Committee and date

North Planning Committee
6th March 2012

Item

12
Public

Development Management Report

Responsible Officer: Stuart Thomas
email: stuart.thomas@shropshire.gov.uk Tel: 01743 252665 Fax: 01743 252619

Summary of Application

<table>
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<th>Application Number: 11/05197/FUL</th>
<th>Parish:</th>
<th>Hodnet</th>
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<td>Proposal: Application under Section 73a of the Town &amp; Country Planning Act for the change of use of land for the stationing of one mobile home and one touring caravan for residential occupation with associated development to include utility block and septic tank to enable the use of the site as a single gypsy-traveller site.</td>
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Site Address: Former Goods Yard Station Road Hodnet Shropshire

Applicant: Mr R. Stevens

Case Officer: Andrew Gittins email: planningdmne@shropshire.gov.uk

Grid Ref: 362149 - 327823
Recommendation:-  Grant Permission subject to the conditions sets out in Appendix 1.

Recommended Reason for Approval

1. There is an identified need for additional pitches for gypsy and traveller families and the current application is from a genuine gypsy family. The proposed development will not have an unacceptably detrimental impact on the character and appearance of the area or the adjoining land users. The site is capable of being safely accessed with sufficient parking and turning space. The general need for gypsy accommodation, the applicants personal needs and the lack of any alternative are given significant weight and the lack of any substantial material harm leads to the conclusion that the application is in accordance with the requirements of Policies CS12 and CS6 of the Shropshire Core Strategy and Circular 01/06 – Planning for Gypsy and Traveller Caravan Sites.

REPORT

1.0 THE PROPOSAL
1.1 The application seeks approval under Section 73a of the Town & Country Planning Act for the change of use of land for the stationing of one mobile home and one touring caravan for residential occupation with associated development to include utility block and septic tank to enable the use of the site as a single gypsy-traveller site. The application is partially retrospective as the applicants, Mr and Mrs Steven moved onto the site in mid-October and are living on the land in a mobile home and touring caravan.

2.0 SITE LOCATION/DESCRIPTION
2.1 The site measure approximately 13.5 metres wide and 29 metres long and is laid to hard standing and enclosed with panel fencing. The site is one of several yards located at the southern end of Webster's Lane and is situated approximately 350 metres from the Hodnet Development Boundary at the junction with Station Road. Webster's Lane is an unclassified no through road which provides access to 8 residential properties, an Orange telecommunications mast; an Environment Agency bore hole and a coal yard site.

3.0 REASON FOR COMMITTEE
3.1 The Parish Council has submitted a view contrary to officer’s recommendation which is based on material planning reasons. These contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Principal Planning Officer in consultation with the vice chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS
4.1 Consultee Comments
4.1.1 Hodnet Parish Council: Objects to this application for the following reasons:

- We refer to LDF Core Strategy CS12. This application is not located in a suitable location for residential occupation.
- There is no water supply
- There is no electricity supply
- There is no mains sewage. Proposed installation of a sceptic tank does not take into consideration the high water table on the land which would render
the tank useless and harmful as its intended site is only 30 metres from an existing borehole on adjacent land. Contrary to the Planning Statement the land is not free draining.

- Access is highly restricted. The approach is down a single track 2.4 metres wide road with steep inclined verges to either side. This road forms a popular circular walk used by pedestrian and children with bikes on a regular basis. There is no room to pass a pedestrian and no refuge from oncoming vehicles. Concerns from local residents about increase traffic have already been received by the Parish Council and dangerous speeding has been reported to the local Police. Whilst it is true that previously permission to park heavy vehicles at this site was granted, it was subject to severe restriction of movements i.e two movements per week and not up Websters Lane. Other yards located close to this site have similar restrictive movements applied.

- CS5 The Application does not demonstrate a need and benefit for the proposed site. The family do not have any ties with Hodnet or immediate surrounding area. We understand the family have connections in Condover some 40 miles away. There are suitable alternative pitches at Warren Road site which would easily give access to the local school and medical centre.

