

AGENDA ITEM



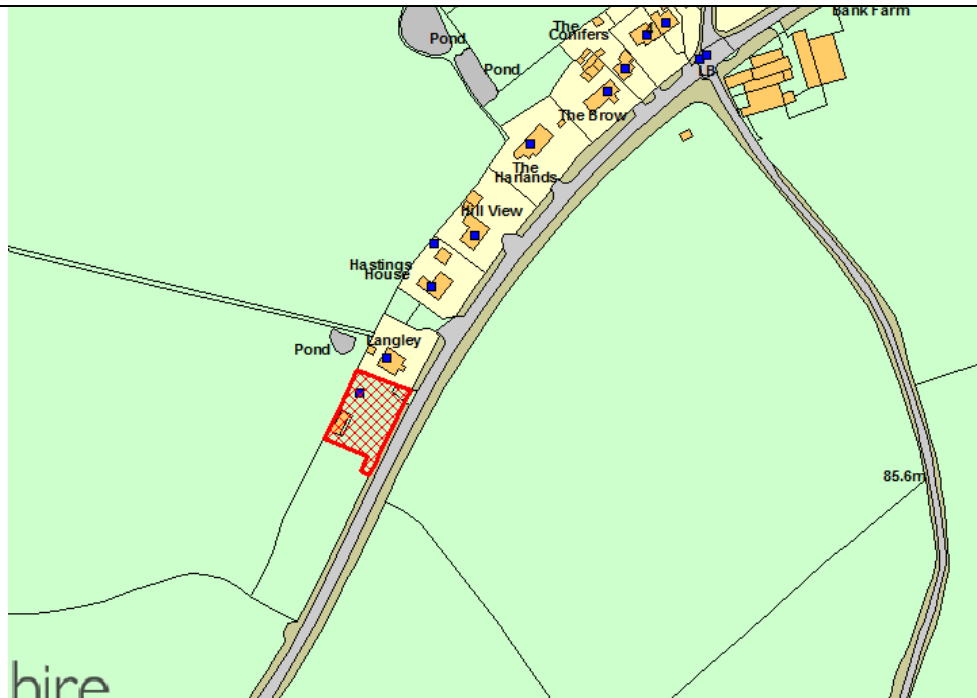
Committee and date

Development Management Report

Responsible Officer: Tim Collard, Service Director – Legal and Governance

Summary of Application

<u>Application Number:</u> 25/00248/FUL	<u>Parish:</u>	Ellesmere Rural
<u>Proposal:</u> Change of Use of agricultural land to residential caravan site for 1 no. traveller family to include access and drainage.		
<u>Site Address:</u> Field Adjoining Langley Sodyllt Bank Ellesmere Shropshire		
<u>Applicant:</u> Mr and Mrs Nathan and Emily Roberts		
<u>Case Officer:</u> Mark Perry	<u>email:</u> mark.perry@shropshire.gov.uk	
<u>Grid Ref:</u> 334312 - 339706		



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks planning permission for the change of use of land for use as a residential caravan site for one gypsy family. The applicant is proposing that the site would accommodate one static caravan, together with the laying of hardstanding and the erection of an amenity building and improvements to the existing access. The proposed amenity building will provide an open plan kitchen, dayroom with a bathroom and washroom. The building will measure 9m wide by 6m deep with an eaves height of 2.3 metres and ridge height of 3.4 metres. The building will be constructed from brick with a grey roof tile. The existing access will be used with improvements made to its width and provision of visibility with the highway.

Amendments

1.2 During the course of considering the application the applicant provided an amended site layout plan in order to address the comments that were initially

made by the Council's Highways Officer. The revised plan showed improvements to the width of the access the location of the gateway and also the provision of greater highway visibility.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposed site is located at the southern end of the largely linear hamlet of Sodyllt Bank. The application site is the northern portion of a small field owned by the applicant. The field is enclosed by mature hedgerows on all sides with an existing gated access at its northern end. This access fronts onto the B5069 which is subject to a 60mph speed limit in this location.

