



Appeal Decision

Hearing held on 4 February 2025

Site visits made on 3 and 4 February 2025

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2025

Appeal Ref: APP/E3715/W/24/3344241

Land adjacent to Treetops. Shilton Lane, Shilton, Coventry CV7 9LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Andrew Forest against the decision of Rugby Borough Council.
- The application Ref is R21/1234.
- The development proposed is the change of use of land to a private gypsy and traveller caravan site.

Decision

1. The appeal is allowed, and planning permission is granted for the change of use of land to a private gypsy and traveller caravan site at Land adjacent to Treetops. Shilton Lane, Coventry CV7 9LH in accordance with the terms of the application, Ref R21/1234, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appellant and his family have moved onto the site and established a pitch that currently includes a large chalet, patios, kennels and parking areas. The entire appeal site has been hard surfaced and configured differently to what is shown on the submitted drawings. Nevertheless, I have considered the appeal scheme on the basis that the proposal is shown on the submitted drawings and is not what has occurred. The latter is relevant when considering the weight to be given to intentional unauthorised development though.
3. Both the National Planning Policy Framework (the 'Framework') and the Planning Policy for Traveller Sites (PPTS) were revised after the appeal was submitted. The Council and appellant provided further comments on these documents, which I have considered in reaching my findings.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt and its effect on the openness and purposes of the Green Belt;
 - Whether intentional unauthorised development has occurred and, if so, the weight to be given to this matter; and
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations to establish the very special circumstances necessary to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

5. Policy GP2 of the Local Plan¹ (LP) explains that new development in the Green Belt, such as that proposed, will be resisted unless national policy allows it.
6. The Framework states that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt. The Planning Policy for Traveller Sites (PPTS) explains that traveller sites in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the Framework apply. Paragraphs 154 and 155 of the Framework define what types of development would not be inappropriate. The proposal would not be any of the types of development listed in Paragraph 154.
7. Nevertheless, Paragraph 155 of the Framework explains that the development of traveller sites in the Green Belt should not be regarded as inappropriate development where all the following apply:
 - It would utilise Grey Belt land; and
 - Not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; and
 - There is a demonstrable unmet need for traveller sites, with reference to the five-year supply of deliverable traveller sites as required by the PPTS; and
 - The development would be in a ‘sustainable location’.
8. The Council and appellant agree that the proposal would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. They also agree that the application of policies relating to the areas or assets listed in Footnote 7 of the Framework (other than Green Belt) do not provide a strong reason for refusing or restricting development and that the Council is currently unable to demonstrate a five-year supply of deliverable pitches against its locally set target².

Whether the proposal would utilise ‘Grey Belt’ land

9. ‘Grey Belt’ is defined in the glossary to the Framework as land within the Green Belt which does not strongly contribute to purposes (a), (b) or (d) of the Green Belt³. The Council submit that in this instance the appeal site is land that makes a strong contribution to purpose (a), which is to check the unrestricted sprawl of large built-up areas which, in this instance, is Coventry.
10. The appeal site is in open countryside to the north of Coventry. The openness of the parcel of land north of the M6 between the M69, Bedworth and Bulkington contributes strongly to restricting the urban sprawl of Coventry and thus contributes strongly to purpose (a).
11. The appellant submits that rather than looking at a wider land parcel, it is more relevant to consider the contribution of the appeal site to purpose a). In this

¹ Rugby Borough Council Local Plan 2011-2031 Adopted June 2019

² The Council confirmed at the hearing that it is now taking its locally set target from the most recent Gypsy and Traveller Accommodation Assessment (GTAA) for the purposes of plan making and decision taking

³ Listed in Paragraph 143 of the Framework

respect, being only a small paddock, he suggests the appeal site does not make a strong contribution to checking the sprawl of Coventry. However, the drawback to this approach is that a wider area of land could continuously be subdivided to a point where few if any land parcels can be said to truly make a strong contribution to checking the unrestricted sprawl of large urban areas.

