

Development Management Report

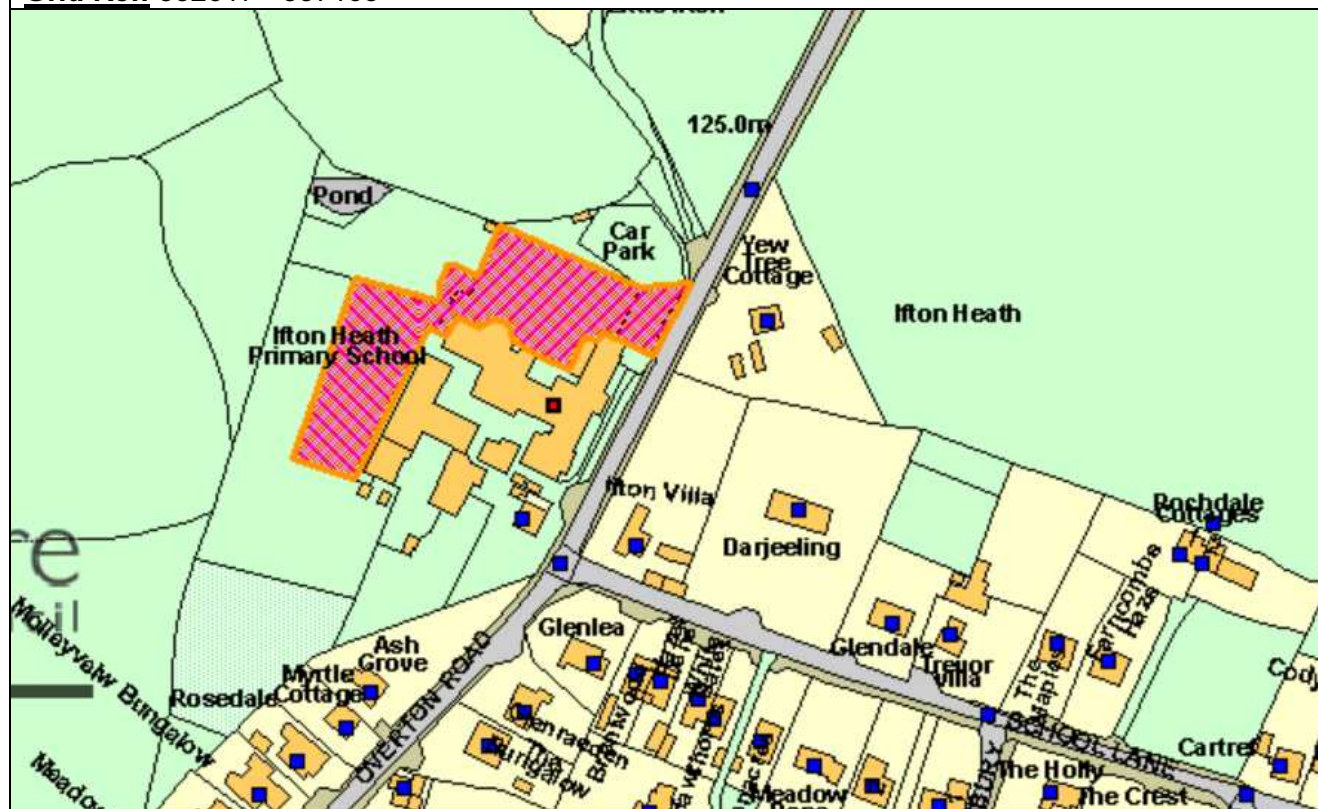
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 15/00537/FUL	Parish:	St Martins
Proposal: Change of use of part of former school site to provide temporary residential site for single travelling showpeople family for a period of up to one year		
Site Address: Ifton Heath C P School Overton Road Ifton Heath St Martins Shropshire		
Applicant: Assets And Estates Team		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 332617 - 337165



