

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Ms C Stokes and Mr B Stokes	Material change of use of land for stationing of caravans on 3 pitches for residential use with facilitating development (hard standing, access track, creation of access, utility blocks) and keeping of horses (Part Retrospective) Land Off, Billesley Lane, Portway, Worcestershire, B48 7HF	18.03.2019	19/00062/FUL

Councillor Taylor has requested that this application be considered by the Planning committee rather than be determined under delegated powers.

Recommendation:

- 1) Mind to **REFUSE FULL PLANNING PERMISSION**
- (2) That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the planning application following:
 - (a) The expiry of the consultation period on 6TH May 2019 and in the event that further representations are received, that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration, in consultation with the Chairman of the Planning Committee, to assess whether new material considerations have been raised, and to issue a decision after the expiry of the statutory publicity period accordingly.

Consultations

WRS - Contaminated Land

The proposed site is within 250m of Portway South landfill site, the planning application includes the construction of three utility buildings, according to the plans they will include toilet and washing facilities and therefore used on a daily basis. As a precaution WRS recommend that a gas protection measures condition be imposed on to any permission that is given.

Private Sector Housing

Where planning permission is granted, an application for a Mobile Home Site Licence would be required and the site owner would need to comply with a number of conditions.

I am unable to advise whether the applicants for this planning application have applied or are registered on the Council's Housing waiting list for social housing or any offers of accommodation due to data protection.

Applicants are able to apply to join the Council's housing register subject to meeting the eligibility criteria should they wish.

North Worcestershire Water Management

No objection, but would like to request that an informative should be attached to the permission relating to land drainage consent.

WRS - Noise

Due to the proximity of the proposed development to the Alcester road it is recommended that a noise assessment is undertaken in accordance with:

<http://www.worcsregservices.gov.uk/media/4210767/WRS-technical-guidance-document-for-Planning-V51.pdf> (paragraph 5: Noise and Vibration technical guidance).

It is also recommended that the assessment should propose mitigation measures (where necessary) to control excessive noise exposure.

Worcestershire Wildlife Trust

Recommend a background data search from the WBRC to help inform your decision.

Whilst I accept that the site may have been substantially cleared prior to the current owners moving in this does not alter or reduce the need for appropriate biodiversity mitigation and enhancement in line with planning guidance, your duties under Section 40 of the NERC Act 2006 and in common with other developments across the district.

Highways - Bromsgrove

No objection subject to conditions relating to: the access, visibility splays, access gates, parking provision, provision of electrical parking points, cycle parking and conformity with submitted details.

Arboricultural Officer

No objection.

Beoley Parish Council

Object to the application on the following grounds:

- Harmful Development in the Green Belt
- Highway Safety
- Sustainability
- Harm to wildlife and Habitat
- Visual impact of the proposed development

They have also raised concerns in relation to the retrospective nature of the application, and the disregard the applicants have had to the planning process. Particularly in relation to the House of Commons briefing paper entitled Gypsies and travellers; Planning Provisions (published in October 2017).

Stratford on Avon District Council

No objection. However considers that the following issues need to be considered as part of the assessment of this application:

- Green Belt
- Need for Gypsy and traveller Sites in the District and the compliance Planning Policy for Traveller Sites
- Loss of trees and hedgerow and Biodiversity and Ecology
- Highway Safety

Severn Trent Water Ltd

No objection to date. Further comments awaited.

Publicity

A total of 6 neighbour notification letters were sent on 23.01.2019 expired 16.02.2019

A further 7 notifications sent out on 08.04.2019 expires 9am 23.04.2019

Site notices were displayed on 25/01/2019 expired on 18.02.2019

The development was advertised in the Redditch Standard on 01/02/2019 and expired 18.02.2019

Representations

Twenty-nine objections (including from 3 planning consultants on behalf of residents and Portway BRAID and a County Councillor) have been received and summarised as below (the majority of the comments were submitted anonymously):

- **Green Belt :**

- Inappropriate development in Green Belt and lack of justification and information for proposal
- significant adverse impact on the openness of the Green Belt, compared to that of its former agricultural use
- by virtue of its size, prominence and nature and expansion of what is otherwise only a sporadic, linear form of development along the A435, would have a significant adverse impact on the Green Belt and clearly encroaches into the countryside
- the 'special circumstances' put forward by the applicants do not justify outweighing the significant harm caused to the openness and purposes of including land within the Green belt and all other harm
- This development is contrary to all planning and guidance at local and national levels. Accurate evidence that the landowner has 'special circumstances' to compel BDC to give permission to this application is- so far- unproven and unreliable.
- It is surely not a breach of Article 8- European Convention on Human Rights (referred to in the application), that someone from a traveller community is met with the same stringent planning laws and Green Belt restrictions that would apply to a resident from the settled community.