2.2 The field currently has a stable block located on it which is used by the applicant to store equipment in association with his job as a qualified tree surgeon. The applicant is proposing to relocate the stable block to elsewhere in the field and its existing location will be used to accommodate the proposed amenity building. Whilst the submitted plans do show the position of the relocated stable block this falls outside of the current application and will therefore need a separate planning application to be submitted.

2.3 The application site adjoins the curtilage of an existing two storey dwelling. Sodyllt Bank consists of a linear arrangement of individual dwellings of various designs. All are set back behind roadside hedgerows. To the rear of the site and on the opposite side of the B5069 are open agricultural fields.

2.4 Sodyllt Bank is a compact settlement containing around 17 dwellings. The settlement is not defined as either a hub or a cluster in the adopted SAMDev plan and for planning purposes it is an open countryside location. The nearest community cluster settlements are Street Dinas and Dudleston which are both around 2km away. The centre of St Martins is 3.5km to the south which is a Community Hub and contains a mix of services and facilities including a supermarket, public house, school and community facilities

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council have submitted a view contrary to officers based on material planning reasons which cannot reasonably be overcome by negotiation or the imposition of planning conditions. The Service Manager in consultation with the Committee Chair and Vice agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 Parish Council- objects to the proposals outlined in this application for change of use of agricultural land to residential caravan site for 1 no. traveller family to include access and drainage on the B5069 at Sodyllt Bank.

“The Parish Council is fully supportive of a young family wishing to get onto the property ladder and to have their own home, however, this is not an application for an affordable dwelling for local need or to house an agricultural, forestry or other essential countryside worker on this site.

Sodyllt Bank has not been identified as an area for development within the SAMDev plan. It is not a community hub, nor does it fall within a community cluster for development within Ellesmere Rural Parish, being c 1 mile from Dudleston and c 2 miles from St Martins. As stated in the Design and Access Statement the caravan would adjoin an existing cluster of residential dwellings in the hamlet of Sodyllt Bank. There are no other caravans in this location and would as such be at out of keeping with the surrounding environs and will out of context with the character of the area. The site falls outside any development boundary and is classed as an area of open countryside.

The Councillors noted that the Design and Access Statement states that: 'It is acknowledged that the county highway along the site road frontage is subject to Site Location 4 the national speed limit, however actual 85%tile traffic speeds are thought to be closer to 50mph. Visibility splays in accordance with CD109 for a desirable minimum of 50mph (85kph) are 160m and this can be achieved in both a north-easterly and south-westerly direction. The full extent of visibility is 2.4m x 202.5m in a north-easterly direction and 2.4m x 189.4m in a south-westerly direction. It shall be noted that the proposals represent a significant improvement over and above the existing arrangement, where the access is used daily by the applicant.'

As the road in question, the B5069, is a 60mph road, the Parish Council is of the opinion that any sight lines/visibility splays should be measured in accordance with that speed, not a reduced speed of 50mph. The previous application for this site, 24/02022/FUL, was refused in part due to concerns over safe access to the site. The Councillors do not believe that this will change because it is a caravan rather

than a house which is now being applied for.

The Councillors feel that the Ecology report lacks detail. It is stated that: 'Although there are three ponds within 250m of the site, these appeared to be dried up at the time of survey and there appears to be no suitable ponds within 100m of the site nor records of Great Crested Newts within 250m of the site. It has been concluded that the proposals are unlikely to have any impact upon GCN and no further survey work is required.'

No supporting evidence is provided in the report i.e. photographic evidence. The Parish Council would like to see more in depth detail to support the report.

'The site and land within the applicants' control is currently an agricultural field which has a stable block used for storing the applicant's tools and machinery for his job.' The Parish Council notes that that the applicant currently stores tools on this site. However, the Parish Council cannot see that this provides a 'need' for the applicant to live in this location in order to work/carry out his business as a tree surgeon. Whilst the applicants have demonstrated strong local connections to the area of St Martins, there does not appear to be evidence of a strong local connection to Ellesmere Rural"

4.1.2 **Highways** - No objection to the amended plans subject to planning conditions.

4.1.3 **Drainage**- Informatives suggested.

