



Appeal Decisions

Hearing held on 29 July 2025

Site visit made on 30 July 2025

by Sarah Dyer BA BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2025

Appeal A Ref: APP/T3725/W/24/3356326

Land north of Henley Road, Lower Norton, Norton Lindsey, Warwick CV35 8RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr Leslie James Smith against Warwick District Council.
- The application reference is W/24/0711.
- The development proposed is change of use of land to use as residential caravan site for 12 gypsy/traveller families, each with two caravans including no more than one static caravan/mobile home, together with laying of hardstanding and improvement of existing access.

Appeal B Ref: APP/T3725/C/24/3350208

Land on the North side of Henley Road, Budbrooke (also known as shown edged red on the enforcement notice plan)

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Les Smith against an enforcement notice issued by Warwick District Council.
- The notice was issued on 23 July 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to a residential caravan site by the stationing of caravans and mobile homes on the Land along with associated operational development consisting of the laying of hardstanding, septic tanks, water and electric hook ups and fencing.
- The requirements of the notice are to:
 - i. Cease the use of the Land as a residential caravan site.
 - ii. Remove from the Land all caravans and mobile homes that were integral to and facilitated the breach of planning control that has taken place.
 - iii. Remove from the Land all of the tarmac and hard standing.
 - iv. Remove from the Land all septic tanks, water and electric hookup apparatus and all fencing.
 - v. Remove all resultant debris from the Land.
 - vi. Restore the Land to its condition prior to the breach of planning control taking place.
- The period for compliance with the requirements are:
 - Steps (i) to (v) 12 months from the date this notice takes effect.
 - Step (vi) 14 months from the date this notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for change of use of land to use as residential caravan site for 12 gypsy/traveller pitches, each with two caravans including no more than one static caravan/mobile home, together with laying of hardstanding and improvement of existing access at Land north of Henley

Road, Lower Norton, Norton Lindsey, Warwick CV35 8RB in accordance with the terms of the application, Ref W/24/0711 and the plans submitted with it subject to the conditions in the attached schedule.

Appeal B

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

- the deletion of the words 'Land on the North side of Henley Road, Budbrooke (also known as shown edged red on the enforcement notice plan)' and their substitution with the words 'Land north of Henley Road, Lower Norton, Norton Lindsey, Warwick CV35 8RB (as shown edged red on the enforcement notice plan)' in Section 2.
- the deletion of the words 'that were integral to and facilitated the breach of planning control that has taken place' from requirement (ii) in Section 5.

Subject to these corrections the appeal is dismissed, and the enforcement notice is upheld.

Applications for costs

3. Applications for costs were made at the Hearing by the Council against the appellant and on behalf of the appellant against the Council. These are the subject of separate decisions.

Preliminary Matters

4. I held a Case Management Conference (CMC) prior to the Hearing which was attended by the appellant, the Council and Parish Councillors from Budbooke Parish Council and Norton Lindsey Parish Council.
5. A letter from the Member of Parliament for Kenilworth and Southam was submitted prior to the Hearing and circulated to the parties for information.
6. During the Hearing, one of the Interested Parties submitted the text of an oral presentation he made at the Hearing.

Appeal A

7. Prior to the CMC the appellant had submitted a Statement of Personal Circumstances. As agreed at the CMC the appellant has subsequently submitted the following documents

- Road Safety Audit and plans relating to the access to the highway
- Supplementary statement relating to changes to the National Planning Policy Framework (the Framework) and Planning Policy for Travellers Sites (PPTS)
- Flood Risk Assessment (incorporating percolation tests)
- Copy of an appeal decision relating to a site at Back Lane, Shrewley (the Back Lane appeal) (Appeal Ref. APP/T3725/C/24/3357094).
- Aerial photograph showing the appeal site in relation to the Back Lane appeal site.

8. Following the CMC, the Council submitted an updated Statement of Case which includes reference to the additional information submitted by the appellant and copies of responses from consultees. The Council submitted an Addendum to its Statement of Case in advance of the Hearing, a copy of the Back Lane appeal decision and a draft list of planning conditions. The Council's latest position is that planning permission should be granted subject to planning conditions.
9. An agreed Statement of Common Ground (SOCG) was submitted at the Hearing.
10. A copy of Appeal Decision Ref APP/J0540/C/24/3350446 was submitted to the Hearing to highlight potential wording for planning conditions only.
11. The description of development would be more accurately described with reference to 'pitches' as opposed to 'families'. I have determined the appeal on that basis.

Appeal B

12. Appeal B was initially submitted on ground (a) only. However, this was precluded under section 174(2A) of the Town and Country Planning Act 1990 (the Act) because 'the enforcement notice was issued at a time after the making of an application for planning permission that was related to the enforcement notice'. This application is the subject of Appeal A. The appellant subsequently confirmed that he wishes to appeal on ground (g) and Appeal B is proceeding on that basis.
13. Appeal B was submitted in the name of Mr Adam Smith. However, the appellant has confirmed that this was an error and should have been in the name of Les Smith as in the banner above.

The Enforcement Notice (Appeal B only)

14. There is an inconsistency between the description of the land to which the enforcement notice relates on the notice and the site address provided on the planning application. The Council has confirmed that the correct address is that which was used for the planning application. This is an accurate address for the site. There is no doubt that both appeals relate to the same land and none of the parties would be prejudiced if I were to correct Section 2 of the enforcement notice in this respect; therefore I shall do so.
15. The second requirement includes the words 'that were integral to and facilitated the breach of planning control that has taken place'. These are unnecessary to secure compliance with the enforcement notice which can only require the removal of caravans in connection with the use of the land as a caravan site. The main parties agree and would not be prejudiced if I make this correction to the enforcement notice.