Recommendation:- GRANT temporary planning permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application proposes the change of use of the existing hard surfaced play area of the site at Ifton Heath school for 12 months for the siting of caravans for occupation by Mr Stokes and his family who are Travelling Show people. No physical works are proposed to the site, the land is currently hardstanding and the application does not propose any structures or alterations to the site. It is seeking consent for the siting of caravans on the land for a period of 12 months for occupation by a single family group. The application site also includes the access to the site and the grassed playing field to the rear of the buildings for use as play area and for the applicants dogs but does not include the school buildings or the car park to the north.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site consists of the hard surfaced play area and grassed field to the north and west of the school buildings at Ifton Heath Primary school which is no longer used as a school and has been out of use since the closure of the school. The proposal is to site the caravans and associated vehicles on the hard standing and to use the grassed area for amenity space. No structures or additional hard surfacing is proposed.

2.2 Ifton Heath school lies on the northern edge of the village of St Martins with existing housing to the east and south, a business to the north and agricultural land to the west and beyond the housing and business to the north and east. The school is made up of a variety of buildings with the roadside building being single storey, brick and tile with multi-pitched roofs. The hard surfaced play area is to the north of this building and is enclosed with green mesh fencing.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has submitted a view which is contrary to officers and is considered to be based on material planning reasons. The Principal Planning Officer, in consultation with the committee chairman and the Local Member, agrees that the Parish/Town 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 **St Martins Parish Council – Objects** strongly to this application.

St Martins Parish Council are concerned that they were not involved in the proposal to use the land at the former Ifton Heath Primary School as a temporary base for the Stokes travelling fairground and the family. Shropshire Council owns the land and could have allowed the use of the site for up to 28 days without the need for planning permission. If the Parish Council had been consulted, it would have expressed concern at the inappropriate use of a site so close to village

homes and with poor site access for large vehicles. It seems to us that the impact on local roads and services were not consistent with support for this proposal. In any event, we would have sought a limit on the number of vehicles, caravans, trailers and other equipment allowed to use the site, we would have wanted any use to be limited to the members of the Fairground family alone, and we would have wanted strict controls over the use of equipment such as generators to avoid any disturbance to local residents.

In reality, Shropshire Council permitted the occupation of the site and has now submitted a planning application for temporary use of the site (excluding the buildings) for a period of up to one year. Regrettably, while the application is limited to the use of the site by only the one family, it proposes the use of the site for up to one year rather than limiting it to 28 days at a time. While the application does propose limiting the use of the site to a maximum of 5 static and touring vans, there is no clear limitation on the number of trailers and other fairground vehicles and equipment.

The application states that a permanent site for the travelling show people family is being resolved but there appears to be no firm plan for this and no planning application has been submitted for any permanent site to be established. Indeed our information is that concerns about land and water contamination on the site under consideration may render it unsuitable for development.

In these circumstances the Parish Council is opposed to this application. We also object to the erroneous and incomplete information contained in the current planning application and we are concerned that the process followed so far has not included any consultation with local people.

Furthermore recent observations of the site show vehicles already parking outside the proposed boundary limit of the application. We want to see the former school site developed for the benefit of the local community, either as a centre for business or the community or both. Approval of this planning application will effectively blight the site for at least a year and if rapid progress is not made on a permanent site potentially even longer.

Recognising the sensitivity of the situation with the loss of the existing site being used by the travelling fairground family, we ask Shropshire Council to withdraw this application and to enter into urgent discussions with ourselves and other local Parish and Town Councils to look for a better interim (and medium term) solution within the 28 days for which the Ifton Heath site can currently be used without the need for any planning permission.

4.1.3 **Council Highway Officer** – Having regard to the temporary nature of the proposal, as set out in the Design & Access Statement, the highway authority have no objection to permission being granted.

4.2 **Public Comments**

4.2.1 1 public comment has received objecting to the application on the following grounds:

- Stokes family moved onto site on the day residents were consulted and as such are occupying illegally

- What is the long term plan and what happens after 12 months?
- Where is the water and sewerage connection?
- Are they paying council tax? And can existing residents council tax be reduced?