4.1.4 **Ecology** –No objection. The information and plans submitted in association with the application are acceptable. and I am happy with the survey work carried out. Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17. The biodiversity net gain assessment proposes a net gain on site of 0.0653 (11.77%) habitat units and 0.0718 (11.73) hedgerow units.

4.1.5 **Gypsy Liaison Officer**- Confirm the applicant is from the travelling community with a strong local connection to Oswestry and Shropshire.

4.2 **Public Comments**

4.2.1 21 representations have been received. 8 objections and 13 in support of the application commenting on the following:

Objections

- Not sustainable development
- Impact on local infrastructure
- Limited public transport locally
- Drainage concerns
- Concerns about surface water drainage
- Impact on ecology, protected species and protected sites
- Previous applications for houses have been refused here
- Allocated site should be provided for gypsies
- Highway safety
- Impact upon the character and appearance of the area/ landscape
- Pollution
- Loss of agricultural land
- Site is in countryside away from settlements
- Site is outside of any development boundary
- Site is 2 miles from nearest schools
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Support

- Applicant and family has grown up in the area with strong local ties
- Applicant has existing employment connections locally
- Minimal environmental impact
- Applicant meet the criteria
- Previous application for a permanent dwelling have been refused.
- There is a lack of affordable alternatives
- Site has a low risk of flooding
- Family is already based in St Martins
- Short commute to nearby villages
- Applicants are in need of accommodation

5.0 THE MAIN ISSUES

- Policy & Principle of Development
- Layout, Scale and Impact on Landscape
- Impact on Residential Amenity
- Highways
- Ecology
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy Background

- 6.1.1 The site is located on the end of a linear pattern of development which forms the small hamlet of Sodyllt Bank. As noted above the site is located in an area of open countryside for planning purposes. The nearest sizeable settlements that are identified in the adopted SAMDev Plan are St Martins and Dudleston Heath. Both of these settlements are Community Hubs as identified by MD1 of the SAMDev Plan. These settlements already provide a range of services and facilities including retail, school, public transport and community/ social/ recreational facilities.
- 6.1.2 Slightly further afield are the market towns of Ellesmere and Oswestry which are around 10.5km and 8.8 km respectively from the application site. Both settlements have an extensive range of services and facilities and are identified within Policy CS3 of the Core Strategy as a Key Centres.
- 6.1.3 The adopted Local Plan represents the starting point for any decision on planning applications. The adopted Local Plan for Shropshire consists of the Core Strategy; Site Allocations and Management of Development (SAMDev) Plan; and where relevant adopted Neighbourhood Plans. Shropshire Council considers that the adopted Local Plan is up-to date and generally consistent with both the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS).
- 6.1.4 The adopted Local Plan identifies housing guidelines and where appropriate sites are allocated within Market Towns, Key Centres and Community Clusters although the plan does not include any allocations for gypsy and traveller sites within these settlements. The adopted Local Plan does however include policies that establish a positive approach to meeting arising accommodation needs of the gypsy and traveller community.
- 6.1.5 For this proposal, Core Strategy Policies CS5 and CS12; SAMDev Plan Policies MD7a; together with other applicable Core Strategy and SAMDev Plan policies (for example those relating to the natural and historic environment (including CS17 Environmental Networks; MD12 Natural Environment; MD13 Historic Environment) and general development management matters (including CS6 Sustainable Design and Development Principles) provide the local policy context.

6.1.6 The adopted Local Plan is supplemented by the Type and Affordability of Housing Supplementary Planning Document (SPD) adopted in September 2012. The SPD reflects the Gypsy and Traveller evidence and national policy in place at that time. It provides some useful guidance on the interpretation of the criteria in Policy CS12.

6.1.7 The National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) together provide the national policy basis for addressing the accommodation needs of the travelling community and should be taken into account when determining planning applications.

6.1.8 The PPTS 2024 details the Government's overarching aim to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

6.1.9 Gypsy and Travellers have a recognisable culture, protected by law. Annex 1 of the PPTS also defined, for the purposes of planning policy, the definition of gypsies and travellers:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

6.1.10 The PPTS requires that sites are sustainable and it highlights a range of relevant matters, in addition to general development management considerations, that should be taken into account in considering applications for traveller sites. In particular, Policy H sets out specific matters that are relevant and must be taken into account when considering planning applications for traveller sites including need, local provision and availability of alternative sites, together with the personal circumstances of applicants. Policy D relates specifically to considerations in relation to rural exception sites.