- **Sustainability:**

- Contrary to Policy BDP11 and fails to constitute a sustainable form of development
- The occupation of the site would be wholly reliant on the use of the private motor vehicle adding to congestion and contrary to the spirit and principles of sustainability.

- **Character and appearance:**

- Removal and loss of hedgerows and trees from the site, particularly the mature hedgerow at front to create/ widen access which has exposed a hard landscape with caravans now clearly seen from both the pub, restaurant, neighbours and from A435
- the replacement of mature hedgerows with non-indigenous conifer planting

- Effect of development on character and appearance of area and lane
- Harm to the intrinsic character and beauty of Green Belt in Portway
- **Other matters:**
 - Highway safety, traffic and creation of access
 - Policy BDP11.3 makes clear that "If additional sites are required land will be identified through a Local Plan Review". As such I submit that the application process is not the appropriate vehicle by which such provision should be met
 - Whilst I note the criticisms made by the Applicants agent as to the methodology of the approach taken leading to the adoption of this policy what is clear is that the policy itself was the subject of an extensive public consultation process as part of the Local Plan and in the words of the Inspector "No substantive criticisms were raised in respect of either the methodology of the study or its conclusions". As such given the relatively recent adoption of the Development Plan there is no justification for departing from its terms.
 - Impact on wildlife, ecology and failure to carry out an ecology survey before works began on site
 - Drainage and flooding impacts of development in area
 - Lack of foul drainage
 - Future use of the site
 - Retrospective nature of the application and the fact that intentional unauthorised development, is a material consideration in the determination of retrospective planning applications
 - Use of land for equine purposes, is there enough land
 - Health of family and need for a permanent site
 - This site could set precedent for other sites in area
 - Antisocial behaviour
 - There is a Travelling Showmen's site already established in Portway. Approval of this application will disrupt the current balance with settled residents.
 - Consultee Comments so far by road, water and wildlife agencies have been hastily prepared without site visits or appropriate surveys undertaken. Their evidence base is weak and at odds with the experience and knowledge of settled residents.
 - Temporary permission will not deliver any certainty to the landowner
 - Public health- site has been used for a number of years for off run of a number of house septic tanks and therefore maybe a threat to health.
 - It appears that education and healthcare requirements are yet to be established
 - Compatibility with adjoining uses and the impact on residential amenity
 - We are all subject to the law and planning law in this case has clearly been broken. I urge Bromsgrove District Council to be robust in refusing this application.
 - ambiguities and uncertainty within the application submitted
 - family circumstances- availability of council/ social housing in the district

Other non-material planning considerations have also been raised; these do not form part of the assessment of the proposal.

Councillor Taylor (acting on behalf of ward councillor) - Given the public interest and contentious nature of this application, I request that this application is brought in front of the committee.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP2 Settlement Hierarchy
BDP4 Green Belt
BDP11 Accommodation for Gypsies, Travellers and Showpeople
BDP16 Sustainable Transport
BDP19 High Quality Design
BDP20 Managing the Historic Environment
BDP21 Natural Environment
BDP23 Water Management

Others

NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance
PPTS Planning Policy for Traveller Sites
GTAA Worcestershire Gypsy and Travellers Accommodation Assessment 2014
GTAA Gypsy and travellers Accommodation Assessment Addendum 2019
The House of Commons briefing paper entitled Gypsies and Travellers; Planning Provisions October 2017
SPG1 Residential Design Guide

Relevant Planning History

None

Assessment of Proposal

Site description and proposal

The site is situated on Billesley Lane, Portway within an area of open countryside which is designated as Green Belt. Billesley Lane is long a narrow unlit country lane, with no pavements. The site is situated on the eastern end of the lane approximately 50 metres west of the junction with the A435 and a further 220 metres south of junction 3 of the M42.

The site was previously an undeveloped agricultural field with no vehicular access, fully screened from Billesley Lane by an established hedgerow.