Background and Occupation of the Site

16. The development commenced in May 2024, and the planning application is retrospective under Section 73A of the Act. The appellant and other occupiers of the site have brought around 24 caravans onto the land. The site currently accommodates 26 adults, 18 children (including 12 children under five), 3 babies who have been born recently and at least one of the residents is pregnant. There is a familial relationship between all of the occupiers of the site.

17. Six of the children attend a local nursery or school and the others are home schooled. Some of the residents attend a local church which serves the gypsy and traveller community. Several residents, including children, have long term medical conditions which require specialist treatment and are registered with local doctor's surgeries.

Main Issues

18. The main issues are:

- Whether the use of the land for a gypsy and traveller site is inappropriate development in the Green Belt having regard to the Framework, the PPTS and any relevant development plan policies.
- The effect of the development on the openness of the Green Belt.
- Whether the development provides appropriate living conditions for the occupiers with particular regard to:
 - noise arising from traffic using the M40
 - the management of surface and foul water drainage within the site
 - the management of waste within the site.
- The effect of the use of the site on:
 - the risk of flooding off site
 - biodiversity.
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Green Belt

19. There is no dispute between the parties that the site lies within the Green Belt and that the occupiers of the site meet the definition of gypsies and travellers as set out in the PPTS. Policy DS18 of the Warwick District Local Plan 2011-2029 (the Local Plan) applies national planning policies to proposals in the Green Belt within the district. The PPTS establishes that traveller sites in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the Framework apply.
20. In this case the relevant exceptions in the Framework are as follows:
- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - b. There is a demonstrable unmet need for the type of development proposed;
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.

Grey Belt

21. Grey Belt is defined in the Framework. The site was previously in agricultural use as pasture land. It is separated from the outskirts of Warwick by the M40 motorway and extensive farmland, and it is not close to any towns, consequently its development does not lead to the unrestricted sprawl of large built-up areas, nor would it result in towns merging into one another. The development does not affect the setting or special character of historic towns.
22. Reference was made to the two other purposes of the Green Belt by interested parties. However, these are not relevant to the consideration of whether the site constitutes Grey Belt, and I conclude that the development would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan, and it is Grey Belt.

Demonstrable Need

23. There is no dispute that there is a lack of a five year supply of deliverable traveller sites in the district. Furthermore, in the context of the specific needs of the appellant and the other occupiers of the site, it was established at the Hearing that the site meets their needs and that there are no suitable alternative sites where they could move to.

Location

24. The Council had no issue with whether the development is in a sustainable location, but this matter has been raised by the interested parties including those who spoke at the Hearing.
25. The SOCG sets out that the site is 'less than one mile by road from the centre of Norton Lindsey and about 3 kilometres from the edge of Warwick'. At the Hearing I was advised by local residents that there is a public house, small village shop (with limited opening hours), a church and community facilities at Norton Lindsey. They also told me about a church at Hampton-on-the-Hill and a post office, shop, doctor's surgery and primary school at Hampton Magna.
26. Occupiers of the site referred to using the surgery in Hampton Magna and a church at Snitterfield. Some of the children at the site are enrolled at Newburgh Primary School, which was described as being on the edge of Warwick and one of the residents has attended Warwick Hospital.
27. The site is well located to access a wide range of facilities, but the concern of interested parties is that in terms of modes of transport these are limited to private cars. It is their view that this means the site is not in a sustainable location.
28. The site is located on a road which is subject to a 50 mph speed limit and there are no footpaths. It would not be safe to walk along the road in either direction, and less confident cyclists such as young children would also be unlikely to use it to access facilities by cycle. There are also no bus stops near the site. Consequently occupiers of the site are highly likely to use private vehicles to access their day to day needs.
29. The Framework accepts that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In setting out the Government's aims in respect of traveller sites the PPTS does not define the preferred means by

which travellers can access education, health and welfare from suitable accommodation. Furthermore Policy H8 of the Local Plan which provides criteria against which new gypsy and traveller sites are to be assessed requires them to be within a reasonable distance of schools, GP surgeries etc but does not refer to access by sustainable modes of transport specifically.

30. In the light of the above and my own observations of some of the facilities available locally I find that the site is in a sustainable location taking account of the particular policy context for gypsy and traveller sites.

Inappropriate development in the Green Belt - Conclusion

31. For the reasons set out above, the development meets the exceptions set out in the Framework and does not constitute inappropriate development in the Green Belt. Having reached this view, there is no need for me to go on to assess the effect of the development on openness and there is no requirement for very special circumstances to be demonstrated.

Living conditions – Traffic noise

32. The site lies adjacent the M40 motorway which runs in a cutting along the site boundary. This is a heavily trafficked strategic route and the noise from vehicles being driven along the motorway is apparent in all parts of the site.
33. The appellant's Noise Assessment concludes that noise levels within homes would be acceptable as they would meet standards set out in BS 8233. However, in order to achieve these noise levels an acoustic fence would need to be provided, and windows in the caravans would have to be kept closed. The Council does not have any objection to the provision of the acoustic fence in terms of its appearance and having viewed the site I have reached the same view.
34. Turning firstly to the levels of noise inside the caravans. At present there are a mix of static caravans of varying age and touring caravans on the site. During the site visit I went inside most of the caravans, both static and touring. Even with the windows closed noise from the motorway was noticeable in all of the caravans including the newer static caravans which I heard at the Hearing are likely to be to the specification assumed by the Noise Assessment. With the windows open the noise is intrusive. Whilst not at a level which would prevent some day to day activities like watching television or having a conversation, on the basis of my observations it would have the potential to disturb sleep or quiet activities such as homework.
35. The acoustic fence is not yet in situ so I could not assess the effect that it would have on reducing the noise which I could hear when I went inside the caravans. Even so the Noise Assessment accepts that even with the fence an appropriate standard of noise can only be achieved by keeping windows shut.
36. In terms of the living conditions for residents, the Noise Assessment treats the option of keeping windows closed as a matter of choice. Many of the residents have access to air conditioning either integrated into the caravan or in the form of a portable unit. Similarly, air conditioning was discussed at the Hearing and also argued as a matter of personal choice for residents by the appellant. The issue in this case is whether a resident who chose not to have air conditioning and wanted

to have windows open, would be exposed to a poor noise environment. The evidence before me suggests that they would.