6.2 Adopted Local Plan

6.2.1 Core Strategy Policies CS5 and CS12 and SAMDev Plan Policy MD7a together with the NPPF 2024 and PPTS 2024, continue to provide the main policy criteria against which proposals for Gypsy and Traveller sites in countryside must be

considered, having regard to sustainable development and other material considerations.

- 6.2.2 It was anticipated when the Core Strategy was adopted that there would be the provision of new gypsy and traveller sites through allocations in the SAMDev Plan. However, as a result of the conclusions drawn from subsequent evidence, the SAMDev Plan adopted in December 2015 did not include any site allocations.
- 6.2.3 Core Strategy Policy CS5 and SAMDev Plan Policy MD7a control development in the 'countryside' in line with the NPPF. Core Strategy Policy CS5 specifically cross references the provisions of Policy CS12 when identifying forms of development that may be appropriate in the countryside.
- 6.2.4 Policy CS12 provides appropriate criteria for the consideration of situations where there is no identified need requiring site allocation and planning applications for Gypsy and Traveller to come forward. Policy CS12 sets out a positive approach to meeting arising accommodation needs of the gypsy and traveller community as they arise.
- 6.2.5 At paragraph 25(e) of the PPTS it requires that Local Planning Authorities should determine applications from any travellers not just those with local connections, with Policy CS12 making provision for this. Policy CS12 includes detailed criteria applying to general proposals for sites (bullet point 2) and for the consideration of rural exception sites (bullet point 3).
- 6.2.6 Policy CS12 is supportive of suitable Gypsy and Traveller development proposals close to Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters and makes provision for small exception sites (under 5 pitches) in other locations. This approach to development is in line with the requirement in Paragraph 26 of the PPTS, that Local Planning Authorities should very strictly limit new sites in open countryside away from settlements or outside areas allocated in the development plan.
- 6.2.7 Assistance in interpreting CS12 is an appeal decision issued in December 2022 for a site at Five Oak Stables, Coton, near Whitchurch. This appeal decision identified that it is appropriate to consider a Gypsy and Traveller site with reasonable accessibility to services as being close to a settlement. At the time the Inspector considered that this could include the ability to access day to day services and facilities and bus and railway links to towns further afield within a

short drive time.

6.2.8 Additionally, CS12 (bullet point 5) expects:

‘.....that all sites are reasonably accessible to services and facilities, incorporate suitable design and screening, have suitable access and areas for manoeuvring caravans and parking for all essential uses, make provision for essential business uses and recreational facilities as appropriate. All sites must comply with the requirements of policy CS6 and critical infrastructure provision of policy CS9 where appropriate.’

6.3 Legal Context

6.3.1 In addition to the planning policy considerations, there is a range of legislation and case law which identify relevant matters to be taken into account in the consideration of planning applications for a Gypsy and Traveller sites. This includes the Equality Act 2010 which sets out public sector equality duty; the ‘best interests of the child’; and Human Rights Article 8 considerations. The submitted supporting information indicates that the applicants do have a young child.

6.4 Planning History

6.4.1 The applicant has submitted three separate planning applications on the site since 2014. These sought planning permission for the erection of a detached dwelling (application no’s 14/04204/OUT, 15/03574/OUT, 24/02022/FUL). The first of these applications was withdrawn and the latter two refused. The last and most recent of these was refused because of its location being in the open countryside, lack of details provided regarding the access and lack of ecology information.

6.4.2 The applicants are now seeking planning permission for pitch provision on the site rather than a permanent bricks and mortar dwelling; as they have done previously. It is accepted that Gypsies and travellers may move between caravan-based accommodation and bricks and mortar dwellings, for example to reflect health, mobility or other requirements.