In the vicinity of the site there are a variety of uses, including residential dwellinghouses, a public house with a large car park and a vacant restaurant building. There is also wooded area situated to the west of the site and undeveloped agricultural fields situated to the north west of the site.

The proposal is for the material change of use of land for stationing of caravans on 3 pitches for residential use with facilitating development (hard standing, access track, creation of access, utility blocks) and keeping of horses. The proposal is part retrospective as the applicants and their family have already occupied the site and carried out some of the proposed development.

The proposed development would be spreading across the site and would include;

- removal of part of the existing established hedgerow to create a access into the site (part retrospective);
- the laying of areas of hard standing- approx. 1875 sq. metre (part retrospective);
- the erection of 3 day rooms- 1 with a floor area of 30sqm and a height of 4 metres and 2 with a floor area of 20 sq. metre and a height of 3.56 metres;
- the siting of 3 mobile homes;
- the siting of 3 touring caravans (retrospective);
- erection of a bin store,
- the use of some of the land as a paddock,
- the use of some of the land as an amenity/ play area (part retrospective),
- erection of boundary fencing and gates; and (part retrospective),

The planning statement submitted with this application did set out that part of the proposal was to repair and reuse the existing piggery building located towards the rear of the site, for the sheltering of horses and storing of their feed. The applicants have however withdrawn this element of the proposal. As such I confirm that this element of their original submission no longer forms part of this application and is not being considered as part of the Council's assessment.

Gypsy Traveller Status

The definition of 'gypsies and travellers' is set out in Annex 1 of the Planning Policy for Travellers Sites (PPTS) as: *'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'*

Although the proposal is for a permanent settled base, the submission sets out that the applicants and their family have no intention of abandoning their nomadic way of life. As such it is considered that the applicants do fall within this definition as Travellers.

Green Belt

Policy E of the planning policy for travellers sites (PPTS) covers traveller sites in the Green Belt and sets out that travellers sites are inappropriate development in the Green Belt. As set out in paragraph 143 of the NPPF, inappropriate development in harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 144 of the NPPF sets out that substantial weight should be given to any harm to the Green Belt and the PPTS makes it clear that, subject to the best interest of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

Openness and the purposes of the Green Belt

The essential characteristics of the Green Belt are their openness and their permanence. There is no definition of “openness” in the NPPF. However, in *Turner v. SSCLG & East Dorset council* ([2016] EWCA Civ 466) the Court of Appeal held that the openness of the Green Belt does have both a volumetric aspect and visual dimension. Lord Justice Sales found that the concept of openness of the Green Belt was not narrowly limited to a volumetric approach. Visual impact is implicitly part of the concept of openness and openness has an important visual dimension. The Court of Appeal held that the word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs in the context of which, volumetric matters may be a material concern, but are by no means the only one.

The proposed development would introduce a substantial amount of development to the site, which was previously an undeveloped agricultural field in the open countryside. Given the size of the access that has been created and the topography of the land in the area, the site is highly visible from along Billesley Lane and can be clearly seen from the A435.

Given the scale of the proposed development and the fact that the development would be highly visible, it is considered that openness of the Green Belt would be significantly impacted.

The proposed development would add further development to this area of the countryside, thereby detracting from its overall rural setting. This would be in conflict with the purpose of the Green Belt relating to safeguarding the countryside from encroachment as set out in the NPPF.

It can also be argued that the proposal would not assist with purpose (e) of the Green Belt which is to assist in urban regeneration, by recycling derelict and other urban land. This proposal uses a previously undeveloped agricultural field whilst a site may exist in a non-Green Belt location in the urban area.

Overall it is considered that the proposal would harm the Green Belt in terms of both inappropriateness and actual harm in relation to the purposes of the Green Belt and impact on openness both spatially and in visual terms. It is considered that this harm is significant and should be afforded substantial weight.

Paragraph 144 of the NPPF sets out that substantial weight should be given to any harm to the Green Belt and the PPTS makes it clear that, subject to the best interest of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

Need and supply of sites and pitches

The purposes of the GTAA addendum April 2019 was to identify the accommodation requirements of Gypsies and Travellers across Bromsgrove District to update the finding of the 2014 GTAA. This report sets out that there is an identified need for pitches in the District over the five year period 2019/20 to 2023/24. This need is for stated as being for 14 pitches.