37. I have considered whether the effects of noise on the living conditions of residents could be controlled by planning condition. The Council's suggested condition requires the submission of an acoustic, ventilation and overheating strategy for approval. This would include details of ventilation arrangements and methods to reduce overheating while windows are closed in the summer months. The condition meets the tests set out in the Framework, but it would not resolve my concerns in respect of the choices available to residents in relation to being able to open windows without being exposed to a noisy environment.
38. Turning to the external noise environment, there are significant areas of open space within the site layout which are currently used for parking, as play space and for normal domestic activities. Whilst the appellant is correct that the background noise is not at a level that results in voices needing to be raised to have a conversation, nevertheless the continuous hum from traffic using the motorway is ever present.
39. At the Hearing the appellant argued in respect of external noise that guidelines require that noise is reduced to the best practical level. The Council did not dispute this approach but did refer to it applying when consideration was being given to the most efficient use of land. Nevertheless my concern about the poor external noise environment contributes to my overall view that there is a harmful effect on the living conditions of the residents of the site as a result of noise from the motorway.
40. The appellant argues that the noise environment of the site is a considerable improvement upon the levels of noise he and other residents previously experienced when living on the roadside. The Inspector in the Back Lane appeal also accepted that the alternative to living on the appeal site in that case would, more likely than not, be a roadside existence. The same applies in the case before me.
41. However, I am mindful of my duty under the Public Sector Equality Duty, in particular the aim of advancing equality of opportunity. I must apply the same approach to considerations of living conditions as I would to the settled community. In that context drawing a comparison between a roadside site and a permanent site, so as to demonstrate that the effect on the living conditions of the occupiers of this site is acceptable is not appropriate.
42. The Inspector in the Back Lane appeal reached the view that the traffic noise in that case did not have a significantly detrimental effect on residents living conditions. However, I established at the Hearing that the Back Lane appeal site does not share a boundary with the M40. In the absence of evidence to the contrary, the noise environment in that case is therefore not directly comparable with the appeal site in this case.
43. I have also considered the comments made by residents that they are used to the level of noise on the site and that it does not bother them. However, it is unlikely that they would complain about the effect of the noise on their living conditions bearing in mind the importance which they place on their occupation of the site.
44. For the reasons set out above, the appeal scheme does not provide for appropriate living conditions for current and future occupiers of the site by reason

of traffic noise from the M40 motorway. Given the number of people affected and the presence of children on the site I attach significant weight to this harm. Policy BE3 of the Local Plan directs that development which does not provide acceptable standards of amenity for future occupiers should not be permitted.

Living Conditions – Foul and Surface Water Drainage and Waste Management

45. The Council confirmed prior to the Hearing that it was content for foul and surface water drainage and waste management arrangements to be dealt with via the submission and discharge of planning conditions. The appellant agrees and there were no comments from interested parties on these matters.
46. On the basis of the evidence before me there is sufficient space on the site to make adequate provision for foul and surface water drainage. Refuse is already being collected from the site and improvements to the access which form part of the development will ensure the refuse vehicle can safely access the site with the gate closed. Space for the vehicle to turn around will also be improved when the site layout has been fully completed. There is no information before me to suggest that these matters cannot be adequately controlled by planning conditions to ensure that the needs of the residents are properly met.
47. For the reasons set out above and subject to the discharge of relevant planning conditions, the appeal scheme provides for appropriate living conditions for current and future residents of the site by reason of foul and surface water drainage and waste management. The development is therefore in accordance with Policies BE1, FW1 and FW2 of the Local Plan which require that new development makes provision for sustainable waste management facilities and drainage infrastructure including SuDs.

Flood Risk

48. Prior to the Hearing the Council confirmed that its outstanding concern was in relation to the risk factor which the appellant had applied to his assessment of surface water runoff towards the M40 motorway. At the Hearing there was agreement between the parties that an engineered solution was possible on the site even if the calculations were updated as part of a Surface Water Drainage Scheme and demonstrated that additional on-site storage was necessary. The interested parties did not raise any concerns about such an approach.
49. I am satisfied that the proposed condition meets the tests set out for planning conditions in the Framework and that it will ensure that surface water from the site will not run off and give rise to flooding elsewhere, specifically the M40 motorway.
50. Subject to the discharge of planning conditions to secure a Surface Water Drainage Scheme, a Verification Report and Maintenance Plan, the appeal scheme would not pose a risk in terms of off-site flooding. The development therefore accords with Policies FW1 and FW2 which require that new development makes provision for drainage infrastructure including SuDs and reduces flood risk.

Biodiversity

51. As the development will not affect designated biodiversity and geodiversity assets policy NE2 of the Local Plan is not relevant. Furthermore, by virtue of the development being retrospective, it is not subject to the requirement to provide Biodiversity Net Gain (BNG) under the terms of the Environment Act 2021.