- We seek clarification that the family have traditionally gone to Pembrokeshire to pick potatoes in late summer/autumn – this is not the season when new potatoes are ready.

- We are told that Mr Stevens is a horse dealer and keeps his remaining stock at Shrewsbury. Should he purchase further stock where would these be kept and who is attending to their welfare. The site is located outside Hodnet settlement boundary.

- It is in open countryside and will not be in keeping with the character of the area.

4.1.2 Shropshire Council Gypsy Liaison Officer: I would like to confirm that the Gypsy Liaison Service has known and had many dealing with this family over the years, Mr Stevens has a strong local connection and he and his family have resided on the Councils owned and managed site in Craven Arms, during their stay the service had no problems/concerns with the family and always found them friendly and courteous. They ensure their children are enrolled in the local schools and are always keen to join any community activities that are going on. With this in mind our service supports this application. The Manor House Lane site is Council owned and managed by the Gypsy Liaison Service, this site is full with a long waiting list the Warrant Road site is private and is also currently full.

4.1.3 Shropshire Council Advisory Teacher for Travelling Children: I am the Advisory Teacher for Travelling Children in Shropshire and have worked with the Stevens family since 2004.

The family have three children ranging in age from 4 to 10. In the past they have led a very mobile way of life which has led to their children attending a great many primary schools over their school lives; this has led to inconsistent access to schooling even though the parents have always been excellent at approaching schools for places as soon as they have arrived in the area.

They have now bought some land in the Hodnet area and are hoping that they can...
start to lead a more settled life in order for their children to access regular, consistent education. This is particularly important now as their eldest child is due to start at secondary school in September 2012.

The family are very keen not to upset any neighbours in Hodnet and to become an active part of the local community. Their children are settling well in the local school, Hodnet Primary, and making friends with other local children. They previously lived in the Longden area where local people were very sorry when the family left as they were positively involved with many local people and activities.

The family have always been a pleasure to work with.

4.1.4 Shropshire Council Highways Development Control: The site has access onto an unclassified no through road, known as Websters Lane. Websters Lane was severed as part of the building of the Hodnet Bypass. The location of the site is affectively at the end of the lane with the vehicle movements along the southern section of the lane being the adjoining residents/landowners and not through traffic. Whilst the southern section of the lane is of single vehicle width, it is only accommodating the associated traffic movements by the residents directly abutting that section of the road and the adjoining agricultural land. I note the additional supporting information with regard to the context of the development which sets out that it is purely for a single family residential unit and not for business use. I also note the former use of the land as an old lorry park which would have generated HGV movements which are not so easily accommodated on the adjoining unclassified road. I am of the view therefore that the likely traffic generated by what is in essence one residential unit is unlikely to lead to conditions detrimental to highway safety and raise no objection to the development. I would comment that the title of the application as a caravan site could potentially imply a different development to that outlined and detailed in the information and consider therefore that the use of the site be specific to a single residential unit and limited to the mobile home and one touring caravan as stated.

4.1.5 Shropshire Council Flood and Water Management Team: The septic tank and soakaway design is now acceptable following the submission of foul and surface water drainage details on the 10th and 14th February 2012. If planning permission is to be granted, a drainage condition should be attached to ensure that the approved drainage schemes are implemented before the site is occupied.

4.1.6 Shropshire Council Public Protection Specialist Pollution: The proposed development site occupies former rail land associated with a goods yard and a number of railway lines traversed the site. In more recent years the site has been used to park lorry’s and trailers.

The above uses could have led to the contamination of the land and while I acknowledge that the site appears to be covered in hard-standing there are also other environmental considerations that need to be taken into account as soakaways are proposed to dispose of surface waters and they will also be associated with the proposed septic tank. The site overlies a major aquifer and this could result in the mobilisation of contaminants.

Accordingly, because of this proposed change of use to residential land, an
assessment of potential contamination risks needs to be carried out and therefore the suggested conditions should be attached to any approval.