Paragraph 27 of the PPTS sets out that if a Local Planning Authority cannot demonstrate an up to date 5 year supply of deliverable sites, that this should be a significant material consideration in any subsequent planning decision, when considering applications for grant of temporary planning permission. The exception to this is where the proposal is on land designated as Green Belt or other protected areas.

At present there are no available pitches or allocated sites in the District. Policy BDP11 sets out those additional sites will be identified through a Local Plan Review, which is currently underway. It is possible that this review process could identify appropriate sites outside the Green Belt.

Location of site

Part d of Policy H of the PPTS sets out that all applications that come forward on unallocated sites should be assessed using the local criteria used to guide the allocation of sites in the local plan. Policy BDP11 of the Bromsgrove District Plan sets out how locations for gypsy and travellers sites will be assessed, with BDP 11.2 stating: Proposed sites should be in sustainable locations that provide good access to essential local facilities e.g. health and education. Sites should accord with the sustainable development principles set out in BDP1.

Paragraph 13 of the PPTS expects Local Planning Authorities to ensure that Gypsy and Traveller sites are sustainable: economically, socially and environmentally- by amongst other matters promoting peaceful and integrated communities, access to health and educational facilities and providing settled bases, that reduces the need for long distance travelling.

The application site is not located within or near to a settlement as identified in Policy BDP2 of the Bromsgrove District, and as such the site is not situated near to essential facilities such as health and education. There is a public house located opposite the site, and there are other commercial properties situated within Portway on the A435 (Alcester Road). There is also a petrol station with a shop situated north of junction 3 of M42, approximately 750 metres from the site. As well as the nearby commercial properties, there are also other residential properties situated along Billesley Lane and the A435. The proposed site is not therefore considered to be situated in an isolated location.

The nearest settlement to the site that would contain essential facilities would be Beoley or Wythall. Wythall; which is identified as a large settlement and contains schools, doctors and shops, is located approximately 2.7km from the site. There is a bus stop located to the front of the Public House on the A435, approximately 140 metres from the site. There are 3 bus services that use this stop. The 150 service runs into Birmingham, via Wythall and in the opposite direction does into Worcester via Redditch. This service runs hourly from approximately 0630 until 1930 Monday to Friday and 0730 until 1930 on Saturdays. The 517 and 519 services are less frequent, running once a day, with a lot of stops being by request only. Although Billesley lane has no pavements and is unlit, the A435 is located approximately 50 metres from the site and does have pavements and is lit.

In 2017 a Planning Appeal; Reference: APP/P1805/C/16/3163441 was allowed for a new dwelling on Billesley Lane. In this case, the Planning Inspector found that whilst occupiers would be likely to rely on private motor vehicles for access to facilities and services, the

Inspector found that the property was not in a wholly unsustainable location for access to public transport and that the residential occupation of the property would not be materially unsustainable. Below is an extract from the above mentioned appeal decision dated 14 December 2017:

“19. The use of The Studio as independent residential accommodation by Mr and Mrs Turvey would result in an increase in residential use of Billesley Farm as a whole; the farmhouse would be rented out. The property is in a rural location but there is cycling access to a railway station and walking access, albeit along an unlit country lane without pavements, to bus services. Whilst tenants would be likely to rely on private motor vehicles for access to facilities and services the property is not in a wholly unsustainable location for access to public transport. The proposed use of the building and the consequent additional residential occupation of the property would not be materially unsustainable... (4-5)”

The proposed site is situated nearer to the A435, and therefore closer to the railway station and bus services than this appeal site was. As such although the occupiers would be likely to rely on private motor vehicles for access to facilities and services, in line with the Inspector's decision, it would seem reasonable to conclude that the application site would not be in a materially unsustainable location despite not being in a sustainable location as envisaged by Local Plan Policy BDP11.

Community Cohesion

Given the location, it is considered that the occupiers of the site would have the opportunity to integrate with the local community. There is a travelling showpeople site situated on the Alcester Road in Portway. However, given the scale of the proposed site and the existing travelling showpeople site; it is not considered that these sites would dominate the settled community in this area.

Character and appearance

Objections have been received in relation to the impact of the development on the rural character and appearance of the area.