However, policy NE3 of the Local Plan is relevant and this requires that development proposals lead to no net loss of biodiversity.

52. In advance of the Hearing the Council confirmed that its outstanding concern regarding the BNG calculation which had been carried out by the appellant could be addressed by a planning condition. The suggested condition would require the appellant to submit a Biodiversity Net Gain Assessment (BNGA) and if necessary secure the delivery of a biodiversity offsetting plan.
53. In response to my questions at the Hearing, the appellant and the Council confirmed that this is a standard approach which has been used in similar cases. I am satisfied that the proposed condition meets the tests set out in the Framework and will ensure that any harmful effects which have arisen as a result of the development on the biodiversity value of the site can be suitably mitigated.
54. The interested parties refer to the disruption to birds and small mammals as a result of the development. However, there is limited information to substantiate any additional harm beyond that already addressed by the appellant's Preliminary Ecological Appraisal or the presence of any protected species.
55. For the reasons set out above and subject to the discharge of the planning condition, it has been demonstrated that the development will not lead to a net loss in biodiversity and would accord with Policy NE3 of the Local Plan.

Other Considerations

Need and Supply of Gypsy and Traveller Sites and Policy H8 of the Local Plan

56. I was advised at the Hearing that the Council's latest Gypsy and Traveller Accommodation Assessment (GTAA) shows a reduction in need but that there is an unmet need for 18 pitches. Allowing the appeal would contribute to meeting this need and this weighs significantly in its favour.
57. The Council is unable to identify any specific, deliverable sites which are available to the appellant or other occupiers of the site. At the Hearing the appellant advised that there was no availability at a site known as Hill and Moor Meadows which was referred to by interested parties and there is no evidence to counter that view. In any event Hill and Moor Meadows does not lie within the Council's area. The fact that the Council has been unable to identify and allocate sites amounts to a historic failure of policy which also weighs in favour of the appeal.
58. An interested party raised the question of the availability of other sites coming forward as part of ongoing work by the Council to find sites for gypsy and traveller development. The Council confirmed that sites such as Leamington Brakes football club site were still being considered. However, it accepted that the appeal needs to be determined on the basis of the current situation not which sites may be available in the future. The general lack of supply of pitches attracts significant weight in favour of the appeal.
59. The information before me regarding the personal circumstances of the appellant and other occupiers on the site demonstrates that most of them were on unauthorised sites, roadside or doubling up before they moved onto the site. There is no evidence to suggest that any of them could return to an authorised site and the specific needs of the appellant and the lack of alternatives available to them weighs significantly in favour of the appeal.

60. Policy H8 of the Local Plan sets criteria for the assessment of applications for gypsy and traveller sites. I have established that the site is within a reasonable distance of facilities such as schools and GP surgeries and that infrastructure requirements such as drainage and waste management can be met.
61. The site has good access to the major road network and will not result in permanent and transit pitches being co-located. Whilst there will be touring caravans on the site which will leave when their occupiers leave for extended periods for work, this does not amount to a use as transit pitches.
62. The site is well screened from Henley Road and there is scope for suitable landscaping to the other boundaries which can be secured by planning conditions. The site accommodates 12 pitches which meets the requirement of policy H8 that the site is of a size to accommodate up to 15 pitches. In response to a question from an interested party at the Hearing, a pitch in this case would accommodate two caravans; it is not proposed that there would be 24 pitches on the site. This can in any case be controlled by planning condition.
63. Taken together, the site meets all of the criteria set out in Policy H8 and this weighs significantly in favour of the appeal.

Intentional Unauthorised Development

64. It is government planning policy that intentional unauthorised development (IUD) is a material consideration that should be weighed in the determination of planning applications and appeals.
65. The appellant and other occupiers moved around 24 caravans onto the site on Friday 24 May 2024 in advance of seeking planning permission. His agent, who had been instructed before the appellant took this action, submitted a planning application on the same day through electronic means. As it was a Bank Holiday weekend Council officers did not receive the planning application until after the weekend. There is no dispute that IUD has occurred.
66. Interested parties are aggrieved that the appellant moved onto the site without planning permission. They refer to an appeal decision (Appeal Ref. APP/Q3630/C/17/3181382) in which the Inspector attached significant adverse weight to IUD.
67. At the Hearing the appellant said that he had no choice as he needed to get families off the roadside. There is limited evidence about why this was necessary at the particular time the caravans were brought on and why an application for planning permission was not at least submitted in advance. Nevertheless, given the significant number of children, the sense of urgency is understandable. As a result although the bringing on of the caravans and the subsequent change of use of the land constitutes intentional unauthorised development in the Green Belt, this attracts moderate weight against the appeal.

Highway safety

68. Several interested parties raise concerns about the safety of the site access and Henley Road. In particular concerns were raised about whether the appropriate standards have been applied and in relation to the risk of collisions with other road users including horse riders.

69. During the course of the appeal additional information has been submitted including a Road Safety Audit and the appellant has put forward plans to alter the access to the site. The Highways Authority has removed its objections in the light of this further information.
70. I am satisfied on the basis of the information that is before me that the correct standards have been applied and that the works shown on the plans will result in a satisfactory access, including appropriate visibility splays, being provided for the site.
71. The data contained in the appellant's submissions indicates a low occurrence of accidents. While I accept that this may not reflect the frequency of accidents that went unreported there is limited information to substantiate the views of interested parties.