4.1.7 Severn Trent Water Sewerage Asset Protection (West): Letter sent in response to a letter sent by objector. This is not an issue for the Sewerage Asset Protection Department. Contact could be made with the Environment Agency if there are any concerns about the septic and with the Property Services Department of Severn Trent regarding the mast. OFFICER COMMENT: It should be noted that the mast is operated by Orange Telecommunication and not Severn Trent Water.

4.2 Public Comments
4.2.1 26 letters of representation received, including one petition to Hodnet Parish Council objecting to the proposal on the following grounds:

- Site located outside of development boundary in open countryside.
- Websters Lane is of insufficient width to safely accommodate the increased traffic movements and the proposal will be detrimental to highway and pedestrian safety. Inadequate access for emergency fire vehicles.
- Physical condition of highway and highway verge.
- High water table would prevent any soakaway from working.
- Notwithstanding the response to Question 7 b. of the Foul Drainage Assessment Statement (FDA1) the site is less than 50 metres from any point of abstraction from ground for a drinking water supply. As such any run off from the site would contaminate ground water as a permeable drain runs across the site. Details of the septic tank and soakaway should be available to scrutinise. Question 8 requires a minimum distance of 7 metres between the septic tank and habitable part of the site. Flow rate does not correspond with the Notes in the FDA1 document.
- There is no electricity on site and a generator is being used to power lighting which is a source of noise pollution.
- The site does not appear to have any water supply and consequently no adequate toilet or washing facilities.
- Alternative traveller’s site available. Site on Station Road (the old Auction Yard) is being offered for sale and there are vacant pitches at the Warrant Road, Stoke Heath and Manor Lane, Higher Heath.
- Approval of development would set precedent for other development.
- Conflict with Hodnet Parish Plan which requires development to be carried out sympathetically, and with regard to the Conservation Area Status.
- Applicants would appear to operate a scrap / transport business with one lorry, a pick-up and a variety of cars.
- No site notice displayed / notice posted later than required and displayed on private land which is inaccessible to public view.
- Detrimental impact on property prices as some travellers sites generate a lot of mess and nuisance.
- Impact on elderly residents.
- Radiation from mobile phone mast would be unsuitable on health grounds.
- No planning application submitted therefore residence or any construction on this site is illegal.
- The applicants are not local people and don’t have any local connections to the area.
- Cost of monitoring and policing the site.
5.0 THE MAIN ISSUES

Site History
Policy & Principle of Development
Status of Applicant
Suitability of Proposed Site
Design, Scale and Character
Impact on Residential Amenity
Drainage
Contaminated Land

6.0 OFFICER APPRAISAL

6.1 Site History

6.1.1 The application site has previously been used for the parking of lorries and trailers and is one of several yards located at the southern end of the unclassified Websters Lane. The sites forms part of the old Station Yard and is situated on the dismantled railway line. Permission for the parking of lorries and trailers was granted in 1978 and was conditioned for use by the original occupier. The land was specified as an operating centre in a Goods Vehicle Operator’s Licence allowing a maximum of two motor vehicles and two trailers to be parked on the land. This licence ran from 1991 - 2004.

6.1.2 Given that the above uses could have led to the contamination of the land the application was referred to the Council’s Public Protection Specialist Pollution. Whilst it is acknowledged that the site appears to be covered in hard-standing there are also other environmental considerations that need to be taken into account as soakaways are proposed to dispose of surface waters and they will also be associated with the proposed septic tank. The site overlies a major aquifer and this could result in the mobilisation of contaminants. Accordingly, because of this proposed change of use to residential land, an assessment of potential contamination risks needs to be carried out and therefore the suggested conditions have been attached to the recommendation. Subject to the submission of satisfactory details the site is considered capable of satisfactory remediating any ground contamination in accordance with the requirements of Core Strategy CS6.

6.2 Policy & Principle of Development

6.2.1 Policy CS12 of the Shropshire Core Strategy is the key planning policy for this form of development. This policy seeks to address the needs of gypsies, travellers and travelling show people by allocating sites, supporting development for sites close to Shrewsbury, the market towns, key centres, hubs and clusters and by supporting suitable development proposals for small exception sites in countryside locations of less than 5 pitches where a strong local connection is demonstrated.