12. Instead, I prefer an approach where the contribution of the wider land parcel is considered first and then the site's contribution to the land parcel evaluated. This appears to be the approach taken by an Inspector in a decision letter relating to several linked appeals⁴. As already explained, the wider land parcel north of Coventry contributes strongly to restricting the sprawl of this large built-up area. The appeal site, when it was an undeveloped paddock, contributed positively to the rurality and openness of the wider land parcel. Although flanked by development it is not within a settlement and is contiguous with other open fields to the front and rear. Accordingly, the appeal site is a positive and integral component of land that contributes strongly to checking the urban sprawl of a large built-up area. As such, the appeal site is not Grey Belt land.

Whether the development would be in a sustainable location

13. The Framework does not define what is meant by a 'sustainable location' but Paragraph 155(c) particularly references Paragraphs 110 and 115 as policies to help guide this judgment. These policies are both found within the 'Promoting Sustainable Transport' chapter of the Framework and are concerned with prioritising sustainable transport modes. As a result, a 'sustainable location' for the purposes of Paragraph 155(c) is one where sustainable transport modes are prioritised, although it is necessary to take into account the type of development. In this respect, Footnote 57 to Paragraph 155(c) states that particular reference should be made to Paragraph 13 of the Planning Policy for Traveller Sites (PPTS).
14. Paragraph 13 of the PPTS seeks to ensure traveller sites are sustainable economically, socially and environmentally. It therefore lists a broad range of factors that should be included in development plan policies. However, it is important to note that Para 155(c) of the Framework states *the development would be in sustainable location*. It does not say that development should be *sustainable*. There is a difference, as the latter is a judgement reached after looking at all economic, social and environmental matters in a planning balance. The sustainability of the location is only one factor feeding into a judgement as to whether a proposal is sustainable overall, but is the only one listed in Paragraph 155(c) for the purposes of deciding if a proposal would be inappropriate development in the Green Belt.
15. Paragraph 13 of the PPTS explains that a settled base can reduce the need for long-distance travelling. It would also reduce the need for persistent travelling between temporary locations, which is likely to be the case in the borough given that the demand for pitches is greater than the supply by some way. The site is also a short drive from the M6/M69 junction, which would facilitate easy access to the motorway network as part of a travelling lifestyle.
16. Nevertheless, the appeal site is accessed from the apparently busy Shilton Lane where the speed limit is 60mph. There is no pavement near to the appeal site.

⁴ Appeal Decisions APP/H1515/W/24/3341474, APP/H1515/W/24/3341475, APP/H1515/W/24/3341476, APP/H1515/W/24/3341477, APP/H1515/W/24/3341478, APP/H1515/W/24/3341479

Therefore, given the volume and speed of traffic the occupants of the appeal site are highly unlikely to walk or cycle anywhere, even to the nearby garden centre. Indeed, it would be unsafe to do so. I have not been provided with any details of public transport. As such, I share the concerns of the Parish Council that both active travel and public transport are not realistic options. There would be no ability to promote sustainable travel patterns to schools or health services.

17. The distances travelled by car to Coventry, Shilton and Barnacle would not be long, but the miles travelled, and associated carbon emissions, would soon add up. Moreover, the appeal site is not part of a settlement or near one. The appeal scheme would therefore do very little to promote integration with the local settled community or promote a healthy lifestyle through active travel. I therefore conclude that the proposal would not be in a sustainable location.
18. The Council confirmed at the hearing that it does not consider the site to be in a sustainable location for general pitches. I take this to be an indication that the proposal would not adhere to the first bullet point of Policy DS2 of the LP, which seeks good access to local schools and health facilities. It is reasonable to assume that 'good access' includes an element of sustainable transport.

Conclusion on inappropriate development

19. The appeal site is not Grey Belt land, and the development would not be in a sustainable location. Thus, when considering all relevant factors outlined in Paragraph 155 of the Framework⁵, the proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

The effect on the openness and purposes of the Green Belt

20. The Planning Practice Guide (PPG)⁶ explains that an assessment of openness can have both spatial and visual aspects. The disposition and arrangement of development can also be relevant in gauging the effect on openness as can the duration of the development, its remediability and the degree of activity.
21. Aerial photographs demonstrate that the appeal site was previously a meadow/paddock. Consequently, the appeal site was generally free from development and rural and open in appearance before the current pitch was established. It therefore contributed positively to the openness of the area.
22. The proposed development would permanently incorporate extensive areas of hard standing and fencing, two mobile homes, gardens and vehicles such as touring caravans. The proposal would also generate residential activity such as regular comings and goings. It would therefore harmfully erode both the spatial and visual openness of the Green Belt by introducing residential development and paraphernalia onto land that was largely an undeveloped paddock. For these reasons it would not safeguard the countryside from encroachment and would therefore undermine purpose (c) of the Green Belt as well as purpose (a).
23. That said, the appeal site is located between residential development on two sides. The proposal would therefore have some semblance of an infill plot rather than a strident incursion into open countryside. This moderates the impact on openness. Moreover, the proposed development would be relatively modest and