6.4.3 The applicant has this time chosen to apply for pitch provision to meet their requirements. Notwithstanding the nature of the previous applications this application must be considered on its own merits, under the remit of Core Strategy CS12. It must be noted that any case made to support a rural traveller exception site on this site would not in itself justify another type of exception dwelling. Any other types of exception dwelling would also need to be considered on its individual merit against the relevant policy criteria at that time.

6.5 Policy Consideration

- 6.5.1 National Policy requires the need for Gypsy and Traveller sites to be assessed by the Local Planning Authority and the deliverable supply of sites identified. This is to determine if a 5-year supply of deliverable sites exists. There is no set methodology for the assessment.
- 6.5.2 Shropshire Council most recently considered need in its Shropshire Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2019 update), which concluded that, taking into account expected turnover on Council pitches, there was no strategic requirement for additional pitch provision.
- 6.5.3 The GTAA (2019 update) recommended that the Council should continue to consider planning applications for appropriate small sites to address any arising needs of Gypsy and Traveller families, where they cannot be accommodated within the existing supply (for instance due to accessibility to school and health facilities; pitch vacancies at the particular time; issues of ethnic mix and compatibility; ability of available sites to accommodate large family groups; etc), should they be forthcoming over the Plan period. This is in line with the Government aspiration to promote more private traveller site provision, as set out in PPTS 2024, and is consistent with the approach in Core Strategy Policy CS12.
- 6.5.4 An update of this evidence, through the preparation of a new GTAA, is currently ongoing. Once completed, the new GTAA will inform future local policy and decision making on planning applications and provide an updated need and pitch supply figure. At this current time the Council accepts that pending the completion of the updated GTAA its position regarding the availability of a 5-year supply is unclear. As such, for decision making purposes it is considered that such a supply cannot currently be demonstrated.
- 6.5.5 Revised wording in paragraph 28 of the PPTS 2024 now directly references the 'tilted balance' set out in paragraph 11(d) of the NPPF 2024. This makes it clear, that in respect of traveller site applications, that an inability to demonstrate a 5-year supply of deliverable traveller sites engages the policy presumption set out paragraph 11(d) of the NPPF 2024.
- 6.5.6 Importantly, this does not change the legal principle in section 38(6) of the Planning and Compulsory Purchase Act 2004. Decisions on planning applications are governed by the adopted Local Plan read as a whole, unless material

considerations indicate otherwise. Rather, paragraph 11(d) requires the decision maker to apply less weight to policies in the adopted Local Plan and more weight to the presumption in favour of sustainable development as a significant material consideration – hence it is commonly referenced as the ‘tilted’ balance.

- 6.5.7 In applying this ‘tilted’ balance, due consideration must also be given to the Equality Act 2010, the ‘best interests of the child’, and Human Rights Article 8 considerations.
- 6.5.8 Policy CS5 states that, “New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt.” Policy MD7a expands upon this, including: “Further to Core Strategy Policy CS5 and CS11, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters.” Further, Core Strategy Policy CS5, in line with national policy in NPPF 2024, lists residential exceptions that may be permitted on appropriate sites in the countryside, referencing accommodation to meet a local need and Policy CS12.
- 6.5.9 The above policies reflect the wider strategy to direct the majority of development to more sustainable locations including Shrewsbury, Market Towns and Key Centres, with development provision in rural areas focused on identified Community Hub and Community Cluster locations to support rural sustainability.
- 6.5.10 Policy CS12 of the Core Strategy specifically addresses the accommodation needs of Gypsies and Travellers and sets out the criteria which are used to assess any planning applications which come forward. Bullet point 3 of CS12, is one of the exceptions for development in countryside locations listed in CS5, where it makes provision for sites for gypsy and travellers in countryside locations. However, as with other types of exception development, evidence is required to demonstrate eligibility.
- 6.5.11 The PPTS 2024 requires that all applications be considered and not just those relating to applicants with a local connection, local connection is however a significant consideration where the proposal is restricted to an exception site. In this instance submission refers to the application having a local connection to North Shropshire due to existing residence with family members in St Martins. The Council’s Gypsy and Traveller Family Liaison officer has confirmed that the family is from the travelling community with a strong connection to Oswestry and Shropshire more widely. This is awarded weight accordingly in the consideration of

the application.