Other appeal decisions

72. The appellant refers to several appeal decisions (Appeal Refs . APP/J0405/W/23/3332664, APP/R0660/W/15/3137298 and APP/J0405/C/13/2193582). My reasoning in relation to the sustainable location of the site and surface water drainage as set out above aligns with the reasoning in those decisions.
73. Interested parties also refer to appeal decisions (APP/J0405/C/13/2193582 & 2193601, APP/Q4625/C/13/2209742 & 2209777 and APP/R4408/W/22/3308862). All of these appeal decisions relate to development in the Green Belt but pre-date the current Framework and therefore were not considered in the context of the assessment of 'Grey Belt'. Therefore, they are not directly comparable to the appeal before me and attract no weight in favour of dismissing this appeal.

Other matters raised by Interested Parties

74. There are concerns from local residents regarding the additional demands placed on local facilities as a result of the increased number of people living in the area. However there is no information to establish that local facilities do not have spare capacity or that for example additional school places cannot be provided.
75. Some interested parties are concerned about increased anti-social behaviour and crime since the site was occupied. However, the comments are anecdotal and there is no evidence that any issues that have arisen are attributable to the occupation of the appeal site by the appellant or other occupiers. There is also no evidence to demonstrate that new businesses or tourists have been deterred by the development or to substantiate the argument that there is a risk to livestock farming due to gates being left open by residents of the site.
76. Concern was expressed at the Hearing about light pollution arising from the use of the site. However, the site is well screened, and it is at some distance from neighbouring dwellings such that any light spillage would have a very limited impact. Furthermore, there is no evidence that protected species such as bats would be affected by lighting on the site.
77. One of the interested parties expressed concern that granting planning permission for a development which was carried out without planning permission could set a precedent for similar action by others. Their view was that cumulatively this would lead to fundamental change to the Green Belt. However there is a statutory

provision under Section 73A of the Act which allows for planning permission to be applied for retrospectively. Also, whilst a similar set of circumstances cannot be ruled out, there is nothing before me to indicate that similar development would be repeated nearby. In reaching my decision I have to consider the scheme before me on its own merits and against current planning policies and guidance.

78. There was some concern that the Council had not carried out adequate neighbourhood consultation. However, this is a matter between local residents and the Council.

Personal circumstances

79. The site would provide a settled base from which all residents can access health facilities and community facilities such as places of worship. Some of the children already attend nursery/school and it would provide the other children on the site with the opportunity to attend mainstream school and the benefits it provides instead of being home-schooled.
80. The familial relationship between occupiers of the site also provides the opportunity for a high degree of mutual support which is essential to the gypsy and traveller way of life. One of the residents is disabled and a settled base means they can access benefits to which they are entitled which were not available to them when they were living on the roadside.
81. Allowing the appeal would enable the appellant and other occupiers of the site to access education, health facilities and other community support in the same way as the settled population advancing equality of opportunity. Also the proximity to community facilities such as churches and village halls provides opportunities for integration and fostering good relations between gypsies and travellers and the settled community.

Planning Balance

82. The development does not provide appropriate living conditions for the occupiers of the site in relation to the noise arising from traffic using the M40. In all other respects the development would accord with the development plan subject to compliance with planning conditions. The site performs well against the criteria in policy H8 of the Local Plan against which proposals for gypsy and traveller sites fall to be considered and the appeal scheme does not constitute inappropriate development in the Green Belt.
83. The Council cannot demonstrate an up to date five year supply of deliverable sites for gypsies and travellers. In these circumstances the PPTS states that the provisions of paragraph 11(d) of the Framework apply. In this case, where the development does not constitute inappropriate development in the Green Belt, harm to the Green Belt does not provide a strong reason for refusing the development. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
84. The Framework supports the delivery of a sufficient supply of homes, including for travellers and the PPTS seeks to increase the number of traveller sites in appropriate locations to address under provision and to enable travellers to access education, health, welfare and employment infrastructure. The development

provides 12 additional pitches which would contribute towards an identified need, and it would provide a settled base from which residents could access education, health services and community facilities.

85. The noise environment to which occupiers of the site are currently exposed is harmful to their living conditions. Mitigation measures which can be secured by planning condition would significantly reduce the level of noise inside the caravans if windows were kept closed. A level of ventilation so as to avoid condensation would be provided as part of the fabric of the mobile home. Several of the occupiers already use portable AC units and there was nothing to suggest that such facilities would not be available to all residents, including families with children. However, I agree with the appellants that the use of AC is a personal choice, and, in this context, it would not be reasonable for me to impose this requirement through a planning condition.
86. The planning condition which has been suggested requires the submission and approval of details of an acoustic, ventilation and overheating strategy. I established at the Hearing that there are no standards applicable to overheating. Nevertheless, I am satisfied that the condition is capable of being discharged taking into consideration the occupiers choices, for example in respect of AC units.
87. In respect of the residual harm arising in terms of the internal noise and the full effect of external noise these will give rise to harmful living conditions. I attach significant weight to this harm. Furthermore I attach moderate harm to the fact that the development amounts to IUD. However, I do not find, in this case, that these harms would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework and the PPTS taken as a whole. As a result the presumption in favour of sustainable development applies in this case.