⁵ Paragraph 18 of the PPTS confirms that the 'Golden Rules' do not apply to applications for traveller sites

⁶ Paragraph: 001 Reference ID: 64-001-20190722

there would be space within the appeal site for generous levels of planting. Indeed, the site plan shows areas of lawn and there is space for hedging in lieu of boundary fencing. This would soften the urbanising effect, especially along the site frontage where the impact would be visually most apparent. Such matters can be secured through a condition requiring a site development scheme.

24. In conclusion, the Framework advises that openness is an essential characteristic of the Green Belt, and the fundamental aim of the Green Belt is to keep land permanently open. The harmful loss of openness that would be caused by the appeal scheme would be at odds with this fundamental aim. The proposal would also undermine purposes (a) and (c) of the Green Belt. That said, the modest scale of the proposal, the ability to incorporate soft landscaping and the disposition of nearby development soften the impact. Overall, the proposal would have a moderate adverse impact on the openness and purposes of the Green Belt.

Intentional unauthorised development (IUD)

25. The occupation of the appeal site has taken place without planning permission. The appellant would have been fully aware that planning permission was required given the site history of Treetops. As a result, IUD has occurred, and this is a material consideration in my assessment given the provisions of a Written Ministerial Statement (WMS)⁷. The WMS is not punitive because the planning system does not prevent an individual undertaking works and then applying retrospectively. Instead, it is concerned with the harm that is caused when the development of land has occurred in advance of obtaining planning permission.
26. As already explained, in this instance hard surfacing has been laid across the entire appeal site. In addition, brick walls and piers have been constructed and patios have been laid. A dog kennel and fencing have also been installed. The latter wraps around the entire perimeter of the site. The works have therefore gone well beyond what was needed to establish a temporary home pending the outcome of a planning application.
27. The laying of hard standing across the entire site is particularly problematic in this instance because the appeal site may have been terrestrial habitat for Great Crested Newts (GCN). This judgment is informed by standing advice issued by Natural England. The advice explains that GCN surveys should be undertaken when historical records suggest GCN may be present, or there are suitable water bodies within 500m of the site, or the development includes refuges such as grassland, hedges, and rubble within 500m of a suitable aquatic habitat. All of these apply to the appeal site. A GCN survey should therefore have been undertaken to confirm whether GCN are present or not on site before any works occurred. This approach is supported by Circular 06/2005⁸.
28. As a survey was not conducted, it is unclear whether GCN were present. If they were, then a European Protected Species (EPS) license would probably have been required as the works would have likely disturbed them or their resting place. An EPS license cannot be granted retrospectively. Undertaking works without a license when a license is required is an offence⁹.

⁷ Green Belt Protection and Intentional Unauthorised Development 2015

⁸ See Footnote 68 of the Framework

⁹ See sections 43 and 55 of the Conservation of Habitats and Species Regulations 2017

