



Committee and date

South Planning Committee

6 June 2017

Development Management Report

Responsible Officer: Tim Rogers

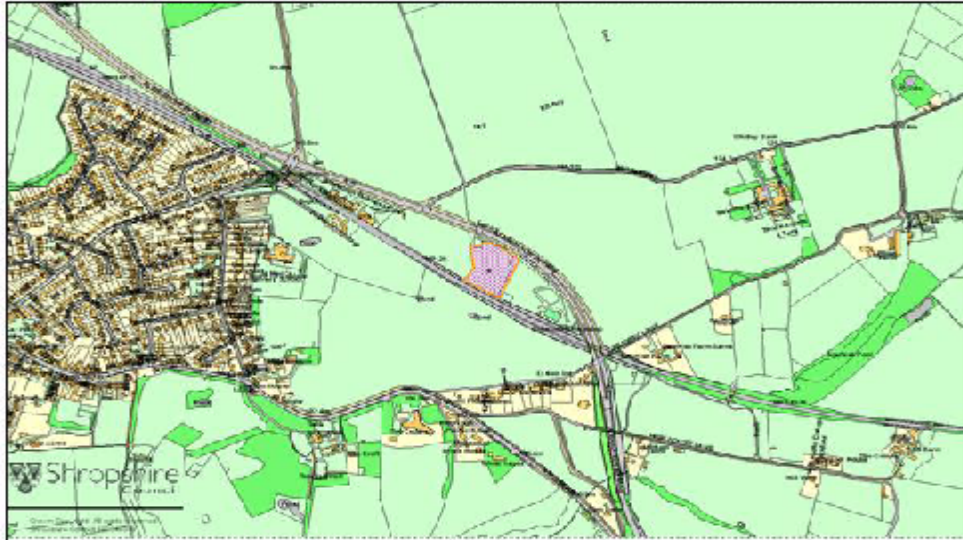
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Summary of Application

<u>Application Number:</u> 16/01925/FUL	<u>Parish:</u>	Albrighton
<u>Proposal:</u> Application under section 73A of the Town and Country Planning Act 1990 for change of use of land to gypsy traveller site to include the stationing of three mobile homes for residential purposes and three touring caravans; erection of utility/day room and formation of hardstanding		
<u>Site Address:</u> Land To The South Of Albrighton Bypass Albrighton Shropshire		
<u>Applicant:</u> Gaskin		
<u>Case Officer:</u> Richard Fortune	<u>email:</u> planningdmse@shropshire.gov.uk	

Grid Ref: 382294 - 304304

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

REPORT

1.0 THE PROPOSAL

- 1.1 This part retrospective application relates to the use of a parcel of agricultural land as a gypsy traveller site. The amended site layout plan, received on 9th February 2017 in response to comments made by the Council's Public Protection Team about noise issues from the road and railway, show the site divided into three plots, sharing a single access onto the Albrighton by-pass. The site area is stated on the application form to be 10,086 sq. metres.
- 1.2 At the site entrance, an access road would run parallel along the inside of the hedgerow boundary to the by-pass to give access to land to the east of the caravan site. From the shared manoeuvring area an access road running parallel to the western site boundary hedge would serve the three plots, enclosed by close boarded fencing. The western part of each plot would be a paddock area, through which an access drive, bounded by post and rail fencing, would lead to a further enclosed area where there would be hardstanding and grassed areas. New hedgerow and tree planting would supplement the fencing which demarcates the two areas, and the planting would continue along sections of the northern and southern plots boundaries. In two of the plots an existing small building/structure is shown, with a container on the southernmost plot closest to the railway. An indication is given within each plot of where the touring caravan would be stationed, where the mobile home/static caravan would be stationed and the position of their individual utility/day room buildings.
- 1.3 The utility/day room buildings would be single storey buildings with dual pitched roofs, with rendered walls and interlocking clay tiles as the roof covering. They would have a simple rectangular plan and would measure some 6.5 metres by 3.414 metres. They would each contain a bathroom and a day room with kitchen fittings. The agent has explained that the purpose of the utility/day rooms is to enable the occupants of the caravans to minimise the recognised hazards associated with cooking and fire in the close confines of caravans and provide facilities for washing and bathing and the maintenance of basic hygiene. A package treatment plant would be used for the disposal of foul sewage and surface water would be disposed of to a sustainable drainage system.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated within the Green Belt, to the east of the Albrighton village development boundary and inset to the Green Belt. It is the central section of a parcel of agricultural land bounded by the Albrighton by-pass to the north and east, the railway line to the south-west and Albrighton Business Park to the north-west. The agricultural land to the south-east includes a telecommunications mast installation. There is an established hedgerow along the boundary with the by-pass and the site is relatively level.