Conditions

88. The Council provided a draft list of planning conditions to the Hearing, without prejudice to the outcome of the appeal. This list was discussed at the Hearing and the appellant agreed that most of the conditions were appropriate and acceptable.
89. It was agreed at the Hearing that some of the conditions require amendment because the development is retrospective and as drafted there was no sanction in the event that the condition was not discharged. The appellant referred to an appeal decision (Ref. APP/J0540/C/24/3350446) (the Lincoln Road decision) which he said included planning conditions which allowed caravans to be retained on the site while conditions were discharged. The conditions on the Lincoln Road decision reflect the phraseology commonly used for conditions of this type and I have taken the same approach.
90. Conditions 5, 6, 7, 8, 9, 10, 12, 13, and 14 are imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of these outstanding matters before the development takes place. These conditions will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the conditions, or if the details are not approved by the local planning authority or the Secretary of State on

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

91. I have made minor changes to some of the suggested conditions to ensure that they are precise.
92. An approved plans condition (Condition 1) is necessary to provide certainty and define the terms of the consent. It was agreed at the Hearing that I would amend the draft condition to ensure that the references to the submitted drawings of the access were accurate.
93. The evidence which has been determinative in the outcome of the appeal is based on the occupation of the site by gypsies and travellers as defined by PPTS, the number and type of caravans to be stationed on the site and the number of pitches. Therefore it is necessary and reasonable to impose a condition to restrict the occupancy of the site to gypsies and travellers (Condition 2) and the number of pitches/caravan and type of caravan which can be stationed at any time (Condition 3).
94. Whilst the site is well screened, commercial activities such as storage of materials or goods have the potential to harm the visual amenity of the area and, given that multiple pitches are involved, the living conditions of occupiers of the site. A condition to prevent commercial activities being undertaken is reasonable and necessary in this context (Condition 4). The Council confirmed that such a condition would not prevent commercial vehicles being parked on the pitches.
95. A condition to secure an acoustic, ventilation, and overheating strategy is necessary to mitigate the impact of noise from the M40 on the living conditions of the occupiers of the site. I have amended this condition as drafted to refer to the details and provision of the acoustic fence which is integral to the acoustic, ventilation and overheating strategy (Condition 5).
96. In order to prevent an increased risk of flooding, including flooding of the M40 a condition is necessary to secure a surface water drainage scheme (Condition 6). Further conditions to secure an independent verification report following the installation of the approved surface water drainage scheme (Condition 7) and a site specific maintenance plan for the surface water drainage scheme (Condition 8) are also reasonable in this case. These are justified given the retrospective nature of the development and the harm which could arise in terms of flooding of the M40 and adverse effects on living conditions in the event that surface water drainage was not properly installed and/or maintained. The Council is the body responsible for discharging planning conditions; therefore it is unnecessary to reference consultation with the Lead Local Flood Authority in the conditions.
97. A condition to ensure that foul drainage is provided on the site is necessary to ensure appropriate drainage infrastructure is provided and in the interests of the living conditions of the occupiers of the site (Condition 9).
98. It is necessary to secure additional landscaping of the site so that it is satisfactorily integrated into the surrounding area and that a reasonable standard of amenity is provided to residents. I have included a condition to require the submission for

approval and implementation of a hard and soft landscaping scheme (Condition 10). I have also included a condition to secure replacement planting for a period of five years following completion of the approved hard and soft landscaping scheme (Condition 11). In respect of the latter, I have amended the commencement of the five year period from 'completion of the development' to 'completion of the approved hard and soft landscaping scheme' which is more precise and relevant to the development which is being permitted.

99. Given the number of residents of the site and the requirement for a refuse collection vehicle to access the site it is necessary and reasonable for details of the refuse bin storage area to be submitted for approval and implemented. The provision of access for refuse vehicles is already secured via the site layout plan and Condition 10 which relates to hard landscaping. (Condition 12).
100. In order to ensure that the development will not give rise to a net loss in biodiversity a condition is required to secure a Biodiversity Net Gain Assessment (BNGA) and, if an onsite loss of biodiversity units is concluded, an offsite biodiversity offsetting plan (Condition 13).
101. Works are required to the site access to make sure that satisfactory access is provided, including appropriate visibility splays. I have also included conditions to ensure that the detailed proposals which have already been agreed are carried out (Conditions 14, 15, 16, and 17).
102. A condition to secure the provision of adequate water supplies and fire hydrants is unnecessary because safeguards in relation to fire are covered by the Caravan Site Licence. It is not appropriate to duplicate this licencing regime.

Conclusion

103. Given the harm to the living conditions of occupiers of the site, the development does not accord with policy BE3 of the Local Plan. Nevertheless, there are material considerations to be considered. The unauthorised intentional development of a site in the Green Belt attracts moderate weight against the appeal and the appeal decisions which have been referred to by the interested parties provide very limited weight against the appeal. However, all the other material considerations rest in favour of the appellant, including the current position on the need and supply of gypsy and traveller sites in the district, and the presumption in favour of sustainable development. Also the development is in compliance with Policy H8 of the Local Plan.
104. There are no alternative sites available to the residents, therefore moving onto the roadside, doubling up or moving onto an unauthorised site would be a likely consequence of Appeal A being dismissed.
105. There are 18 children under the age of 18 on the site, consequently I must also consider the best interests of the child in this case. It has been established that the best interest of the child is a primary consideration, and no other consideration is inherently more important, however, it is not a determinative factor. The development would provide a settled base for the children on the site to access education, and the parents of the children consider this to be in their best interest notwithstanding the noise environment on site. The alternatives available and particularly living on the roadside would not be in the best interest of the children.

106. The site is in use as a gypsy and traveller site. Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 affords the right to respect for private and family life and home, including the ability of gypsies to enjoy the particular lifestyle which is shared by their ethnic group. Allowing Appeal A and granting planning permission would ensure that these rights are upheld.
107. The appellant and the occupiers of the site are members of an ethnic minority, and they have the protected characteristic of race under section 149(7) of the Equality Act 2010. I am also aware from the evidence that there are persons on the site with the protected characteristic of disability. A decision to allow Appeal A would accord with the public sector equality duty (PSED) under the Equality Act 2010 and the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations for the reasons I have set out above.
108. In conclusion, the development conflicts with the development plan but material considerations indicate that a decision should be made other than in accordance with it. Appeal A is allowed, and planning permission is granted.