The site lies within an area of open countryside on Billesley Lane which is long a narrow unlit country lane, with no pavements. The site is situated on the eastern end of the lane approximately 50 metres west of the junction with the A435 and a further 220 metres south of junction 3 of the M42. The site was previously an undeveloped agricultural field with no vehicular access, fully screened from Billesley Lane by an established hedgerow.

In the vicinity of the site there are a variety of uses, including residential dwelling houses, a public house with a large car park and a vacant restaurant building. There is also a wooded area situated to the west of the site and undeveloped agricultural fields situated to the north west of the site.

The proposed development would introduce a substantial amount of development to the site, which would include: the creation of a large access with gates into the site, the laying of a large amount of hardstanding, erection of fences, the siting of 3 mobile homes and 3 touring caravans, parking of vehicles, construction of 3 large amenity buildings and a bin storage area.

The works that have been undertaken on the site so far include the removal of a large section of the hedgerow to widen the existing unauthorised access into the site from Billesley Lane and the reduction in its height across the width of the site. Objections have been received in relation to the works to this hedgerow. The Council's Tree Officer has not raised any objection to the removal of the hedgerow, or additional works that would be necessary to lower an additional section of the hedgerow to achieve the required visibility splays. The Council's Tree Officer has also set out that the hedgerow affected does not satisfy any criteria as set out in the 1997 Hedgerow Regulation as to qualify as a hedge of importance.

Due to the topography of the landscape in this area, the reduction and removal of the hedgerow at the front of the site, has opened up clear views into the site from Billesley Lane, the public house and car park opposite the site, and from wider views across the A435. The proposed site plan does indicate that additional landscaping would be planted along the front of the site, and in other areas of the site. However, due to the width of the access and the required visibility splay, it is not considered that additional landscaping would be able to provide sufficient screening of the site. The proposed pitches and all of their associated paraphernalia would therefore be highly prominent in this location.

It is acknowledged that traveller sites can sometimes be acceptable in rural locations and that it would not be appropriate to require them to be completely hidden from view. Nevertheless, in this case due to the siting, design and form of the proposed development, and the topography of the area and the wide ranging views the site achieves, it is considered that the proposal would result in a prominent form of development that would not integrate into the existing landscape and character of the area.

Overall therefore it is considered that the proposal would detract from the existing character, appearance and landscape of the area, which would be contrary to policy BDP19 of the Bromsgrove District Plan.

Highways

Objections have been received in relation to highway safety in the area.

Following comments from the Highway authority, and to ensure that required visibility splays could be achieved from the access a speed survey was undertaken. Following the submission of this speed survey and information relating to visibility splays, the County Council Highways Authority have confirmed that subject to conditions they would have no objection to the proposed development as they do not consider that the proposal would have an unacceptable highways impact.

Ecology

A preliminary ecology survey has been submitted, and a further email from the applicants ecologist has been provided. However Worcestershire Wildlife trust have provided comments on this information, which sets out that they recommend that a background data search from the Worcestershire Biological Records Centre (WBRC) is carried out by the applicants ecologist to help inform the Councils decision. To date this has not been provided.

Due to the submission of insufficient information, the local planning authority is unable to discharge its legal duty under paragraph 40 of the Natural Environment and Rural Communities Act 2006 to determine whether the development would be inconsistent with the aims of Policy BDP21 of the Bromsgrove District Plan adopted January 2017 and the NPPF which seek to conserve and enhance biodiversity. As such the full impact of the development cannot be properly assessed.

As such at this stage it is considered that insufficient information has been provided to demonstrate that adequate assessment of the site has been carried out to definitively establish whether protected species and or their habitats would be affected by the proposed development. Due to this it is considered that the local planning authority is currently unable to discharge its legal duty under paragraph 40 of the Natural Environment and Rural Communities Act 2006 and that the development would be inconsistent with the aims of Policy BDP21 of the Bromsgrove District Plan adopted January 2017 and Paragraph 118 of the NPPF which seek to conserve and enhance biodiversity. This is afforded substantial weight.

Drainage

Objections in relation to flooding and foul drainage concerns have been received in relation to this application from local residents.

However, North Worcestershire Water Management have confirmed that the site is at low risk of flooding and that the documents which were submitted with the planning application suggest that the three caravan plots proposed will be made up of porous surfacing (to allow water to infiltrate into the ground, albeit at a limited rate, but this will not be any worse than the existing ground arrangements as the clay soils will already have a high runoff rate), and therefore there is unlikely to be any significant increase in impermeable areas. This coupled with no (at the time) flooding reports in the area means that no conditions relating to drainage are required.