2.2 The land on the opposite side (south of) the railway line is safeguarded land excluded from the Green Belt to meet the long term development needs of the village.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council recommendation is for refusal on Green Belt grounds. The Planning Services Manager considers that this application raises material planning considerations that warrant consideration by the South Planning Committee.

4.0 Community Representations

- Consultee Comments

Where consultees have made more than one set of comments the latest comments are listed first to show where earlier concerns have been overcome.

4.1 Albrighton Parish Council – Object:
Object on the grounds that it was development within the green belt and because access to the proposed site is on a fast road on a dangerous bend at the end of a dual carriageway. The site is already occupied by caravans despite no planning permission being granted and considerable development has already taken place. It has the capacity for considerably more than the number suggested in the retrospective application and it could become a major development within the green belt almost by default.

4.2 SC Highways Development Control – No Objection:

This area of land is a field situated on the south side of the Albrighton by-pass between the A41 trunk road and the Wolverhampton to Shrewsbury railway line. It is the primary route between Chester, north Shropshire and Wolverhampton. The by-pass from the east is just exiting from a small section of dual-carriageway governed by a 70mph speed limit coming into the 60mph speed limit past the site access.

The proposal is for the siting of 3 mobile homes with individual utility buildings and 3 touring caravans. It is proposed that these will all use an existing access onto the A41 which appears to be or has been used as a field access and access to a temporary farm shop.

From the west, there is a dedicated turning lane into the site.

Should the building of this site go ahead, there is a likelihood of pedestrian movement along the verge and there should be some consideration as to the provision of a footpath alongside the road to link to the nearest settlement with facilities.

The field is bounded on the south side by the Shrewsbury to Wolverhampton railway line; the Planning Officer may wish to consult with Network Rail regarding the proximity of the railway to a new community.

Conditions**Visibility Splays**

Notwithstanding the provisions of the Town and Country General Development Order 2015 (or any order revoking or re-enacting that order with or without modification), any fence or other means of enclosure at the road junction/access shall be set back to the approved sight lines and those areas shall thereafter be kept free of any obstruction at all times.

Gates

Any gates provided to close the proposed access shall be set a minimum distance of 15 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

Informatives:**Mud on highway**

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team.

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

4.3 SC Drainage – Comment:

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to

soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

- 4.4 SC Ecology (09/12/16) – No Objection:
An ecological assessment was carried out on this site in September 2016 by Greenscape Environmental.

Habitats

Habitats on the site consist of gravel, hardstanding, bare ground, amenity grassland, sheds and caravans.

‘The site is set behind a security fence with hedgerows and is also fenced on the grounds itself. Concreted kickboards have been placed under the fencing panels.’

The ‘adjacent field’ (presumably this refers to the area to the south-east) contains a large amount of ruderal vegetation and discarded items. In addition. ‘the track along the outside of the site leading to this area (separated by the fence) has significant growths of Japanese Knotweed however this cannot be controlled by the developer as it is not on his site.’

The railway line, adjacent to the south-east, forms an environmental network corridor and should be protected by an appropriate planting buffer and not illuminated.

Landscaping should include tree, shrub and hedgerow planting using native species of local provenance.

Herptiles

There is a pond approximately 70m to the south of the site and another approximately 100m to the south-west. Habitat Suitability Index assessments were carried out on these ponds and both were calculated as having Poor suitability to support great crested newts. Therefore no further survey work is required.

The ‘adjacent field’ (presumably this refers to the area to the south-east) contains a large amount of ruderal vegetation and discarded items and therefore was considered suitable to support reptiles but a hand search did not reveal any evidence of reptiles.

Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.

Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape.

Bats

There are no potential roosting opportunities on the site.

Bats are likely to use the site boundaries to forage and commute.

New lighting on the site should be sensitive to bats and follow the Bat Conservation Trust's guidance.

Birds

The development will not involve the removal of any hedgerow or other nesting habitat.

The site could be enhanced through the erection of bird boxes.