29. Moreover, the biodiversity hierarchy in Paragraph 193 of the Framework was not followed as the only option now available is to consider compensation, as there is no opportunity to avoid or mitigate the impacts on GCN if they were present. As a result, the IUD is a very serious matter in this instance given the potential harm that may have occurred to GCN.
30. The appellant has advanced some mitigating circumstances to factor into my assessment. Firstly, they suggest that the IUD was necessary because of their personal circumstances, including the absence of suitable alternative accommodation available to them. However, it would be double counting to reduce the weight I afford to IUD for these reasons and then also add this point again as a positive factor later in my considerations.
31. Next, the appellant submits that he followed professional advice. There is more traction to this argument. An application was made in 2014 for the creation of temporary pitches in the rear garden of Treetops. In allowing this application the Council, informed by an Ecologist, attached an informative note that stated '*in view of the suitable habitat nearby, care should be taken when clearing ground prior to development and if evidence of protected species....is found, work should stop...*'
32. It is unclear what evidence was before the Council in 2014, but on the face of it the informative note is deeply problematic. If there was suitable habitat nearby, then a survey should have been requested to establish the presence or absence of protected species. Furthermore, clearing ground can disturb protected species and so the need for mitigation and the likelihood of an EPS being required and granted should have been explored. It is also unclear how someone who is not an Ecologist would be able to identify evidence of protected species. On this point, GCN can hibernate underground. It seems to me that the actions of the appellant need to be judged in the context that he was broadly following the potentially flawed advice given in the Council's informative note.
33. Furthermore, a Preliminary Ecological Assessment (PEA) was undertaken in 2019 to support an application for four pitches¹⁰. I have not been provided with a copy of the PEA, but the findings are referred to in the submissions. The author of the PEA explains that the site offers some '*limited habitat value [for GCN] but there are no suitably accessible ponds nearby*'. The author of the PEA therefore concluded that it is '*very unlikely*' GCN would be present.
34. The PEA was reviewed by the Council's Ecological Advisor when considering the current appeal scheme. They do not share the findings of the PEA because the appeal site, prior to the IUD, was suitable GCN habitat within 500m of several ponds. At least one of these ponds is connected to the appeal site by a hedgerow. This analysis appears sound when considering aerial photographs and a Habitat Biodiversity Audit. It is therefore difficult to understand why the author of the PEA did not recommend further surveys, even on a precautionary basis, to confirm whether GCN are likely to be present and affected by the proposal.
35. The appellant undertook the IUD after the PEA was issued in 2019 but seemingly before it was reviewed by the Council's Ecological Advisor in 2022. He took the findings of the PEA as an indication from an expert that he could clear the site without harming GCN. In my view, and based on the limited evidence before me, the conclusion in the PEA in respect of GCN appears to be flawed. However, that

¹⁰ R18/1941, which was refused

is not a fault which lays with the appellant. In the round, he took advice from the Council (via the 2014 informative note) and the findings of the PEA. The indications at the time of the IUD were that GCN were very unlikely to be present. That is not the same as a positive finding that they were not present following a survey, but it was, perhaps, a reasonable conclusion in the circumstances. This is important context when considering what weight to afford IUD in this instance.

36. Furthermore, when discussing this matter during the hearing, common ground was reached between the Council and appellant that it would be possible to devise a compensation scheme to offset the potential impact on GCN. The compensation would need to assume that GCN were present and using the appeal site as terrestrial habitat. The appeal site amounted to around 0.2ha of semi-improved grassland, scattered scrub and ruderal grassland. The compensation should therefore be of an equivalent value to GCN. Following a significant reconfiguration of existing development, a pond, refugia and some grassland could be provided on site alongside the southeastern boundary. Advice would need to be taken from an Ecologist as to whether this would have the equivalent value to GCNs as the site prior to the IUD. If not, then off site mitigation would need to be secured. There was common ground at the hearing that adequate compensation could be secured through the imposition of a planning condition
37. Paragraph 187d) of the Framework explains the development should provide net gains for biodiversity. The Council's Ecological Advisor has stated that the IUD resulted in a loss to biodiversity based on the removal of semi-improved grassland, scrub, ruderal vegetation and trees. There may have also been an effect on the perimeter hedgerows. Their recommendation is that this loss should be offset. Recommended enhancement measures include additional planting and bat and bird boxes. It is also suggested that the perimeter hedge be retained and enhanced. Retaining the hedge would not be an enhancement but improving it would. There is space to do so with new planting, although further clarification would be required as to whether the erected fencing would need to be removed or repositioned to support the hedges function as a wildlife corridor. Again, the parties agreed at the hearing that a condition could be imposed to establish a baseline formed from the available evidence and then identify enhancement measures to ensure no net loss to biodiversity.
38. There is no substantive evidence before me that trees and hedges were properly protected during the IUD. Indeed, when I was on site I observed that hard standing had been laid right up to the trunk of the mature tree at the site entrance and fencing and a brick pier erected in its root protection area. The hardstanding and fencing also appears to have impacted the perimeter hedges. An arboricultural assessment was not requested by the Council, and it did not consult its arboricultural officer. The effect on the mature tree and hedges is therefore unclear. That said, the proposed plans show an area of grassland around the tree and the entrance gates set back. The suggestion at the hearing was that a layout could be devised through a site development scheme that would safeguard the tree and perimeter hedges. I have no reason to doubt this.
39. As a domestic occupation of the appeal site would involve sensitive end users, a land contamination assessment should have been undertaken. The IUD has hampered this. Historic maps suggest the site was a field between 1883 and 1952. However, unidentified structures appeared in 1962. Only one small structure appears to have survived from this period. It is unclear what happened

