVE, BINLEY WOODS, COVENTRY, CV3 2QU	Single storey front extension, single storey rear extension and extension to the dropped kerb.

Delegated

8 Weeks PA Applications Applications Approved

R22/1252 8 Weeks PA Approval 13/02/2023	53, Steeping Road, Long Lawford, Rugby, CV23 9SG	Erection of fence 2.3 metres in height in rear garden (retrospective).
R22/1279 8 Weeks PA Approval 13/02/2023	8, GARDENERS END, RUGBY, CV22 7RQ	PROPOSED SINGLE STOREY REAR EXTENSION TO DWELLING.
R22/1119 8 Weeks PA Approval 14/02/2023	14, FERRIBY ROAD, RUGBY, CV22 7XH	Removal of existing lawn area and replace with hardstanding, for the purpose of additional car parking.
R23/0044 8 Weeks PA Approval 14/02/2023	29, Teeswater Close, Long Lawford, Rugby, CV23 9GA	Erection of single storey side extension to connect main building to garage
R22/1335 8 Weeks PA Approval 15/02/2023	DRAYCOTE WATER VISITORS CENTRE, DRAYCOTE WATER, KITES HARDWICK, RUGBY, CV23 8AB	Installation of a new pedestrian footpath, zebra crossings and associated paving and kerbing

Avon Park School, ST JOHNS

Delegated

8 Weeks PA Applications Applications Approved

R22/1349 8 Weeks PA Approval 15/02/2023	AVENUE, RUGBY, CV22 5HR	Erection of upgraded Multi-Use Gaming Area (MUGA) in place of existing MUGA and associated works.
R22/1161 8 Weeks PA Approval 16/02/2023	8, Ransome Close, Rugby, CV22 7YU	Erection of a trellis in rear garden (Retrospective).
R22/1162 8 Weeks PA Approval 17/02/2023	16, Sir Winston Churchill Place, Binley Woods, Coventry, CV3 2BT	New fence and change of use of land to garden land
R22/1363 8 Weeks PA Approval 17/02/2023	Paddock to east of MILL HOUSE, LONDON ROAD, DUNCHURCH, RUGBY, CV23 9LP	Erection of a Landscaped Mound
R23/0043 8 Weeks PA Approval 17/02/2023	24, ASHLAWN ROAD, RUGBY, CV22 5ES	Single storey rear extension
R22/1220 8 Weeks PA	18, COVENTRY ROAD, PAILTON, RUGBY, CV23 0QB	

Delegated

8 Weeks PA Applications Applications Approved

Approval

21/02/2023

PROPOSED ADDITION OF
NEW GEORGIAN CANOPY
OVER THE FRONT DOOR TO
THE FRONT ELEVATION.
INSERTION OF NEW DOOR IN
EXISTING WALL FOR ACCESS
TO THE EXISTING ANNEX.

R23/0011
8 Weeks PA
Approval
21/02/2023

34, Matlock Close, Rugby, CV21
1LB

retention of fencing at a height of
between 1-1.5 metres to front of
property

R23/0077
8 Weeks PA
Approval
21/02/2023

THE RETREAT, LAWFORD
HEATH LANE, LONG
LAWFORD, RUGBY, CV23 9EU

PROPOSED SINGLE STOREY
INFILL EXTENSION PLUS
REPLACEMENT OF A FLAT
ROOF WITH A PITCHED ROOF
OVER EXISTING PORCH

R22/1194
8 Weeks PA
Approval
22/02/2023

CLIFTON HALL FARM,
LILBOURNE ROAD, CLIFTON
UPON DUNSMORE, RUGBY,
CV23 0BB

Erection of an agricultural
building at Clifton Hall Farm, to
provide storage for equipment,
machinery and materials. The
proposed will contain a floor plan
of 790 sq metres.