Other species

No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

Conditions and informatives

The following conditions and an informative are recommended for inclusion on the decision notice:

Landscaping Plan condition

No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

Lighting Plan condition

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and

thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting* (2014).

Reason: To minimise disturbance to bats, which are European Protected Species.

General site informative for wildlife protection

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

4.4.1 SC Ecology (26/05/16) – Comment:

Recommendation: Additional information is required in relation to great crested newts and reptiles. In the absence of this additional information (detailed below) I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

Great crested newts

There is a pond approximately 60m to the south of this site and another 100m to the south-west. These ponds should be assessed in terms of their broad suitability to support great crested newts by carrying out a Habitat Suitability Index (HSI) assessment. If any pond is calculated as being suitable then it may be necessary to carry out a presence/absence survey for great crested newts which is made up of 4 survey visits between mid-March and mid-June with at least 2 visits between mid-April and mid-May. Three survey methods (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If great crested newts are discovered then it may be necessary to carry out a population size class estimate which involves an additional 2 visits in the specified time period.

The ecologist should make recommendations as to whether a European Protected Species Licence with respect to great crested newts would be necessary and the need for a mitigation scheme and/or precautionary method statement.

The great crested newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001) and should be submitted with any necessary mitigation scheme and method statement to the Local Planning Authority in support of the planning

application.

Reptiles

The site appears to contain suitable features for widespread reptiles. An assessment should be made of the potential for reptiles to be present and in areas of moderate and high potential a reptile survey should be carried out by an experienced ecologist using the methods set out in the Herpetofauna Workers Manual (JNCC, 2003). Where reptiles are confirmed to be present, a mitigation strategy and precautionary method statement should be provided in support of the planning application.

Finding an ecological consultant

A list of ecological consultants who work in Shropshire is available on request. This list is by no means exhaustive and contains information on other ways of finding a consultant. Shropshire Council cannot recommend any consultant or guarantee their work. You should always check that the ecologist you select has the relevant protected species survey licences issued by Natural England (in this case, great crested newts). Without a valid survey licence, the report provided by an ecologist may not be considered adequate by the Local Planning Authority.

4.5 SC Public Protection (08/02/17) – No Objection:

Having considered the revised site layout plan provided and photographs of the existing boundary treatments, there are no objections to the proposals from a noise perspective, no noise assessment is required and there are no conditions to recommend.

4.5.1 SC Public Protection (27/01/17) – Comment:

If the lived in structures (day rooms and mobile homes) are moved as far from the road and rail as possible (slight alterations to the site plan) I would consider removing the need for a noise assessment. If they can provide photos of the site boundary treatment existing to the facade of the road and also rail this may allow noise assessment to be removed as a necessity (depending on the fabric of the boundary treatment). The road is a 60mph stretch of road and has the potential for significant noise which is a concern. The rail has potential to impact as well and a noise assessment is generally suitable in this type of setting.

4.5.2 SC Public Protection (02/06/16) – Comment:

The application is bringing residential receptors into close proximity with existing noise sources namely the railway line and Albrighton bypass. As a result a noise assessment is necessary to ensure that residents are not subjected to noise that would have a detrimental impact on their health.

As a result a noise assessment is required prior to occupation of the site to ensure that a good noise environment is provided for future residents. I would therefore recommend that the following condition is placed on any planning decision granted:

Prior to occupation of the site a noise assessment shall be submitted to the local planning authority for approval in writing. It must specify any mitigation measures required in order to ensure that a good level of internal and external amenity is provide to future residents. All mitigation shall be in place prior to occupation of the

site. Reason: to protect the health and wellbeing of future residents.

4.6 Network Rail – No objection in principle:

- If not already in place, the developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing/wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

- Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

- All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply: Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground.

Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure.

Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

- The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

- It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

- All excavations/earthworks carried out in the vicinity of Network Rail's property/structures must be designed and executed such that no interference with the integrity of that property/structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to the commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works

shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

- The proposal must not interfere with or obscure any signals that may be in the area.
- The design and siting of buildings should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway.
- It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.
- Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall onto Network Rail land.
- Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.
- Where new roads, turning spaces or parking areas are to be situated adjacent to the railway, which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing.
- Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

In order to mitigate the risks above, the Developer should contact Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

-Public Comments

- 4.7 Site notice displayed 24/05/16; Press Notice published 14/06/16 advertising the application as a departure. No responses have been received to this publicity.