6.6 Proximity to Local Facilities

- 6.6.1 Comments have been received from local residents that there are limited local services and facilities to serve the occupiers. However, the proposed site is only 3.5km from St Martins, 10.5km from Ellesmere and 8.8km from Oswestry this would provide benefits for the applicants by being within close proximity and only a short drive from a variety of services and facilities.
- 6.6.2 The Inspector in the Coton appeal decision highlighted that Core Strategy Policy CS12 supports development of Gypsy and Traveller sites close to specified categories of settlements (including Community Hubs and Community Clusters) and that it is appropriate to consider a site with reasonable accessibility to services as being close to a settlement. It is accepted that given the speed and characteristics of the road between the site and the nearest settlements, it would mean that occupants are unlikely to walk or cycle and therefore would rely on using the car to access services and facilities.
- 6.6.3 In the Coton appeal, the Inspector commented that as Policy CS12 allows new sites outside of settlements, it would be expected that accessibility by non-car modes of transport would be less when compared to developments in towns and villages and that the NPPF recognises that the opportunity to use sustainable modes of transport varies between urban and rural areas.
- 6.6.4 Whilst each case must be considered on its merits, it is notable that the Planning Inspector for the Coton appeal concluded that the development provided 'an appropriate level of accessibility by means other than the car' in a rural context. It was identified that reasonable accessibility could include the ability to access day to day services and facilities and bus and railway links to towns further afield within a short drive time (up to 20 minutes).
- 6.6.5 In comparison it can be noted that the site currently under consideration is a 5 to 10 minute drive from St Martins and Overton, and approximately 15 minute drive to Ellesmere, and Oswestry within a 20 minute drive time.
- 6.6.6 It is therefore considered by Officers that the site location could be considered to meet the 'close' locational requirement of bullet 2 of Core Strategy Policy CS12.

6.7 Layout, Scale and Impact on Landscape

- 6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. This is reiterated in policy MD2 of the SAMDev Plan which indicates the development should contribute and respect the locally distinctive or valued character and existing amenity value.
- 6.7.2 The existing site which contains a stable used by the applicant is association with his business is well maintained.
- 6.7.3 The submitted plans show that the amenity block will be located at the rear of the site and parallel to the rear boundary with the proposed caravan sited between it and the road. The access into the site will be in approximately the same position as the existing field access with a permeable surfaced driveway leading into the parking and turning area.
- 6.7.4 The applicant's initial submission included the retention of the existing roadside hedgerow which already provides a significant level of screening. However, in order to accommodate the concerns raised by the Council's Highways Officer, in terms of visibility, the applicant has now provided plans that remove and relocate the hedgerow behind the required visibility splays. It is accepted by Officers that in the short term the removal of the hedgerow will visually harm the character and appearance of the area with any built development and land use activities being prominent to passing traffic. A condition will be imposed requiring details of the hedgerow to be provided and also that it is planted prior to any caravan being brought onto the site to ensure that it becomes established as soon as possible.
- 6.7.5 The proposed dayroom is relatively modest in size which is not dissimilar to the existing stable block on the site. It is also located in the same position as the stable.
- 6.7.6 Overall, it is considered that this scheme will have little impact on the rural landscape given the scale and design of the proposed development. Whilst there are no other similar sites nearby, the site will be seen within the context of other built development and will not appear isolated or obtrusive. In the long-term, when the new hedgerow becomes established it is considered that the proposed development will not have any detrimental impact upon the character and appearance of the locality or the wider countryside. As such the development is considered by Officers to be in accordance with the NPPF and policies CS5, CS6,

and MD2 of the local plan.

6.8 Impact on Residential Amenity

6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. There are immediate adjoining neighbouring residential properties to the north. There would be a distance of around 27.5m between the dwelling to the north and the proposed amenity block and static caravan. The rest of the site and the driveway is closer to the neighbour so it is expected that there would be some noise associated with vehicle movements and general activity on the site. However, this is not likely to be any different to that which would be reasonably expected from a typical single dwelling. The neighbour is also likely to already experience movements on the site by the applicant visiting the stable block in association with their employment as they visit to collect tools and equipment.