Delegated

Conditions

Applications Approved

R22/1209
Conditions
Approval
25/01/2023

10, CHURCH STREET, RUGBY,
CV21 3PH

Application to discharge conditions 3 & 5 imposed on planning application reference R22/0326 for change of use of ground floor retail unit (Class E) to a hot food takeaway unit (Sui Generis) with installation of extractor duct to the rear, approved 28/6/2022

R22/1318
Conditions
Approval
25/01/2023

The Old Mill, Church Lane,
Thurlaston, CV23 9JY

Discharge of condition 3 (noise assessment) imposed on planning permission Ref: R22/0632 - Installation of air source heat pump and replacement windows approved - 7th October 2022

R22/1178
Conditions
Approval
27/01/2023

OAKFIELD RECREATION
GROUND, BILTON ROAD,
RUGBY, CV22 7AL

Approval of details in relation to conditions 20(c) (Contamination) attached to R19/1164 - Erection of an extra care retirement development comprising of 62 apartments (C2 Use Class) and associated communal facilities, including vehicular access from Bilton Road, car parking, landscaping, footpaths, public open space and associated infrastructure

Delegated

Conditions

Applications Approved

Bridge 24, carrying Fields Farm
Lane over

R22/1193
Conditions
Approval
30/01/2023

Discharge of conditions 3, 4 and
5 imposed on planning
permission reference R20/566 -
Demolition of existing bridge 24
and regrading of ground level to
create a crossroad in conjunction
with disused railway tracks /
PROW, approved 22/7/2021

R22/1269
Conditions
Approval
31/01/2023

THE OLD VICARAGE, 16,
HOSKYN CLOSE, RUGBY,
CV21 4LA

Discharge of Condition 10 of
R21/0316 (With NMA) for
Erection of new dwelling land
adjacent to 16 Hoskyn Close

R22/1240
Conditions
Approval
09/02/2023

Land North Of, Airfield Drive,
Coombe Fields

Approval of details in relation to
condition 9 attached to R21/0845
- Temporary planning permission
for a period of three years, for
two Proof of Concept Research
Vehicle, comprising the erection
of a temporary structure and one
sample easel, together with
associated access infrastructure
and landscape improvements.

R23/0148
Conditions
Approval

58, EVEREST ROAD, RUGBY,
CV22 6EX

Delegated

Conditions

Applications Approved

10/02/2023

Approval of details in relation to condition 9 attached to R20/0327
- Erection of detached dormer bungalow.

R23/0058
Conditions
Approval
13/02/2023

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).

R23/0062
Conditions
Approval
14/02/2023

1A, A ONE SOCIAL CLUB,
MARKET STREET, RUGBY,
CV21 3HG

Approval of details related to condition 11-comprehensive landscaping scheme of R22/0705 (Variation of Condition 2 of R21/1188 to alter plans and elevations (10 bedroom care home with associated parking shared access dated 25th March 2022)

R23/0222
Conditions
Approval
15/02/2023

2, SCHOOL STREET, CHURCH
LAWFORD, RUGBY, CV23 9EE

Approval of details related to:
Condition 4 - Windows -
R21/1205 Erection of no.1
dwelling, with detached garage
(resubmission of previously

Delegated

Conditions Applications Approved

aprove R19/1403)

R22/0863 Conditions Approval 20/02/2023	LAND NORTH OF COVENTRY ROAD, COVENTRY ROAD, LONG LAWFORD	Approval of details in relation to condition 9 attached to R17/1089 - Arboricultural Method Statement and Tree Protection Plan
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Discharge of Conditions

R23/0048 02/02/2023	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
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R23/0048 08/02/2023	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
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Delegated

Discharge of Conditions

(Appeal
APP/E3715/W/22/3290513) -
Proposed new dwelling and
garage, detached garage, and
formation of a new highway
access

Applications Approved

R20/0327 58, EVEREST ROAD, RUGBY,
CV22 6EX

Erection of detached dormer
bungalow.

10/02/2023

Listed Building Consent Applications

Applications Approved

R22/1303 LAVENDER FURLONG,
Listed Building Consent COVENTRY ROAD,
Approval DUNCHURCH, RUGBY, CV22
24/01/2023 6RE

Replacement of Cement products
for Lime products

R22/0572 LESSINGHAM HOUSE,
Listed Building Consent BIRDINGBURY ROAD,
Approval LEAMINGTON HASTINGS,
01/02/2023 RUGBY, CV23 8DY

Listed Building Consent for
Coach House renovation,
replacement/extension of
agricultural outbuildings, and
provision of open green waste
garden store.