5.0 THE MAIN ISSUES

- Policy & principle of development
- Need and status of applicants
- Suitability of proposed site
- Layout of site
- Impact on local area and neighbours amenities
- Access and highway issues
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & Principle of Development

6.1.1 This application is to establish a temporary site for a single family of travelling showpeople for a period of up to 12 months. Travelling showpeople are defined in the Planning Policy for Traveller Sites (PPTS) (2012) as being:

“Members of a group organised for the purpose of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or family’s or dependant’s more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently but excludes Gypsies and Travellers” (as these are defined separately).

6.1.2 There is a distinct difference within the National Policy, which is also recognised within the local policy noted below, between “Gypsies and Travellers” and “Travelling Showpeople”. They are different groups of people with different needs and different ways of life. The consideration of the current application is similar to the consideration undertaken for applications for gypsies and travellers, however it is not the same. Development of such sites, by their very nature, is often contentious. However, local planning authorities are obliged to ensure that the accommodation needs of travelling showpeople is assessed and addressed through a plan-led process. A site for travelling showpeople is known as a “yard” or “plot”. It is not appropriate or reasonable to assume that travelling showpeople can use gypsy and traveller sites (pitches) due to the differences noted above and within the PPTS. Therefore the needs of the travelling showpeople should be considered separately to the needs to gypsies and travellers.

6.1.3 At a National level the Planning Policy for Traveller Sites (PPTS) was brought out in March 2012 following the National Planning Policy Framework (NPPF) and these replace the former PPS’s and Circular 01/2006 on gypsy and traveller caravan sites. Both the NPPF and the PPTS reiterate the requirement that planning decisions must be taken in accordance with the development plan, unless material considerations indicate otherwise. The development plan is in this instance the Shropshire Core Strategy which has a specific policy for Gypsies and Traveller Provision (Policy CS12) which includes providing for the accommodation

needs of travelling showpeople and a specific requirement within the policy for identifying a site in the North-West of Shropshire for travelling showpeople. Policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development Principles) and CS9 (Infrastructure Provision) are also material to the decision along with the Supplementary Planning Document on Type and Affordability of Housing (SPD).

6.1.4 The key issues in considering this application are set out in paragraph 22 of the PPTS as follows:

- 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 used 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

Consideration should also be given to the following:

- Is the site in a suitable and sustainable location?
- Is the site reasonably accessible to services and facilities?
- Is suitable access provided?
- Is the site well planned or landscaped in such a way as to positively enhance the environment and increase its openness

6.2 **Need and status of applicants**

6.2.1 At a national level Gypsies and Travellers are estimated to make up less than 1% of the population of England, but only a proportion of gypsies and travellers live in caravans. Travelling Showpeople are a smaller percentage again and are a very limited part of the population. And this is reflected within the local policy.

6.2.2 In a Shropshire context accommodation needs have been identified in the sub-regional Gypsy and Traveller Accommodation Assessment. Through the Core Strategy Shropshire aims to provide a new site of around 4 plots for travelling showpeople within the north-west of Shropshire. As such it is acknowledged that there is a need for new sites and case law has established that, for Gypsy and Traveller applications, the balance between rights of the individual and the rights of others has to take into account the difficulties faced by this recognised ethnic group in finding any suitable sites on which to live, that respects their culture. This legal situation means that the identified need is a material consideration which must be given significant weight by the Council in reaching any decision.

6.2.3 The site identified in north-west Shropshire is for the proposed occupiers of the application site, Mr Stokes and his family which consist of his wife, brother and two sons and their families. The accommodation requirements are therefore 5 caravans and therefore the 4 plots proposed within policy CS12. It is considered that there is an identified need for a new site for Mr Stokes and his family and that no further evidence is required of need. Furthermore, no questions have been raised about the status of Mr Stokes and his family as travelling showpeople who have been living on the land adjacent to the Smithfield Livestock Market in Oswestry for a number of years but have had to relocate due to redevelopment of that site.