6.8.2 It is therefore considered by Officers that the proposed amenity block and the use of the site for accommodating a static caravan or touring caravan will not result in any overbearing impact, loss of light or overlooking and that the use of the site by a single family and the movement of vehicles will not have a detrimental noise impact on the residential amenities.

6.9 Highways

6.9.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should be designed to be safe and accessible to all. One of the reasons for refusal for the previous planning applications for a single dwelling was on the grounds of the lack of highway details to demonstrate a safe access. The applicant has now provided more comprehensive details concerning the access. As noted above the application has been amended to address the comments made initially by the Council's Highways Officer. Regrettably this has resulted in the loss of the existing frontage hedgerow and its replanting behind the visibility splay.

6.9.2 The amended plans submitted now show that visibility of 2.4m by 189.4m in a southerly direction and 2.4 by 202.5m in a northerly direction can be achieved. The applicant has also amended the width of the access to 4m and now shows the gates set back 12m into the site to allow any vehicle to pull clear of the highway.

6.9.3 The Council's Highways Officer has indicated that the use of the site and its means of access is acceptable subject to the development being carried out in

accordance with the amended plans submitted and appropriate conditions and informatives being imposed.

6.10 Ecology

- 6.10.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environmental and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in section 15 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.
- 6.10.2 Unlike the previous application this one has been submitted with a Ecological Appraisal to establish the presence of any protected species on the site and notes the habitat features on the site. The assessment concluded that there were no signs of badgers within the site or historical records of badgers with 1km of the site. Additionally, there were no signs of any suitable habitats for roosting bats within the site. The survey also concludes that there are no suitable ponds within 100m of the site nor records of great crested newts within 250m. The habitats on the site are also sub-optimal for GCN.
- 6.10.3 No objection has been received from the Council's Ecologist subject to the installation of bat boxes and bird boxes which will enhance the site for wildlife by providing additional roosting and nesting habitat. This is in accordance with the requirement for biodiversity net gains in accordance with policy CS17 and the NPPF. Any external lighting to be installed on the building should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area and therefore a safeguarding condition for external lighting is proposed.

6.11 Drainage

- 6.11.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and

quantity and provide opportunities to enhance biodiversity.

6.11.2 Concerns have been raised from residents regarding the suitability of land for foul and surface water drainage. The applicant has provided details of a modular crate soakaway system. The submitted information confirms that the surface water will outfall to a soakaway at a depth of 2m. It is at this depth where the ground is found to be sandy and has enough porosity for a soakaway system.

6.11.3 The site is not to be connected to a foul water sewer as this is some 2.75 km from the site; making such a connection would be unviable for a single unit of accommodation. It is therefore necessary to look at alternative options for foul drainage following the drainage hierarchy. The option of a treatment plans has been investigated but the option of an outfall to a watercourse is not possible as it is owned by a third party and the applicant has stated that a connection cannot be agreed. As noted above there is also no porosity in the top soil so a drainage field cannot be used. Therefore, the applicant is proposing the installation of a suitably sized cesspool.

6.11.4 Officers recognise that the use of a cesspool is the least favourable option as it relies upon maintenance and emptying. However, the applicant has shown why other more preferable options are not feasible in this location. The installation of a cesspool will be further subject to building regulations approval.

6.11.5 The Council's drainage team have not raised any objection to the application.

6.12 **Planning Balance**

6.12.1 All decisions made by the Council should apply the presumption in favour of sustainable development as required by Paragraph 11 of the NPPF. As noted above the Council is not currently able to demonstrate that it has a 5-year supply of deliverable gypsy and traveller sites. The effect of this is that point d) of paragraph 11 is engaged, otherwise known as the 'tilted balance'. This means that the Council should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.

6.12.2 In this instance the only identified harm as a result of the development will be the loss of the existing hedgerow to facilitate appropriate access visibility. This will have a relatively short-term impact until such time that the new hedgerow becomes established. For this reason, planning conditions are recommended to ensure that

the new hedge is provided at the earliest opportunity. Therefore, in the context of para 11 d), it is considered that there would be no significant harm as a result of the development proposed which outweighs the benefits.