Overall therefore North Worcestershire Water management have not raised any objection to the proposal.

Seven Trent Water have also been consulted on the application. They have not raised any objection to date with the application and have not recommended that any conditions are appended to any permission that maybe granted. I am however awaiting future comment from STW regarding concerns that have been received with the pumping station.

Residential Amenity

Worcestershire Regulatory Services have requested that a noise assessment be provided in relation to this application, to demonstrate that exposure to the road noise from the A435 would not have an adverse impact on health and the quality of life of the occupiers of the site.

To date no noise assessment has been submitted in relation to this application. As such at this stage it is not possible to ascertain whether noise exposure would have an adverse impact on the occupiers of the site, or whether any mitigation measures could overcome these impacts, in line with the NPPF and Policy BDP1 of the Bromsgrove District Plan adopted 2017.

The site is located adjacent to a residential property known as Crossways, which is situated on the corner of the A435 and Billesley Lane. Crossways is orientated with its side elevation facing into the site. The proposed site plan illustrates that the proposed amenity space would be situated adjacent to the boundary with Crossways, with the nearest mobile home being situated approximately 20 metres from its boundary and the nearest amenity block situated approximately 30 metres from its boundary.

Currently there is only a low level fence on the boundary between the site and this property. The applicants have however planted a row of coniferous trees along this boundary. It is also noted that under permitted development a 2 metre high fence could be erected along this boundary.

The separation distances between the windows in the side elevation of Crossways and the mobile home and the amenity blocks would exceed 21 metres, which is the required separation distances set out in SPG1- residential design guide. It is not therefore considered that the proposal would give rise to overlooking concerns.

Bests interest of children and personal circumstances

Information in regards to some of the personal circumstances of the occupants of the three proposed pitches has been submitted with this application. The applicant has however requested that not all of this information should be published on the Council's website, due to its sensitive nature

From the information that has been submitted it is clear that the proposed pitches are for an extended family who are residing on the site, and have been since the 20th January 2019. The occupants do include children, some of whom are at school age. Some of the occupants have medical conditions and learning disabilities.

Article 8 of the European Convention on Human Rights states that everyone has the right to respect for their private and family life, home and correspondence. Where the article 8 rights are those of children, they must be seen in the context of article 3 of the United Nations Convention on the Rights of the Child (UNCRC), which requires a child's best interest to be a primary consideration. It is however important to note that a child's best interest is not determinative of the planning issue and may be outweighed by the cumulative effect of other considerations provided that the adverse impact on the child of any decision is proportionate.

The information that has been submitted sets out that the potential occupants of the site have a personal need for a permanent base. This is because the families have nowhere else to go, and can no longer cope living on road side encampments with the various medical conditions that the occupants have.

The submission which includes statements from their planning agent, doctor and consultants letters and a letter from the applicant indicates that two of the occupants (two of the daughters of the applicant aged 16 and 21) have complex medical conditions and severe learning disabilities which requires them to be cared for around the clock by their mother: Ms Stokes and to have ready access to health facilities and care. The submission indicates that the lifestyle and conditions that is afforded by roadside camping

and constant travelling is detrimental to their health and that as such it is important that they have a permanent settled base.

In total there would be 4 children residing on the site; aged 6 months, 12, 14 and 16 years. The 16 year old child has complex medical and severe learning disabilities as mentioned above. Although the applicant's children do not appear to be currently attending schools in the area, from the information submitted it would seem their youngest son (12 years old) has recently benefitted from some home tutoring with a former teacher in Wythall, and some of the children have been registered at a Doctors surgery in Wythall.

The Planning statement sets out that it would be in the best interests of any child to have a home and be able to access facilities that the settled community. It sets out that the children have only attended school intermittently when they have returned to Ireland for short spells. It is therefore clear that in this case the best interest of the children would be to have a settled base where they can access education and health facilities.

The children's best interests are a primary consideration and no other consideration must be given greater weight than the interests of the child. In this case, it is also clear that the personal circumstances of one of the children and one of the adult daughters, means that it is important for their health that they have a settled base with good access to health and care facilities.