5.0 THE MAIN ISSUES

Principle of development – Green Belt
 Visual impact and landscaping
 Highway Safety
 Ecology
 Residential Amenity
 Drainage
 The Planning Balance

6.0 OFFICER APPRAISAL

6.1 Principle of development – Green Belt

6.1.1 The planning policy context for this development is that the site falls within the Green Belt. The National Planning Policy Framework advises at paragraph 87 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It continues at paragraph 88 stating:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist until the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

The change of use and structures to which this application relates constitute inappropriate development in the Green Belt, as confirmed by the DCLG ‘Planning policy for traveller sites’, August 2015, Policy E which relates specifically to Traveller Sites in Green Belt. It states at paragraph 16 that:

“Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.”

6.1.2 At Policy H (Decision taking) of the above DCLG policy document a number of issues are set out as relevant matters when considering applications for traveller sites. These are set out in paragraph 24 as:

- a) The existing level of local provision and need for sites
- b) The availability (or lack) of alternative accommodation for the applicants
- c) Other personal circumstances of the applicant
- d) That the locally specific criteria to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) That they should determine applications for sites from any travellers and not just those with local connections.

However it does re-iterate paragraph 16 quoted in 6.1.1 above with respect to the Green Belt.

6.1.3 There is a requirement under paragraph 25 of the DCLG policy for local planning authorities to very strictly limit new traveller sites in open countryside that is away from existing settlements or outside areas allocated in the development plan. It continues that sites in rural areas should respect the scale of, and not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure. Paragraph 26 states when considering applications local planning authorities should attach weight to the following matters:

- a) Effective use of previously developed (brownfield), untidy or derelict land
- b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

It continues at paragraph 27 by stating that where a local planning authority is unable to demonstrate an up-to-date 5 year supply of sites, that this would be a significant material consideration when considering applications for the grant of temporary planning permission. It clarifies however that there are some exceptions to this statement, which include where the proposal is on land designated as Green Belt.

6.1.4 Shropshire Core Strategy policy CS5 relates to the Countryside and Green Belt and seeks to restrict housing to housing to house agricultural, forestry or other essential countryside workers and other affordable housing/accommodation to meet a local need in accordance with national planning policies and policies CS11 and CS12 (See 6.1.5 below). It advises that there will be additional controls over development in the Green Belt in line with Government Guidance. SAMDev Plan policy MD6 also relates to the Green Belt, requiring it to be demonstrated that proposals do not conflict with the purposes of the Green Belt.

6.1.5 Shropshire Core Strategy Policy CS12 relates to Gypsy and Traveller provision and pre-dates both the National Planning Policy Framework (NPPF) and the August 2015 DCLG Planning policy for traveller sites. It stated that sites would be allocated to meet identified needs and would be supportive of suitable development proposals close to Shrewsbury, the Market Towns, and Community Hubs and clusters. The policy also indicates that suitable development proposals for small exception sites (under 5 pitches), where a strong local connection is demonstrated, may be acceptable under policy CS5 (Countryside and Green Belt). It was anticipated when the Core Strategy was adopted that the provision of new sites would be largely made in the Site Allocations and Management of Development (SAMDev) Plan. However, in the event the SAMDev Plan adopted in December 2015 does not include site allocations for this purpose. The matter was considered by the SAMDev Inspector in her October 2015 report at paragraphs 71 to 79 (Issue 3). It was the Inspector's conclusion that the Council will be able to demonstrate a five year supply of pitches and sufficient supply for the remainder of the plan

period, having regard to the expected turnover of pitches on Council owned sites. She stated that the evidence confirms that it is not necessary for the SAMDev Plan to make further provision to meet the accommodation needs of the gypsy and traveller community and travelling show persons.

- 6.1.6 The latest assessment of the need for gypsy and traveller pitches in Shropshire is dated 3rd November 2016. It summarises the need for gypsy and traveller pitches, transit pitches and travelling show person's plots in Shropshire as assessed in the Gypsy and Traveller Accommodation Assessment 2014 (updated January 2015), with the SAMDev Plan Inspector's Report (20th October 2015) providing additional clarification of baseline figures.

With respect to Residential Gypsy and traveller pitches this data shows an assessed need to 2019 of 165 pitches.

The current need (excluding turnover) = assessed need – assessed and additional supply since January 2015 = 11 Pitches.

The current need (including turnover) = assessed need – assessed and additional supply since January 2015 = - 24 pitches.