6.2.4 Concerns have been raised by the Parish Council and local residents that this site is not suitable for permanent occupation, that no permanent solution has been found and that the potential alternative site would not be acceptable due to contamination. Although these concerns are valid concerns and will need to be considered by the Council when determining the future with Mr Stokes and his family, this is not a matter for consideration at this time. The current application seeks consent for use of the site for up to 12 months. Should consent be granted it would be a matter for the Council and Mr Stokes to pursue an alternative site either for temporary occupation after the 12 months at this site, or for permanent occupation. What needs to be determined is whether the current site is suitable for use for up to 12 months and this will depend on the impacts of the development.

6.3 **Suitability of proposed site**

- 6.3.1 The application site is on the edge of St Martins using part of the ground of the former Ifton Heath Primary School. Outside of the development boundary for St Martins as shown in both the saved Oswestry Borough Local Plan and the Shropshire Site Allocations and Management of Development (SAMDev) plan and as such, for planning purposes the site is considered to be countryside. However, policy CS12 (Gypsy and Traveller Provision) supports development for this use close to the Community Hubs and Clusters such as St Martins. The policy does not prevent or resist this form of development outside of the development boundaries. Policy CS5, which controls development in the countryside, provides an exception for housing which is to meet an identified need, including the needs covered by policy CS12.
- 6.3.2 St Martins is identified within the SAMDev as a Community Hub with future housing growth of about 200 homes. The village has a number of services and facilities including a supermarket, recreation fields, community centre, church and school. The village has 1 proposed housing site for allocation within the SAMDev to provide approximately 80 houses. As such the village is considered to be a sustainable settlement with services and facilities and a settlement which could provide for gypsy and traveller sites in accordance with CS12.
- 6.3.3 The site is adjacent to the primary school buildings and opposite existing housing. Although it is on the edge of the built development it is not considered to extend the village into the open countryside. There is an established hedge boundary around the school boundaries and the application site does not extend beyond the hedge. The proposal is for siting the caravans and associated vehicles on the hardstanding which was previously used as the school playground. The use of this part of the site means that no further hardstanding is required and therefore no built development is required to enable the occupation of the site for up to 12 months.
- 6.3.4 Although this does mean that the caravans and associated vehicles are visible from the Overton Road, which runs past the site, they have been located at the rear of the hardstanding and as such are set back into the site. The design and access statement also suggests that the occupation of the site by Mr Stokes and family will also provide security for the school site which was vacant before occupation by Mr Stokes. It is Officers opinion that the layout has been undertaken in an appropriate manner which provides security and natural

surveillance of the site and access and as such is acceptable and does not result in harm to the character of the area.

- 6.3.5 Concern has been raised about the fair equipment and vehicles on site and it was noted at the time of the case officer's site visit that there was one piece of equipment on the car park to the north of the playground which was set up. At the site visit Mr Stokes confirmed that this was ready for inspection by the relevant authorities and once the inspection had been completed the equipment would be moved off-site. Mr Stokes has confirmed that the fairground equipment spends most of the year being moved from fair to fair and it is not within his interest to have equipment sat around unused and not making money. As such it is likely that for the majority of the 12 months that there will not be any fair equipment on site.
- 6.3.6 The Parish Council have also raised concerns that the use of the site, even for up to 12 months, may affect the ability of the Council to sell the site. This may have been a valid concern if the occupiers of the site had a detrimental impact on the site. However, Mr Stokes and his family have tidied up the site which had become overgrown and dirty since the closure of the school and officers consider that the caravans are well positioned on the site in a suitable layout. Any potential purchaser would be made aware of the use, should it be given consent, and also of the implications on purchase with regard to giving a reasonable time period for the site to be vacated. There is no reason why the proposed use currently being considered should prevent sale of the buildings and land or even prevent community use of the buildings.
- 6.3.7 It is also considered that the development of this site as proposed would meet the sustainable criteria in paragraph 11 of the PPTS. The site provides the opportunity to promote integrated co-existence between the occupants and the community; although only for 12 months it will provide the occupants with a settled base for up to 12 months and enable the family to continue to access health services and schools which they have been using during their occupation of the livestock market site.
- 6.4 Layout of site, scale and design of buildings**
- 6.4.1 Policy CS12 also requires all developments to incorporate suitable design and screening and have suitable access and areas for manoeuvring and parking. Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.
- 6.4.2 As noted above the caravans have been laid out on site at the rear of the existing hardstanding in a row, end on to the road. The site is already enclosed with security fencing on the roadside and a hedge on the north boundary with the school buildings to the south. The land between the caravans and the roadside fence is available for parking and manoeuvring. No built development is proposed. The caravans provide all of the accommodation requirements for the family, kitchens and bathrooms within the units without the need for washrooms.
- 6.4.3 Policy CS12 requires all gypsy and traveller developments to incorporate suitable design and screening and the PPTS requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. The site is already enclosed with fencing and hedge