Intentional unauthorised development

It is now government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The House of Commons briefing paper entitled Gypsies and travellers; Planning Provisions (published in October 2017) also makes it clear that, if a site is intentionally occupied without planning permission, this would be a material consideration in any retrospective planning application for that site.

It is clear that the development that has taken place so far on the application site has been carried out in the knowledge that planning permission was required, and is therefore intentional unauthorised development. It is therefore considered that some weight should be afforded to this.

Other matters

An objection has been received in relation to the suitability of the submission. Although it is acknowledged that further information has been requested as part of this application; some of which has not been received, the information that was submitted with the application originally, was considered to be sufficient to proceed with consideration of the application.

It has however been brought to our attention, that the land to the front of the site, where the access has been created has not been included in the red line on the location plan. It has also become apparent that this area of land, where the access has been created does not fall within the ownership of the applicant; it is a Highway verge, owned by Worcestershire County Council.

If any of the land that falls within the application site is not owned by the applicant, then under article 13 and 14 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 the appropriate notice must be served on the owner to give them notice of the application, and evidence of this must be provided to the LPA. Although it is accepted that Highways are aware of the application and have brought it to our attention, this does not forgo the applicants responsibility to comply with the relevant legislation by serving notice on Worcestershire County Council as the land owner.

Evidence that the appropriate notice has been sent to Worcestershire County Council has now been provided, as has the amended location plan. The notice was sent to Worcestershire County Council on 15TH April 2019. This means that the overall consultation period for this notice will be the 6TH May 2019.

An objection have also been raised in relation to the family circumstances and whether they have been offered or applied for accommodation of planning permission in Cambridge, where the some of the applicants' children are registered with Doctors. No information to indicate this has been provided by the applicants, and due to data protections laws it is not possible to obtain this information. The planning statement does however indicate that the family have never lived in housing or on a council run site, and that they have no intention of abandoning their nomadic way of life. Information has also been provided which indicates that the family did apply to Central Bedfordshire Council last year for a pitch last year, which was unsuccessful. Central Bedfordshire Council did however indicate that they would keep their application on file for any future vacancies.

This objection did also refer to the availability of council/ social housing in the district, and whether the applicants eligibility for such housing has been considered or whether the applicants have registered for housing in the District. Due to Data protection laws, it is not possible to obtain information as to whether the applicants have ever applied for Council Social Housing within this District or any other area. Although the applicants are able to apply to join the Councils housing register should they wish, which would be subject to them meeting the eligibility criteria.

It is however important to note that bricks-and mortar accommodation is not always suitable for gypsy and traveller families. Some will have a cultural aversion to conventional properties, and the adverse reaction they might experience by being placed in this type of housing may make bricks and mortar accommodation 'unsuitable' within the homelessness legislation framework.

An objection has also been received relating to the lack of justification for the proposed amenity blocks, especially given that the site is within the Green Belt. It is however noted that amenity blocks, are a standard facility that are provided on Gypsy and Traveller pitches, including the other Gypsy and Traveller sites within Bromsgrove District.

An objection has also been made in relation to the proposed equine use of part of the site, and whether there would be enough land. Although the British Horse Society recommends a ratio of two horses per hectare, it is understood that this recommendation is only ever a guide, as it is subject to numerous factors such as: the size and type of horses, time of year and the quality of the pasture and it is managed. I raise no objection to this element of the scheme.

Planning Balance

Policy E of the PPTS sets out that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. Unlikely should not be read to mean that these considerations will never clearly outweigh the harm, and any decision must take account of the weight afforded both the harm and the other considerations.

The proposal is considered to be inappropriate development in the Green Belt that would harm the openness of it and conflict with two of the purposes of including within it. Substantial weight has been afforded to this definitional and actual harm to the Green Belt. It is also considered that the proposal would affect the character and appearance of the landscape in the area. This harm is afforded significant weight. The intentional unauthorised development of this site by the applicants; given its Green Belt location, is also afforded some weight.

As well as this, the applicant has not submitted sufficient information with the application to enable an assessment of the full impact of the development on protected species and the biodiversity of the area, which is afforded substantial weight. The applicant has also submitted insufficient information to enable up to assess the full impact of the development on the occupiers of the site, in relation to noise exposure. This is afforded moderate weight.