to the others. Moreover, a lot of material was brought onto the site to create the hardstanding, and it is unclear if this was free of contaminants. In the circumstances, the Council's Environmental Health Team have recommended a retrospective assessment to include remediation of any contaminants if necessary. I am satisfied with this approach as I have no reason to doubt it would be technically possible to remediate any identified contamination. Again, this would be secured through a condition.

40. To summarise, IUD has occurred and went well beyond what was necessary. The works may have harmed GCN. This is a serious matter, especially when considered in the context of the legal biodiversity duty¹¹. Moreover, the IUD has reduced the value of the appeal site for biodiversity more generally. Because of the IUD, it has been necessary to move to compensation rather than follow the steps in the biodiversity hierarchy. The IUD may also have injured a mature tree and perimeter hedging, and occurred before a land contamination assessment was undertaken despite the sensitive nature of the end users. The latter could have health implications. There has also been an unmitigated short-term impact on the openness of the Green Belt. That said, some of these matters can be addressed through the imposition of conditions. Overall, the IUD weighs significantly against the appeal scheme. It could well have accrued more weight had it not been for the mitigating circumstances outlined above.

Other considerations

The need and supply of sites

41. Within its submissions the Council confirmed there is a need for 48 permanent pitches for gypsies and travellers by 2027, and 79 by 2037. The Council has calculated that it has a 1.15 years' supply against its locally set target¹². It is therefore failing to adhere to the requirement in Paragraph 10 of the PPTS, which is to demonstrate a rolling five-year supply of pitches.
42. That said, matters could be even worse as the Council has included a temporary permission for 11 pitches in its supply. These are not permanent permissions and therefore the contribution to addressing unmet need is time limited. Moreover, the planning definition of gypsies and travellers now includes those with a cultural tradition of nomadism or living in a caravan. The Council suggested at the hearing that the need for pitches is likely to have increased further because of this change. Consequently, the 1.15 years figure could be an overestimate. The indicators are that there is a high level of unmet need.
43. The high level of unmet need is not a new situation. The Council has been aware of it for many years. Indeed, the intention was to prepare a development plan document allocating gypsy and traveller sites, but this has not come to fruition. The Council are currently working on a new local plan, but this will not be adopted until 2027 at the very earliest. The Council intends to allocate gypsy and traveller sites in this document. To this end, there has been a recent call for sites.
44. However, the Council was unable to confirm at the hearing whether any possible sites were identified through this process. I was advised at the hearing that the call for sites specifically excluded land in the Green Belt. This would have been a

¹¹ See s40 of the Natural Environment and Rural Communities Act

¹² The Council have adopted the figure in the most recent GTAA as its local set target

significant constraint given the extent of it in the borough. This approach will also hamper sites being proposed around Coventry. Overall, there is a doubt whether the Council will be able to identify and allocate enough sites in the medium term to address the high level of unmet need.

45. Thus, the Council has a high level of unmet need, no allocations and no five-year supply of sites. The situation has been long standing and it is unclear whether the emerging local plan will address this matter any time soon. The indications are that there has been a failure of policy.
46. The PPTS seeks to facilitate the traditional way of life of travellers by providing settled bases. Without a settled base/address it is difficult to balance a traditional way of life with the practical realities of modern living, such as opening a bank account. Facilitating this balance is an important part of achieving the social sustainability sought by Paragraph 13 of the PPTS and needs to be considered in the context of the Public Sector Equalities Duty. This general point weighs in favour of permitting the pitches in the context of high unmet need.
47. It is also worth noting that the Council's strategy for the emerging local plan will be, in part, to consider expanding existing sites. In this respect, the appeal site adjoins an existing traveller site.