At the time of writing this report the Council has commissioned a Gypsy and Traveller Accommodation Assessment (GTAA) review, which will feed into the partial review of the SAMDev Plan to roll that document forward until 2036. A Green Belt review is also underway at the present time as part of the partial review of the SAMDev Plan.

- 6.1.7 The agent was asked if there are any factors which their client wishes to put forward as 'very special circumstances' in support of this planning application. Details were also sought in response to the queries set out below to assist in assessing the application:

- If gypsy status is being claimed, please provide details of family background and travel for work purposes over the last 10 years. If no travelling for work purposes has taken place over the last 2 years, or it is proposed to give up the travelling lifestyle, please explain why?

- The application form provides only the surname of the applicant. Who will be living on the site? Please give names (if known) and family relationships. If more than one family (parent(s) and children) intend to occupy the site, how long have they travelled together and how important is it that they stay together? Do they want to be treated as a single group, for the purposes of the application, or as individual families?

- The site plan shows the site divided into three plots, with each containing one static and one touring caravan. Would this be the maximum number of caravans on the site?

- Is any business use of the site proposed? If so, please provide details. What is the purpose of the existing container shown in the southern most plot on the proposed site plan?

- Please explain the need for a site, and the reasons for choosing this site.

- What efforts have been made to find an alternative site, e.g. approach to local planning authority areas such as Shropshire Council, South Staffordshire Council,

Telford and Wrekin Council housing and planning departments including applications for a pitch on a Local Authority sites, estate agents, land owners, other gypsies and travellers.

- Do any of the residents have any health issues which affect their day to day lives or educational needs which they would like the council to take into account? Written evidence in support of these matters may be submitted but correspondents should be advised that these may become public documents and should be written with this in mind.

- Is the permission sought on a temporary or permanent basis? If temporary how long for and why?

6.1.8 The agent replied (19th December 2016) setting out the personal circumstances of the occupants of the site, but requires this information to be kept CONFIDENTIAL and not be published in the public domain. Elements of this report therefore need to be redacted in this version that is made public.

6.1.9

6.1.10

6.1.11

6.1.12 The Council's Gypsy Liaison Officer has verified that the applicant and the occupiers of the site are all Romany Gypsies. He has knowledge of the family from when he worked for Telford and Wrekin Council. The brothers' parents live on a site in Telford. He further advises:

Shropshire Council has no vacant sites that could accommodate these families. The brothers' businesses and associated vehicles do require pitches larger than normal.

Telford and Wrekin do not have any pitches available.

6.1.13 The GTAA for Telford and Wrekin and that for South Staffs both show that there are shortfalls in site provision to be addressed.

The GTAA for South Staffs is dated January 2014 identifies a shortfall of 11 gypsy and traveller pitches over the period 2013/14 to 2017/18 and that, over the longer term for the Plan Period 2013./14 to 2027/28 that a total of 33 additional pitches are required.

The June 2016 Telford and Wrekin GTAA has identified a need for 32 gypsy and traveller pitches for the period 2014 to 2031. (The Telford and Wrekin Local Plan is currently at examination).

While taken on their own the latest Shropshire Council figures, when turnover is taken into account, indicate that there is no shortfall in provision in Shropshire, account needs to be taken of the geography of the Albrighton area, effectively bounded to the east, west and north by Authorities with a shortfall in provision, and the information provided by the Council's Gypsy Liaison Officer to the effect that there are no pitches available at present on Council operated sites to accommodate the three brothers and their families, who wish to live together as an extended family group.

- 6.1.14 The above national planning policy and Development Policy context demonstrates that any shortfall in Shropshire to providing a 5 year supply of deliverable pitches, the condition of the land and the personal circumstances of the adults are unlikely to amount to very special circumstances sufficient to justify inappropriate development in the Green Belt. The weight to be accorded to the best interests of the child in addition to any other positive attributes that the site has for the use sought is considered in the Planning Balance section of the report below.
- 6.1.15 In addition to the issue of harm to the Green Belt caused by the inappropriateness of the proposed use and associated built development, consideration must also be given to whether a key characteristic of Green Belt – openness – would be harmed. Openness is both a feature of the quantum of development and the visual impact of the proposal. (Court of Appeal judgement in John Turner v SSCLG and East Dorset Council [2016] EWCA Civ 466). In this case the structures comprising of three static caravans, three facilities buildings, three touring caravans, storage structures and parked vehicles would, by their very presence, impact upon openness in comparison with previous agricultural use of the land. However all these items would be contained within large level plots and the visual impact would be limited due to the extent of the hedgerows surrounding the site and the proposed landscaping. The harm to openness is considered to be moderate but not significant in this case, but it is a matter to which weight must be attached. This factor is also included in the Planning Balance below. It is considered that a decision to permit this application would not need to be referred to the Secretary of State as a departure with reference to the relevant guidance.