Appeal B - Ground (g)

109. An appeal on ground (g) is on the basis that the period specified in the enforcement notice for compliance with the notice falls short of what should reasonably be allowed. The appellant requests that the compliance period be extended to 18 months for steps (i) to (v) and 20 months for step (vi). This was on the basis that the extended time period would allow time for an appeal to be submitted against refusal or non-determination of planning application Ref. W/24/0711, for that appeal to have been determined and, if refused, still give the appellants and the occupiers of the site, which include children, 12 months to find alternative accommodation and avoid homelessness.
110. The planning application referenced by the appellant is the subject of Appeal A. Notwithstanding my decision to allow the appeal, as the appeals are to be determined concurrently it is not necessary to vary the compliance period to achieve the outcome put forward by the appellant. The appellant has not submitted any other evidence to show that the compliance period set out in the enforcement notice is unreasonable.
111. For those reasons the appeal on ground (g) is dismissed.
112. On the basis of Section 180(1) of the Act the planning permission which has been granted in respect of Appeal A overrides the enforcement notice to the extent that the planning permission authorises what is being enforced against. Thus the rights of the appellant and the occupiers of the site under Article 8 are respected because this planning permission enables them to continue living on the site and the likelihood of them losing their home is very limited.

Sarah Dyer

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Willers KC	Counsel appointed by Philip Brown
Philip Brown	Agent
Les Jefferson	LF Acoustics

FOR THE LOCAL PLANNING AUTHORITY:

Alex Williams KC	Counsel appointed by Nigel Bell (Shared Legal Service)
Adam Walker	Principal Planning Officer
Tony Ward	Senior Planning Officer
Matthew Shirley	Senior Environmental Health Officer
Katie Wild	Waste Management
Christopher Hill	Senior Ecologist
Kerry Whitehouse	Warwickshire County Council (Flood Risk Management)
Ryan Mahal	Warwickshire County Council (Flood Risk Management)

INTERESTED PARTIES:

Sir Jeremy Wright KC	Member of Parliament for Kenilworth & Southam
Jan Matecki	County and District Councillor
Peter Philips	District Councillor
Nils Purser	Hampton on the Hill Resident's Association
Adrian Hopkinson	Church Warden, Norton Lindsey
Clare Hopkinson	Local Resident

DOCUMENTS

Text of oral presentation by Interested Party (Nils Purser)

Agreed Statement of Common Ground

Appeal Decision Ref APP/J0540/C/24/3350446

Appeal A Ref: APP/T3725/W/24/3356326 - Schedule of planning conditions

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings:
 - Site Layout Plan Scale 1:500 (un-numbered),
 - Drawing number 211086-01 Rev A Henley Road Design Package General Arrangement Sheet 1 of 5,
 - Drawing number 211086-01 Rev A Henley Road Design Package Visibility Splays Sheet 2 of 5
 - Drawing number 211086-01 Rev A Henley Road Design Package Visibility Splays Sheet 3 of 5
 - Drawing number 211068-01 Rev A Henley Road Design Package Swept Path Analysis Sheet 4 of 5
 - Drawing number 211068-01 Rev A Henley Road Design Package Swept Path Analysis Sheet 5 of 5
- 2 The site shall not be occupied by any persons other than gypsies or travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites, December 2024, or its equivalent in replacement national policy.
- 3 No more than 24 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968, shall be stationed on the site at any time, (of which no more than 12 shall be a static caravan or mobile home) and the site shall be used for a maximum of 12 pitches in total on the overall area of land.
- 4 No commercial, industrial or business activities, including the storage of materials and goods, shall take place on any part of the site.
- 5 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 an Acoustic, Ventilation, and Overheating Strategy (AVOS) shall have been submitted for the written approval of the local planning authority. Such a strategy shall include confirmation of the glazing specification at the mobile units and the detailed design of the proposed acoustic fence, details of the ventilation arrangements (passive or mechanical), and details of measures to reduce overheating whilst windows are closed in summer months. The strategy 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 AVOS 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 AVOS shall have been approved by the Secretary of State.

iv) The approved AVOS shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved strategy specified in this condition, that strategy shall thereafter be maintained.

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

- 6 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 Surface Water Drainage Scheme (SWDS) for the site based on sustainable drainage principles, shall have been submitted for the written approval of the local planning authority. Such a scheme shall:

1. Provide drawings/plans illustrating the proposed sustainable surface water drainage scheme. 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.
2. Provide detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, and 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.
3. Provide detailed infiltration volume estimate calculations demonstrating appropriate volumes of storage have been provided to adequately drain the site. These calculations should include the following:
 - a) Suitable representation of the proposed drainage scheme, details of design criteria used (e.g. Safety factor and climate change uplift), and justification of such criteria where relevant.
 - b) Evidence should be supported by a suitably labelled plan/schematic (including contributing areas) to allow suitable cross checking of calculations and the proposals.
4. Provide plans such as external levels plans, supporting the exceedance and overland flow routeing provided to date. 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.
 - d) Provide evidence demonstrating the M40 will not be adversely affected as a result of exceedance and overland flow routing.
5. Provide appropriate evidence demonstrating the proposed surface water drainage strategy provides adequate pollution mitigation measures.
6. Provide adequate evidence demonstrating how the infiltration trench located at the frontage of caravan pitches will remain uncompacted (to allow storage of water) whilst also providing access to the caravan pitches.
7. The 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 SWDS 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 SWDS shall have been approved by the Secretary of State.
 - iv) The approved SWDS shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved SWDS specified in this condition, that scheme shall thereafter be maintained.