6.2.2 The Supplementary Planning Document on Type and Affordability of Housing provides further details on the law relating to gypsies and travellers, the flexibility within the general presumption against development and a list of criteria to show a strong local connection.

6.2.3 PPS3 requires local planning authorities to consider the need to accommodate
gypsies and travellers both in writing policies and in determining applications. Circular 01/06 gives more detailed policy on the consideration of applications for this form of development. The guidance is given in the context that gypsies and travellers are believed to experience the worst health and education of any disadvantaged group in England. The circular encourages the development of privately owned sites, it acknowledges that these sites can often be in open countryside locations; however it accepts the principle of this and accepts that gypsy sites will often be outside development boundaries acknowledging that provision within settlements will be difficult. This is in recognition that there is an inequality of provision for the gypsy and traveller community in comparison to that for the settled community.

6.2.4 In principle the change of use of appropriate land to a gypsy caravan site is supported by the recent adopted local policy and national policy. There is an identified need for 79 new pitches for gypsies up to 2017 and the Council policy team have confirmed that half of the pitches would be provided by gypsies and travellers themselves. The identified need for additional pitches is not currently being met by Council provided sites and is not likely to be wholly met in the future. Whether the applicant has demonstrated a strong local connection, whether the current application is on a suitable, accessible, site and whether the details of the proposal are acceptable in terms of design and screening are considered in detail below.

6.3 Status of applicant
6.3.1 Chapter 6 of the Type and Affordability of Housing Supplementary Planning Document (SPD) outlines the policies for Gypsy and Traveller Sites in Shropshire. Paragraph 6.6 states that as with other types of residential development, sites should be located close to Shrewsbury, the market towns and key centres, and community hubs and clusters. It should be noted that Hodnet is currently defined as a Main Service Village with the application site located approximately 350 metres from the settlement boundary. Hodnet has also been put forward by the local community as a Community Hub in the Market Drayton Place Plan. As such it is considered by officers that this application meets the criteria outlined in Chapter 6 of the SPD and accords with the Core Strategy’s settlement strategy.

6.3.2 However, in all cases, genuine Gypsy or Traveller status must be demonstrated. Accordingly the supporting statement submitted with the application details that The Stevens family are Romany Gypsies with a strong local connection to the Shropshire area. Mr Stevens was born in Shrewsbury, whilst Mrs Stevens is from Wrexham and used to live on the Ruthin Road site. For the last 3-4 years the family have been renting a private yard at Annscroft; however the owner sold the site and the family had to leave. They have also stopped in the past on a site at Craven Arms and Cressage. This has been verified by the Council’s Gypsy Liaison Officer who has confirmed that the Gypsy Liaison Service has known the Stevens family for many years. The Officer has also confirmed that Mr Stevens has a strong local connection and that during their stay on the Craven Arms site the Service had no problems/concerns with the family and always found them friendly and courteous. The family ensure their children are enrolled in the local schools and are always keen to join any community activities that are going on. With this in mind the Gypsy Liaison Service supports this application.

6.3.3 A letter of support has also been received from the Advisory Teacher for
Travelling Children in Shropshire who has worked with the Stevens family since 2004. The family have three children ranging in age from 4 to 10. The information provided in the support letter is as follows “In the past they have led a very mobile way of life which has led to their children attending a great many primary schools over their school lives; this has led to inconsistent access to schooling even though the parents have always been excellent at approaching schools for places as soon as they have arrived in the area. They have now bought some land in the Hodnet area and are hoping that they can start to lead a more settled life in order for their children to access regular, consistent education. This is particularly important now as their eldest child is due to start at secondary school in September 2012. The family are very keen not to upset any neighbours in Hodnet and to become an active part of the local community. Their children are settling well in the local school, Hodnet Primary, and making friends with other local children. They previously lived in the Longden area where local people were very sorry when the family left as they were positively involved with many local people and activities. The family have always been a pleasure to work with.”