6.2 Visual Impact and landscaping

- 6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev policy MD2 requires development to respect locally distinctive or valued character and existing amenity value. The utility/day room buildings would be traditional small, dual pitched roof buildings some 6.5 metres long by 3.4 metres wide with rendered walls and interlocking clay roof tiles that would be in keeping with building styles in the locality. The pitches have been enclosed and subdivided from each other by close boarded panel fencing with concrete posts and gravel boards. Within the plots post and rail fencing would separate the access and hardstanding areas from grassed areas, with new tree planting and hedge planting enclosing two sides of the grassed areas closest to the accommodation area. With there being established, tall hedgerows on the north-eastern boundary with the A41 road and along the western site boundary, and existing tree planting adjacent to the railway line to the south, and the site being level, the pitches and structures, caravans and associated vehicles on it are not unduly conspicuous in the immediate landscape or the wider landscape setting. It is considered that the development does not detract from the visual amenity and rural character of the area.

6.3 Highway Safety

- 6.3.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:
- “- improvements can be undertaken within the transport network that cost

effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and pertinent matters to consider include ensuring the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.

6.3.2 SC Highways Development Control have raised no objections on highway safety grounds, commenting that the development utilises an existing access onto the A41 which, from the west, has a dedicated turning lane into the site. The visibility splays available for emerging vehicles over the highway verge is commensurate with 60/70mph speed limit on the road (There is a short section of dual carriageway close by).

6.3.3 The comment by SC highways Development Control that some consideration should be given to a footpath alongside the road to link to the nearest settlement with facilities is noted. However, it is not considered that a requirement for such a path, while it would improve the sustainability of the location to encourage non-car modes of travel to reach facilities in Albrighton village, would be proportionate to a three pitch gypsy site. There are considered to be no highway safety or accessibility reasons that would justify a refusal of this application.

6.4 Ecology

6.4.1 Core Strategy policies CS6 and CS17 seeks to ensure developments do not have an adverse impact upon protected species, and accords with the obligations under national legislation. SAMDev policies MD2 and MD12 supplement these policies. Core Strategy policies CS6 and CS17 also seek to protect and enhance those features which contribute to local character, which includes trees in this locality.

6.4.2 An Ecological Appraisal was requested and provided in the form of a Phase 1 Environmental Appraisal by Greenspace Environmental Ltd, dated November 2016 (ref 1687 001R). This report states that the survey work carried out has established that the current use of the site has no negative impact on protected species or habitats. It concludes that no phase 2 surveys are necessary in this case.

6.4.3 The Council's Ecology Team is content with the findings and recommendations of the Environmental Appraisal.

6.5 Residential Amenity

6.5.1 Core Strategy policy CS6 seeks to safeguard residential amenity. The Council's Public Protection team were initially concerned about the impact of noise from road traffic and passing trains on the occupants of the caravans. In response some revisions were made to the site layout and details supplied of the existing site boundary treatments. Public Protection request for a noise assessment has been withdrawn on the basis of this information and raise no objection to the

development.

- 6.5.2 The application site is not bordered by any existing residential properties. It is considered that the development has no impact upon the residential amenities of the locality.

6.6 Drainage

- 6.6.1 Sewerage (Package treatment plant) has already been installed on site (As referenced in the phase 1 Environmental Appraisal). Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. The Council's Drainage Team have assessed the proposal and are content that the drainage matters could be addressed through an informative on any planning permission that is issued, given the land area available.