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

- 7 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iii) below:
- i) Within 3 months of the date of the date of full installation of the SWDS approved in accordance with Condition 6 a SWDS Verification Report by a suitably qualified independent drainage engineer shall have been submitted

for the written approval of the local planning authority. The details of the Verification Report 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.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the SWDS Verification Report 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 SWDS Verification Report shall have been approved by the Secretary of State.

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

- 8 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 Surface Water Drainage Scheme Maintenance Plan (SWDSMP) shall have been submitted for the written approval of the local planning authority. Such SWDSMP shall:

- 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 each relevant surface water 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.

5 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 SWDSMP 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 SWDSMP shall have been approved by the Secretary of State.

iv) The approved SWDSMP have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved maintenance plan specified in this condition, that maintenance plan shall thereafter be remain in use.

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

9 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 drainage plans for the disposal of foul drainage and a timetable for its implementation shall have been submitted for the written approval of the local planning authority.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the foul drainage plans 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 foul drainage plans shall have been approved by the Secretary of State.

iv) The approved foul drainage plans shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved foul drainage plans specified in this condition, foul drainage shall thereafter be maintained.

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

- 10 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 hard and soft landscaping scheme shall have been submitted for the written approval of the local planning authority.

Details of hard landscaping works shall include boundary treatments (specifically, all fences, railings, gates and any other means of enclosure within the site); footpaths and hard surfacing, which shall be made of porous materials, or provision shall be made for direct run-off of water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within 3 months of the date on which the hard and soft landscaping scheme is approved.

The soft landscaping details, shall include planting plans and written specifications, particularly along the west/north-west boundary of the site. The soft landscaping shall be carried out in full accordance with the approved details in the first planting and seeding seasons following the date on which the hard and soft landscaping scheme is approved.

All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the hard and soft landscaping 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 hard and soft landscaping scheme shall have been approved by the Secretary of State.

iv) The approved hard and soft landscaping scheme shall have been carried out and completed in accordance with the approved timetable.

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

- 11 Any tree(s) or shrub(s) which within a period of five years from the completion of the approved hard and soft landscaping scheme, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of the same size and species as that originally planted.
- 12 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and

materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 details of the refuse bin storage area shall have been submitted for the written approval of the local planning authority. These details shall include the provision of hard standing which shall have a solid foundation, be rendered with a smooth continuous finish and be constructed to withstand the laden weight of collection vehicles. The details shall also include a timetable for their implementation.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve details of the refuse bin storage area 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 details of the refuse bin storage area shall have been approved by the Secretary of State.

iv) The approved details of the refuse bin storage area shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved details specified in this condition, the refuse bin storage area and access road for refuse collection vehicles shall thereafter be maintained/retained/remain in use.

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

- 13 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 Biodiversity Net Gain Assessment (BNGA) using The Statutory Biodiversity Metric shall have been submitted for the written approval of the local planning authority. In the event of an onsite loss of biodiversity units:

- An offsite biodiversity offsetting plan shall be submitted concurrently with the BNGA, which shall include:
 - 1 A methodology for the identification of the receptor site for the offsite biodiversity offsetting plan.
 - 2 The location of the receptor site.
 - 3 The arrangements to secure the delivery of the biodiversity offsetting plan at the receptor site, including a timetable of delivery.
 - 4 A habitat management and monitoring plan for the receptor site for a period of no less than 30 years.

5 Arrangements necessary to secure the delivery of the offsite biodiversity offsetting plan

6 Timescale for implementation.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve details of the BNGA and any necessary offsite biodiversity offsetting plan 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 details of the BNGA and any necessary offsite biodiversity offsetting plan shall have been approved by the Secretary of State.

iv) The approved details of the BNGA and any necessary offsite biodiversity offsetting plan shall have been carried out and completed in accordance with the approved timetable.

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

14 The use of the land as a residential caravan site for 12 gypsy/traveller pitches hereby permitted shall cease and all caravans, equipment, hardstanding and materials brought onto the land for the purposes of such use and materials resulting from the demolition shall be removed 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 detailed drawings for the highway works, in general accordance with Drawing Number 211086-01 Rev.A (Sheets 1 to 3) and Drawing Number 211086-01 Rev.A (Sheets 4 and 5) shall have been submitted for the written approval of the local planning authority.

These drawings shall include details (including layout, surfacing, drainage and signage) in respect of the modifications to the vehicular access to the site from the public highway (Henley Road, A4189).

The detailed drawings for the highway works shall be completed in full accordance with the approved details within 3 months of the date on which the detailed drawings for the highway works are approved.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the detailed drawings for the highway works 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 detailed drawings for the highway works shall have been approved by the Secretary of State.

iv) The approved highway works shall have been carried out and completed in accordance with the approved timetable.

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

- 15 Within 3 months of this decision, visibility splays shall be provided to the vehicular access to the site from Henley Road (A4189) with an 'x' distance of 2.4m and 'y' distances to the near edge of the public highway carriageway of no less than 160m, in accordance with Drawing Number 211086-01 (Sheets 1 to 3) and Drawing Number 211086-01 Rev.A (Sheets 4 and 5). No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6m above the level of the public highway carriageway.
- 16 Any gates installed at the entrance to the site for vehicles shall not be hung so as to open to within 16m of the near edge of the public highway carriageway. The gates should be manually operated, should open inwards only and should not block any part of the public highway when opened.
- 17 Within 3 months of this decision, the existing access to the site for vehicles shall be surfaced with a suitable bound material for a distance of no less than 20m as measured from the near edge of the public highway carriageway.