7.0 CONCLUSION

7.1 A number of comments and representations have been received in response to the above application. However, the issues have been carefully considered and the adopted National and Local policies taken into consideration. On balance it is considered that the scheme is appropriate in its scale, design and location providing accommodation for a family from the travelling community who has connections to the local area. The development of the site, subject to appropriate planting will not result in an unreasonable visual impact on the landscape and whilst it is a different form of development to its surrounding it will not be seen as intrusive in this rural location. The proposed access will not result in any highway safety issues or would the use result in any impact on residential amenity or impact on ecology.

7.2 It is considered that there would be no adverse impact of the development which would demonstrably outweigh the benefits of providing this single gypsy traveller plot. The development is therefore considered to be in accordance with the NPPF, policies CS5, CS6, CS12, CS17, CS18, MD2, MD12 and the GTAA and the PPTS

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or

perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

- 9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

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10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework (NPPF)

Planning Policy for Traveller Sites (PPTS)

Core Strategy and SAMDev Plan:

CS3: The Market Towns and Other Key Centres

CS5: Countryside and Green Belt

CS12: Gypsies and Traveller Provision

CS17: Environmental Networks

MD1 Scale and Distribution of Development

MD7a Managing Housing Development in the Countryside

MD12 Natural Environment

RELEVANT PLANNING HISTORY: _

09/00004/FUL Proposed erection of a two bay stable / feed store

GRANT 11th May 2009

14/04204/OUT Outline Application for the erection of 1No detached house (to include access).

WDN 23rd October 2014

15/03574/OUT Outline application (all matters reserved) for the erection of one dwelling to include means of access REFUSE 6th November 2015

24/02022/FUL Erection of one dwelling and detached garage REFUSE 29th August 2024

09/00004/FUL Proposed erection of a two bay stable / feed store

GRANT 11th May 2009

15/03574/OUT Outline application (all matters reserved) for the erection of one dwelling to include means of access REFUSE 6th November 2015

11. Additional Information

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View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SQK2OUTDN0H00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder) - Councillor David Walker

Local Member

Cllr Brian Evans
Cllr Carl Rowley

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The access apron shall be constructed in accordance with Shropshire Councils specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

4. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding great crested newts as provided in Section 6 of the Preliminary Ecological Appraisal (Arbor Vitae, January 2025).

Reason: To ensure the protection of and enhancements for Great Crested Newts, which are European Protected Species.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

6. Notwithstanding the details shown on the submitted landscape plan, prior to the commencement of any development, a detailed scheme for the planting of hedgerows to the front and sides of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- A list of all plant species to be used, ensuring they are native and appropriate for the local environment.
- The proposed density and spacing of the plants.
- The approved hedgerow planting scheme shall be implemented in full prior to any caravan being brought onto the site.

Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment of a reasonable standard of landscape in accordance with the approved scheme.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

7. Prior to first occupation of the site, the following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design),

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house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 192 of the NPPF.

8. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls of the amenity building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. There shall be no more than one pitch on the site and on each pitch hereby approved no more than 2 caravans shall be stationed at any time, of which only 1 caravan shall be a mobile home/static caravan. The mobile homes/static caravan shall be positioned in accordance with the details as shown on the approved plans and nowhere else on the site.

Reason: To protect the amenities of the area.

10. The access layout, gate position, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Access Arrangement Plan Drawing No. LG-AA-401 Rev B prior to the travellers pitch being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

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11. The residential element of the development hereby approved shall not be occupied by any persons other than Gypsies and Travellers, defined as, Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: To ensure appropriate accommodation is available.

12. The visibility splays shown on Access Arrangement Plan Drawing No. LG-AA-401 Rev B shall be set out in accordance with the splay lines detailed and dimensioned. Any retained hedge, or replacement hedge planting should be at least 1 metre behind the visibility splay lines. The visibility splays shall be fully implemented in accordance with the approved details prior to the travellers pitch being occupied and shall thereafter be maintained at all times free from any obstruction.

Reason: To provide a measure of visibility from the access in both directions along the highway in the interests of highway safety

13. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 12.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety

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