boundary limiting the view of the development from the open countryside beyond the village. The current application for temporary use, does not propose any additional fencing or boundary treatments and it is considered that the existing boundary and siting provides sufficient screening and an appropriate layout so as not to result in significant adverse impacts.

6.5 **Impact on local area and neighbours amenities**

- 6.5.1 Paragraphs 12 and 23 of the PPTS states that when considering the suitability of a site regard should be had to the scale of the nearest settled community. As noted above St Martins is being promoted as a Community Hub, the third tier in the settlement hierarchy below Shrewsbury and the Market Towns. It is one of the larger villages in the north west of Shropshire and has a number of services and facilities. The proposals for a travelling show people's yard for one family, providing up to 5 plots, would not therefore dominate the settlement.
- 6.5.2 The Parish Council and residents have raised concerns about the impact of the use of this site on the existing village houses, however there is no detail of what the concern is. The nearest dwelling to where the caravans have been positioned is Yew Tree Cottage which is opposite the entrance to the site and is approximately 35 metres from the boundary fence of the site and therefore further from the position of the caravans. The distance will ensure that there is no loss of privacy and will also reduce the potential for light pollution providing the lighting is provided appropriately to not spill beyond the site. All other surrounding properties are further from the application site and therefore the amenities of existing residents would not be adversely affected by the development.
- 6.5.3 Concern has also been raised by the Parish Council about the use of generators on the site. The agent for the applicant has confirmed that there are no generators on site, the caravans are connected to the mains electricity in the school buildings. It was also noted that at the time of the case officer's site visit that there was no noise from the caravans positioned on site. As noted above the fair equipment is likely to be off-site for most of the 12 month period applied for and if it is on site this will be for storage purposes only. Mr Stokes has confirmed that there is no intention to operate the fair on site. The land is proposed to be used as the home for Mr Stokes and his family and as such their own amenities are part of the consideration and excessive noise would not be appropriate for their family, which includes a small baby.
- 6.5.4 With regard to the impact from traffic movements regard has to be had of the previous use of the site as a school which will have had associated traffic, large number of cars dropping off and collecting children, large delivery vehicles, buses to transport for trips and also the general noise of the use as a school and playground. Regard also should be given to the confirmation that for the majority of the 12 month period applied for the fair equipment, and therefore the larger vehicles used to tow the equipment is off site travelling between fairs. As such it is considered that noise from traffic would be limited to the traffic associated with the occupation of the 5 residential caravans and as such would be a limited impact.
- 6.5.5 Overall it is considered that the use of the site, as laid out, for 5 caravans and associated traffic for occupation by a single family would not result in unacceptable loss of amenity for the residents of the neighbouring properties.