It is not disputed that there is an identified unmet need for sites and there are no alternative traveller sites currently available in the district. However, Policy BDP11 does make it clear that additional sites will be identified through a Local Plan Review, which is currently underway. It is also considered that it is possible that this review process could identify appropriate sites outside the Green Belt.

The best interests of the children are a primary consideration in this case, and it is clear that no other consideration must be given greater weight than the interests of the child. As such, it is considered that the best interests of the children should be afforded substantial weight. It is also clear that the personal circumstances of some of the occupiers means that it is important for their health that they have a settled base and good access to health and care facilities. This is afforded significant weight.

By refusing this application it is evident that the family lives and the best interests of the children involved would be affected, as the refusal of this application could lead to the applicants returning to roadside camping and travelling. This could undoubtedly represent an interference with their human rights under Article 8. It could also put the two occupants; one of whom is a child, at risk of increased harm and illness due to their medical conditions and learning disabilities. However, this interference and harm must be weighed against the wider planning considerations and public interest, as these factors are not determinative on their own.

In this case, it is considered that the harm that the a permanent site would cause to the Green Belt, and any other harm including harm to openness, purposes of Green Belt, character and appearance of area, amenity and the unknown harm to protected species would not be clearly outweighed by the unmet need, lack of supply of sites or the

circumstances put forward in this case in terms of the best interests of the children and the personal circumstances of the family.

Whilst the applicants would like a permanent consent, they have acknowledged in their submission that they would accept a temporary consent until such time as the Local Planning Authority have identified alternative sites in the District. It is however considered that the harm that the proposal would cause to the Green Belt and any other harm; even it were for a temporary period, would not be clearly outweighed by the best interest of the child, the personal circumstances of the family, or the unmet need and lack of alternative sites.

On balance therefore it is considered that very special circumstances have not been demonstrated in this case, to outweigh the harm to the Green Belt and any other harm to grant either a permanent or a temporary permission.

Recommendation:

- (1) Minded to **REFUSE FULL PLANNING PERMISSION**
- (2) That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the planning application following:
 - (a) The expiry of the consultation period on 6TH May 2019 and in the event that further representations are received, that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration, in consultation with the Chairman of the Planning Committee, to assess whether new material considerations have been raised, and to issue a decision after the expiry of the statutory publicity period accordingly.

Reasons for Refusal

1. Green Belt:

The proposed development would be inappropriate development in the Green Belt, which by definition would harm the Greenbelt. The proposal would also harm the openness of the Green Belt and conflict with two of purposes of including land within it, which are to safeguard the countryside from encroachment and assist in urban regeneration. It is considered that this harm would be substantial. Circumstances (including best interest of the child and personal circumstances) have been submitted by the applicant; however it is not considered that these would amount to very special circumstances to clearly outweigh the harm that the proposal would cause to the Green Belt. The proposal is therefore considered to be contrary to policy BDP4 of the Bromsgrove District Plan adopted January 2017, Planning Policy for Traveller sites August 2015, NPPF and NPPG.

2. Character and appearance:

By reason of the sitting, design and form of the proposed development, and due to the topography of the area and the wide ranging views the site achieves, it is considered that the proposal would result in a prominent form of development which would not integrate into the existing landscape of the area. Overall therefore it is considered that the proposal would detract from the existing character,

appearance and landscape of the area, which would be contrary to policy BDP19 of the Bromsgrove District Plan.

3. Ecology :

Insufficient information has been provided to demonstrate to the Local Planning Authority that adequate assessment of the site has been carried out to definitively establish whether protected species and or their habitats would be affected by the proposed development. As such the full impact of the development cannot be properly assessed. In this respect the local planning authority is unable to discharge its legal duty under paragraph 40 of the Natural Environment and Rural Communities Act 2006 and the development would be inconsistent with the aims of Policy BDP21 of the Bromsgrove District Plan adopted January 2017 and Paragraph 118 of the NPPF which seek to conserve and enhance biodiversity.

4. Noise:

Insufficient information has been provided to demonstrate to the Local Planning Authority that noise exposure caused by road noise from the A435 would have an adverse impact on the heath and the quality of life of the occupiers of the site. Or that the noise exposure could be adequately mitigated to avoid noise giving rise to adverse impacts on heath and the quality of life of the occupiers of the site. The proposal is therefore contrary to the NPPF (paragraph 170 and 180) and Policy BDP1 of the Bromsgrove District Plan adopted January 2017.

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