Personal Circumstances

48. The appellant and his family used to live at Treetops but were forced to move out as his deteriorating health meant he could no longer afford to live there. The appellant and his family subsequently moved onto the appeal site. There is no substantive evidence before me that they explored any other options. It was suggested at the hearing that they did ask around but were unable to identify a site. This is unsurprising given the extent of unmet need.
49. The appellant has a cultural preference to live in a caravan rather than return to living in a house. They also wish to live in a family group, which is a cultural tradition. In this case, there is also a need to live together due to caring responsibilities. The Council have not been able to point to any suitable alternative options. Therefore, if the appeal were dismissed the appellant and his family would likely need to resort to living on the roadside. This would benefit no one. The appeal scheme would address the acute accommodation needs of the appellant and his family and this carries significant weight.
50. The appellant and his family have lived in the area for around 30 years and have connections with local doctors and schools. The former is important given the families extensive health conditions, which have been properly evidenced and therefore carry significant weight. It would be stressful to leave the site, and this would likely exacerbate their health conditions.
51. The local school is also experienced in educating children of traveller families. This would assist when the children living on site reach school age. An enduring settled base would also support the children's welfare more generally by, for example, affording them a sense of security and continuity and enabling them to attend clubs and make friends. It would therefore be in their best interests to stay living on site. The best interests of children are a primary consideration, in that no other matter is more important.

Whether there would be Very Special Circumstances

52. As specified in the Framework, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would moderately harm the openness of the Green Belt and undermine purposes a) and c). The Framework states that substantial weight be given to any harm to the Green Belt. This is a metaphor for indicating the importance of the issue rather than a measurement that should be inserted into a quasi-mathematical equation.
53. In addition, the proposal would not be in a sustainable location so future occupants would not benefit from the health and resilience provided by independent active travel. Moreover, the scheme would not be located to help to reduce greenhouse gas emissions as required by Paragraph 164 of the Framework. That said, the appellant's reliance on private motorised transport suppresses some of the harm that would arise in this regard, as he would need to drive to services and facilities wherever he lived. Overall, this matter carries moderate weight against the proposal. There have also been notable adverse impacts from IUD that carry significant weight against the appeal scheme.
54. On the other hand, the appeal scheme would assist in addressing the acute unmet need for pitches (which includes the appellant and his family) and the disadvantages that flow from this. When the personal circumstances are added into the balance the collective weight reaches a high level. The health of the family, the lack of alternatives, the long-standing local connection and the best interests of children are especially important in this instance.
55. Protecting the Green Belt is a matter of great importance to the Government, and I have considered the proposal with this in mind. Nevertheless, and on balance, the cumulative other considerations would clearly outweigh the totality of harm identified. Accordingly, the very special circumstances necessary to justify the development have been demonstrated and therefore a conflict with Policy GP2 of the LP would not occur.

Conditions

56. The proposed development has commenced as the access is in place. As a result, it is unnecessary to impose a condition requiring commencement within a certain period. However, the pitches need to be arranged broadly in accordance with the drawings, albeit with some amendments, to lessen the impact on the Green Belt, provide space for children to play and protect trees and hedges. It is therefore necessary to impose a condition requiring adherence to a site development scheme (SDS), which would include the landscaping, drainage and layout of the site. As a result, I have not imposed a drawings condition other than to confirm the site location plan. The SDS would also secure the necessary compensation for the loss of potential GCN habitat and enhancement measures to ensure a biodiversity net gain against a baseline.
57. The proposal is acceptable due to the personal circumstances of the appellant and his family. It is therefore necessary to limit occupation to the appellant and his family in so far as they meet the planning definition of a gypsy and traveller.

58. As only two pitches are proposed it is necessary to confirm this in the interests of living conditions and minimising the impact on the Green Belt. It is necessary in the interests of safeguarding the character and appearance of the area and living conditions to restrict the number of caravans, prevent commercial activity and control external lighting. To safeguard the living conditions of future occupants it is necessary to secure a land contamination assessment and remediation.
59. The Council has suggested a condition be imposed to confirm the date development began. However, it is unclear what this condition is seeking to achieve as it cannot be breached and is not necessary to make the development acceptable. Thus, it has not been imposed. Condition 5 controls the number of caravans that can be on the site at any one time. As such, it is unnecessary to impose another condition requiring the removal of existing caravans before replacements are brought onto the site. The site development scheme requires details of all hard surfacing so a separate condition relating to length of the site access is unnecessary.