6.6 Access and highway issues

- 6.6.1 A single access is proposed providing both vehicular and pedestrian access off Overton Road. The access uses the existing vehicle access which serves a small parking area to the north of the school building and a gate through the security fencing onto the hard standing. The Council Highway Officer has confirmed that the highway authority have no objection to permission being granted.
- 6.6.2 Concern has been raised about the potential traffic levels, this has been briefly commented on above. However, the impact of traffic levels on the local highway also needs to be considered. The design and access statement submitted with the application confirms that there is proposed to be a maximum of 5 static caravans on the site and these have been positioned on the site and will not be moved until Mr Stokes and family vacate the site. As also previously noted the fair equipment and associated vehicles spend most of the year moving from fair to fair and will not be present on site on a regular basis. It is not intended for the fair equipment and vehicles to be brought back to Ifton Heath between shows, Mr Stokes aims to keep the equipment in use and moving around to maximise business. As such the traffic movements of the larger vehicles and equipment will be minimal.

6.8 Drainage

- 6.8.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity.
- 6.8.2 The caravans are sited on existing hard standing and as such will not create any additional surface water run-off. The agent for the applicant has confirmed that the caravans are not connected to the mains drainage system but are using their own internal facilities with a contract for emptying the systems. This therefore provides a form of private foul drainage and therefore no additional pressure on the existing foul or surface water drainage system.

6.9 Other matters

- 6.9.1 The main issue raised by the Parish Council and the local objector relates to the siting of the caravans and family on the site prior to the granting of consent, that no consultation was undertaken prior to them moving and that there is no long term plan. The Parish Council response notes that they would have raised concerns about the suitability of the site but that this concern appears to relate to the movement of large vehicles, which has been considered under section 6.6 of this report, and the close proximity to homes, which has been considered under 6.5 of the report.
- 6.9.2 With regard to long term plans for the Stokes family, this is not a matter which can be considered. The application submitted needs to be considered on its merits, the long term plans for the family will need to be considered by the family and by other departments of the Council and a separate planning application submitted at the time an alternative site is found.
- 6.9.3 The objectors query regarding Council Tax is not a material planning consideration and not a matter which planning officers can advise on.

7.0 CONCLUSION

- 7.1 Overall the development is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy, the site is close to the proposed community hub of St Martins and as such is close to a sustainable settlement. The scale of the development and the temporary nature of the current application is considered to be acceptable and would not result in any harm to the character of the area furthermore the proposed use of this site would not result in harm to the amenities of nearby residents given the distance of existing properties from the site.
- 7.2 The unmet need for a site for travelling showpeople within Shropshire also needs to be given weight and previous appeal decisions have given this matter significant weight and deemed that this need outweighed harm in many cases.
- 7.3 In the case of this application it is officers opinion that there is no harm resulting from the use of the site for up to 12 months for the single family and therefore that there is no grounds on which to refuse consent.

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 six 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 1990.

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.

10. Background

Relevant Planning Policies

Planning Policy for Traveller Sites (PPTS) (2012)

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

CS5 - Countryside and Greenbelt

CS12 - Gypsies and Traveller Provision

CS18 - Sustainable Water Management

SPD Type and Affordability of Housing

11. Additional Information

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) Cllr M. Price
Local Member Cllr Steven Davenport
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. This permission shall be for a period of 12 months, from the date of this permission, by which date the caravans shall have been removed off site and the site reinstated to its previous condition.

Reason: The temporary consent is granted on the basis of the personal circumstances of the applicant and the status of the site.

2. The development shall be carried out strictly in accordance with the approved plans.

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 residential use of the site hereby permitted shall be limited to Mr Stokes and his resident dependents only.

Reason: To control the occupation of the site in accordance with adopted policy and on the basis of the personal circumstances of the applicant and the status of the site.

4. No more than 10 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: In the interests of visual amenities.

5. This consent does not permit the commercial operation of any of the travelling show equipment from the application site. The land may be used for the storage of the equipment out of season but shall not be used for the operation of the equipment.

Reason: To protect residential and visual amenities.