6.7 The Panning Balance

- 6.7.1 There is a presumption against inappropriate development in the Green Belt. The use of the land as a gypsy traveller site is inappropriate development in the Green Belt and permission should only be granted if very special circumstances are identified. The NPPF advises at paragraph 88 that very special circumstances will not exist unless the harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. A key characteristic of Green Belts is openness, to which there would be moderate harm by the presence of structures and caravans on this land, as discussed at 6.1.15 above. Substantial weight must therefore be attached to the harm to the Green Belt caused by the development.
- 6.7.2 There are a number of other factors to weigh in the planning balance against this harm to the Green Belt, which are considered to be material planning considerations, and these are set out below:
- 6.7.3 It has been established that there is currently no provision available on existing Shropshire Council sites to accommodate this extended family group and adjacent authorities in their GTAA assessments acknowledge under provision of sites. This must be tempered by paragraph 27 of the DCLG Planning Policy for traveller sites (DCLG 2015) which states that even if a LPA is not able to demonstrate a 5 year supply (Shropshire Council's position is that it has sufficient supply if turnover is taken into account), the absence of such a supply is not a significant material consideration where a proposal is within the Green Belt.
- 6.7.4 While it is not for individual planning applications to review Green Belt boundaries (Policy E DCLG 2015) the observation can be made that, with regard to the five purposes of the Green Belt set out in paragraph 80 of the NPPF, the site is adjacent to safeguarded land at Albrighton in the adopted SAMDev Plan and the A41 road could be considered a stronger, defensible boundary.
- 6.7.5 The scale of the site respects the scale and not dominate the nearest settled community and does not impact on local infrastructure (Para. 25 of DCLG 2015).

- 6.7.6 The site does not detract from the visual amenities and rural character of the area and does not harm ecological interests.
- 6.7.7 The site has a safe access onto an A road for the type and amount of traffic it generates.
- 6.7.8 Were it not for the Green Belt issue, the site location adjacent to a Shropshire Core Strategy policy CS3 (The Market Towns and other Key Centres) settlement, would accord with Core Strategy policy CS12.
- 6.7.9 The applicant's family and occupiers of the pitches have been confirmed by the Council's Gypsy Liaison Officer to be Romany Gypsies and it is important to them to live as part of an extended family group, although Policy E, paragraph 16 of DCLG 2015 advises that personal circumstances are unlikely to clearly outweigh the harm to the Green Belt.
- 6.7.10 The site is close to village facilities which include a large range of shops, health facilities and a primary school. Paragraph 13 of DCLG 2015 states that LPAs should ensure traveller sites are sustainable economically, socially and environmentally and should ensure that, among other matters which are listed, site locations ensure that children can attend school on a regular basis.
- 6.7.11 Some weight must be attached to the positive attributes of the site identified in paragraphs 6.7.3 to 6.7.10 above. Were there not to be children on this site it is considered that, in the light of the contents of the DCLG Planning Policy for Gypsy Sites August 2015 (DCLG 2015), the planning balance in this case would be such that the positive attributes identified above would not equate to very special circumstances to outweigh the harm to the Green Belt.
- 6.7.12 However paragraph 13 of DCLG 2015 references the need to ensure that children can attend school on a regular basis. The contents of Policy E of DCLG 2015 relating to Traveller Sites in Green Belt is prefaced by "Subject to the best interests of the child..." On this site there are children, including a number at or below primary school age. The occupiers of the caravans have stressed the importance to them of having a settled base so that their younger children in particular can have the education opportunities that they and their older children have missed out on through not having a permanent pitch. (They advise that the children attending the village primary school are making good progress and are well settled and accepted as part of the community). Were the application to be refused and enforcement action taken, the families are likely to return to living on the road and disruption to the education of the children (And their health care). It is considered that the needs of the children are a primary material consideration relevant to the determination of this application. On balance this consideration, coupled with the other positive attributes of the site identified, cumulatively are considered to amount to very special circumstances of sufficient to outweigh the harm to the Green Belt in this case.
- 6.7.13 Due to the age range of the children in the context of education, the well screened nature of the site not adversely impacting upon the countryside surroundings and the impact upon the openness of the Green Belt not being significant and being

partly mitigated by the limited visual impact, it is not considered that a temporary permission is needed to reduce the harm to the Green Belt in this case. Planning conditions would be necessary on any approval limiting the occupation of the site to gypsies and to the persons named in the supporting information, due to the site only being acceptable because of the identity of the occupiers and their identified needs.

7.0 CONCLUSION

7.1 The personal circumstances of the occupiers, particularly having regard to the educational needs of the children and the positive attributes of the site in terms of not impacting on residential amenity of existing properties; the proximity of services for the occupants (Including education for the children); good access onto an A road; the limited visual impact due to topography and surrounding land uses; the lack of available pitches on authorised traveller sites in Shropshire; the under provision of Gypsy sites in Telford and Wrekin and South Staffs, and the applicant/occupiers being Romany Gypsies (Confirmed by the Council's Gypsy Liaison Officer) are factors which, cumulatively, constitute very special circumstances of sufficient weight to justify inappropriate development in the Green Belt.