Conclusion

60. The proposed development would not afford good access to services and facilities at odds with Policy DS2 of the LP. However, Policy GP2 permits development in the Green Belt where national policy allows. In this case, very special circumstances have been demonstrated, which means the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. As a result, there is no conflict with Policy GP2 of the LP. The Council has not elaborated on why Policy SDC1 is referred to in the reason for refusal and I can see no obvious conflict. Accordingly, there is no conflict with the development plan taken as a whole. Policy GP1 of the LP directs approval in such circumstances. There are no material considerations that indicate a decision should be made other than in accordance with the development plan. The appeal is therefore allowed.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Dr Andus Murdoch	Director, Murdoch Planning Ltd
Andrew Forrest	Appellant
Emily Forrest	for the appellant

FOR THE LOCAL PLANNING AUTHORITY

Christian Hawley	Barrister, Instructed by Legal Services at Rugby Borough Council
Sam Burbidge	Senior Planning Officer, Rugby Borough Council

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

- Revised list of suggested planning conditions

Schedule of Conditions

- 1) The development hereby permitted shall only be occupied by those meeting the definition of a Gypsy and Traveller as defined in the Planning Policy for Gypsy and Travellers.
- 2) No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer or burning of materials.
- 3) The two pitches hereby permitted shall not be occupied other than by the following:
 - Mr Andrew Forrest, Mrs Emily Forrest, Mr Jack Forrest, Ms Sinead Forrest, Mrs Vinenna Lee (nee Forrest) and Mr Charlie Lee and their resident dependents.

When the land ceases to be occupied by those named above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

- 4) The development shall be undertaken in accordance with the following approved plans: Site Location Plan Dated 04.11.21 Drawing No SD0163/10 Rev 1 and Amenity Block Dated 11.11.21 Drawing No SD0163/4 Rev 1
- 5) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed or kept on the site at any time, of which no more than two shall be static caravans.
- 6) No external lighting shall be installed within the appeal 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 external lighting shall only be erected in accordance with the approved details.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment, hardstanding and materials brought onto the land for the purposes of such use shall be removed and the land restored, in accordance with a scheme approved by the Council, within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) Within 3 months of the date of this Decision, and notwithstanding the submitted details, a Site Development and Compensation Scheme, hereafter referred to as the 'Scheme', for:
 - (a) the internal layout of the site including the location (and orientation) of caravans, amenity blocks, parking, amenity areas and facilities for the storage, collection and presentation of refuse and waste;
 - (b) all boundary treatments and all other means of enclosure (including internal sub-division);

- (c) hard and soft landscaping for the entire red line site area, including details of how existing trees and hedges will be protected and details of proposed planting (species, plant sizes and numbers and planting densities);
- (d) biodiversity enhancement measures to provide a net gain to biodiversity relative to the site's condition prior to development taking place. The extent of the enhancement measures shall be informed by an assessment that has established the likely biodiversity baseline prior to the commencement of development.
- (e) full on and/or off-site compensation measures for the loss of the 0.2 hectares of suitable terrestrial Great Crested Newt habitat that was in place prior to development commencing.
- (f) details of the means of foul and surface water drainage of the site;

shall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.

- ii) If within 11 months of the date of this decision the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) if an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

- 7) The use hereby permitted shall cease and all caravans, structures, equipment, hardstanding and materials brought onto the land for the purposes of such use shall be removed and the land restored, in accordance with a scheme approved by the Council, within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below

- (i) Within 3 months of the date of this Decision, a Land Contamination Assessment (the 'assessment'), that includes:
 - a survey of the extent, scale and nature of contamination;
 - an assessment of the potential risks to human health and the environment; and
 - if required, an appraisal of remedial options and a detailed remediation scheme and timetable for removing unacceptable contaminants. 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.

Shall have been submitted for the written approval of the Local Planning Authority and the said assessment shall include a timetable for its implementation.

- (ii) If within 11 months of the date of this decision the Local Planning Authority refuse to approve the assessment, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) if an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable.

End of Schedule