Delegated

Listed Building Consent Applications Applications Approved

R22/1324
Listed Building Consent
Approval
02/02/2023

THE DUN COW, THE GREEN,
DUNCHURCH, RUGBY, CV22
6NJ

Listed Building Consent for 4
signs, Including a plaque and 3
wall mounted aluminium panels

R22/1243
Listed Building Consent
Approval
13/02/2023

H M PRISON SERVICE
COLLEGE, NEWBOLD REVEL
ROAD, STRETTON UNDER
FOSSE, RUGBY, CV23 0TH

A: SPACES 1, 2 AND 3 (OLD
PART OF THE BUILDING); 1:
THESE AREAS ARE
RESTRICTED TO TOTALLY
COSMETIC
REFURBISHMENTS/
REDECORATIONS. 2:
REPLACEMENT OF MODERN
JOINERY. 3: LIGHTING. 4:
FF&E. B: SPACES 4, 5, 6, 7 & 8
INCLUDING CONSERVATORY
(MODERN PART OF THE
BUILDING); 1: NEW
STRUCTURAL OPENING IN AN
INTERNAL WALL. 2: REMOVAL
OF SOME INTERNAL
PARTITIONS. 3: NEW CEILINGS
INCLUDING COSMETIC
WORKS. 4: BLOCKING OUT
SOME OF THE DOORS &
OPENINGS. 5: NEW
FORMATION OF THE CELLAR
WALLS. 6: LIGHTING,
DECORATIONS & FF&E.

Delegated

Listed Building Consent Applications Applications Approved

4, ARNOLD VILLAS, RUGBY,
CV21 3AX

R23/0002
Listed Building Consent
Approval
20/02/2023

Remove two internal walls on
ground floor to create larger
kitchen diner.

R22/1221 18, COVENTRY ROAD,
Listed Building Consent PAILTON, RUGBY, CV23 0QB
Approval
21/02/2023

PROPOSED ADDITION OF
NEW GEORGIAN CANOPY
OVER THE FRONT DOOR TO
THE FRONT ELEVATION.
INSERTION OF NEW DOOR IN
EXISTING WALL FOR ACCESS
TO THE EXISTING ANNEX.

Major Applications Applications Approved

R22/1169 College Of Policing,
Major Application LEAMINGTON ROAD, RYTON-
Approval ON-DUNSMORE, COVENTRY,
31/01/2023 CV8 3EN

Variation of condition 4 of
R13/0695 (Retention of one and
two storey office, conference,
dining and ancillary
accommodation, car parking and
internal site access road) to allow
retention for up to 5 years.

Delegated

Non Material Amendment Applications

Applications Approved

R21/1094	BLENHEIM, OXFORD ROAD, RYTON-ON-DUNSMORE, COVENTRY, CV8 3EA	Substantial alterations to the existing property to form a new larger dwelling. This will include a ground and first floor rear extension, new roof and loft conversion and internal and external remodel.
Non-Material Amendment agreed 09/02/2023		

Prior Approval Applications

Prior Approval Applications

R22/1067	Rug18714 5g Mast Site, Marton Road, Birdingbury	Proposed telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole and associated ancillary works.
Telecoms Prior Approval Withdrawn by Applicant/Agent 23/01/2023		

R22/1347	The Stables at, Burton Lane, Burton Hastings, Rugby, CV11 6RJ	Prior Approval under Schedule 2 Part 3 and Class R for Change of Use from agricultural stable to Blacksmiths Forge and associated adjacent commercial office.
Prior Approval change of use Required and Refused 01/02/2023		

R23/0060	Whitehall Farm, Kites Hardwick, Rugby, Rugby, CV23 8AD	Prior Approval: Building for agricultural/forestry use
Agriculture Prior Approval Not Required		

Delegated

Prior Approval Applications

Prior Approval Applications

09/02/2023