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, i.e. written representations, hearing or inquiry.
- The decision may be 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 made a) promptly and b) in any event not later than six weeks after the grounds to make the claim 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 gives 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 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance
Planning policy for traveller sites August 2015 DCLG

Shropshire Core Strategy:
CS3 Market Towns and other Key Centres
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS12 Gypsy and Traveller Provision
CS17 Environmental Networks
CS18 Sustainable Water Management

SAMDev Plan:
MD2 Sustainable Design
MD6 Green Belt
MD12 The Natural Environment
S1 Albrighton Area

SPD on the Type and Affordability of Housing
Albrighton Neighbourhood Plan 'Light'

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=O6M4QVTDM3300>

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

Ecological Appraisal

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Malcolm Pate

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (DCLG 2015) or any document replacing or updating it.

Reason: To define the permission for the avoidance of doubt.

2. The residential occupation of the land hereby permitted shall be carried on by Tony Gaskin and Lisa Gaskin; Joe Gaskin and Rosie Gaskin; and John Gaskin and Lisa Gaskin, and their resident dependants, and shall be for a limited period being the period during which the land is occupied by them.

Reason: Planning permission has only been given because of the personal circumstances of the occupiers and their identified needs.

3. When the land ceases to be occupied by the persons named in condition 2 above the use hereby be permitted and all mobile homes, static and touring caravans, portable structures, materials and equipment stored on the land shall be removed from the land within one month of the cessation date.

Reason: Planning permission has only been given because of the personal circumstances of the occupiers and their identified needs and in order to restore the openness of the Green Belt.

4. Prior to the cessation of the use details of a scheme to restore the land to its condition before development took place (including the removal of buildings) shall be submitted to and approved in writing by the local planning authority. The details shall include a timescale for the carrying out of the scheme after cessation of the use hereby permitted pursuant to condition 3 above. The restoration works shall be carried out in accordance with the approved details including the approved timescale.

Reason: Planning permission has only been given because of the personal circumstances of the occupiers and their identified needs, and in order to restore the openness of the Green Belt.

5. There shall be no more than the three pitches hereby approved on the site and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than one shall be a static caravan or mobile home) shall be stationed on each of the three pitches at any time.

Reason: To define the permission for the avoidance of any doubt and to limit the impact of the development on the openness of the Green Belt.

6. No commercial activities shall take place on the land, other than the parking of vehicles and storage of equipment associated with the occupiers businesses.

Reason: To define the permission for the avoidance of any doubt and to limit the impact of the development on the openness of the Green Belt.

7. Any gates provided at the access to the site shall be set a minimum distance of 15 metres from the nearside edge of the carriageway of the adjoining highway and shall open inwards into the site only.

Reason: To ensure a satisfactory form of access is maintained in the interests of highway safety.

8. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

Reason: To minimise disturbance to bats, which are European Protected Species.

9. The development shall be carried out in accordance with the recommendations of the Phase 1 Environmental Appraisal by Greenspace Environmental Ltd, dated November 2016 (ref. 1687 001 R).

Reason: To safeguard ecological interests.

10. Within three months of the date of this permission details of the additional native hedge and tree planting shown on the approved drawing shall be submitted to the Local Planning Authority for approval in writing. The details shall include schedules of trees and plants, noting species (including scientific names), planting sizes and proposed numbers/densities of hedge planting; and implementation timetables. The hedge and tree planting shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: In the interests of the visual amenities of the area and to provide an enhancement to biodiversity afforded by appropriate landscape design.

Informatives

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required by the National Planning Policy Framework, paragraph 187.
2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance
Planning policy for traveller sites August 2015 DCLG

Shropshire Core Strategy:
CS3 Market Towns and other Key Centres
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS12 Gypsy and Traveller Provision
CS17 Environmental Networks
CS18 Sustainable Water Management

SAMDev Plan:
MD2 Sustainable Design
MD6 Green Belt
MD12 The Natural Environment
S1 Albrighton Area

SPD on the Type and Affordability of Housing
Albrighton Neighbourhood Plan 'Light'

3. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the Councils website at:
www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4. The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.