6.3.4 It is acknowledged that objections have been raised that the local connection is not to Hodnet, however the adopted policy is not so restrictive and local connection for Gypsies and Travellers is County wide. A condition has therefore been recommended to limit initial and future occupancy to bona-fida Gypsies who meet the established lawful definition.

6.4 Suitability of Proposed Site
6.4.1 Policy CS12 seeks to ensure that all sites are reasonably accessible to services and facilities, incorporate suitable design and screening, have suitable access and areas for manoeuvring caravans and parking for all essential uses, make provision for essential business uses and recreational facilities as appropriate. All sites must also comply with the requirements of policy CS6.

6.4.2 As noted above the site is located approximately 350 metres from the development boundary of Hodnet, which is a Main Service Village with a good range of local facilities including a Primary School, shop, pub and bus service serving a number of smaller settlements and access to Market Drayton and Shrewsbury. The applicant has supplied a bill dated the 9th January 2012 from Severn Trent Water to demonstrate that the site is connected to the mains water, which has been contested in letters of representation. In addition, the applicant has confirmed within the Supporting Statement that it is their intention to apply to connect to the mains electricity if planning permission is granted. As such the application site is considered to have reasonable access to services and facilities. The site is already well contained by panel fencing and benefits from screening from trees planted during construction of the Hodnet bypass as such it is not considered necessary to provide any additional screening. The site is located outside of the Hodnet Conservation Area and as such is not considered to have any impact on this historically and architecturally sensitive area.

6.4.3 The site is located 350 metres from the Hodnet Development Boundary which is situated at the northern end of Websters Lane, as defined by the Inset Map within the NSDC Local Plan. Websters Lane accommodates eight residential properties, creating a ribbon form of development in a north-south direction. The entrance to the application site is located 100 metres to the south of ‘The Kosters’ which is the most southerly residential property. The application site is located on a track
providing access to an Orange telecommunications mast; an Environment Agency bore hole and a coal yard site. As such, Officers are of the opinion that the application site is closely associated with the existing built form of the settlement of Hodnet and does not represent an isolated or sporadic form of development. Furthermore, whilst located outside the development boundary, this Brownfield site is not considered to comply with the strict definition of open countryside in terms of its visual appearance. Accordingly the siting of a static and touring caravans and associated amenity block is not considered to adversely affect the visual amenities of the area.

6.4.4 The site has access onto an unclassified no through road, known as Websters Lane. Websters Lane was severed as part of the building of the Hodnet Bypass. The location of the site is affectively at the end of the lane with the vehicle movements along the southern section of the lane being the adjoining residents/landowners and not through traffic. The Council Highway Officer has acknowledged that whilst the southern section of the lane is of single vehicle width, it is only accommodating the associated traffic movements by the residents directly abutting that section of the road and the adjoining agricultural land. The Highways Development Control Officer has noted that the additional supporting information with regard to the context of the development which sets out that it is purely for a single family residential unit and not for business use. The Highways Officer also notes the former use of the land as an old lorry park which would have generated HGV movements which are not so easily accommodated on the adjoining unclassified road. The applicant has supplied a letter from the Vehicle Inspectorate dated the 15th June 1998 which confirms that the previous owner Mrs Philips was authorised to operate 4 vehicles and 4 trailers from the site, in addition to the 3 vehicles parked at Vic Trevor’s coal yard. The Inspectorate acknowledged that the road was slightly narrow but that it was sufficient to accommodate the lorries with trailers and vehicles used in association with the coal yard.

6.4.5 Accordingly the likely traffic generated by what is in essence one residential unit is unlikely to lead to conditions detrimental to highway safety. The Highways Officer has commented that the title of the application as a caravan site could potentially imply a different development to that outlined and detailed in the information and considers therefore that the use of the site should be specific to a single residential unit and limited to the mobile home and one touring caravan as stated. This has been rectified through an amendment to the proposed description of development which has been agreed by the applicant’s agent.

6.4.6 The supporting statement states that the site is large enough for a single pitch with associated hard-standing for the parking of two vehicles and turning caravans. The statement records that there will be limited movement of caravans on or off the site, with movements primarily confined to the summer months when the applicants go travelling for several weeks at a time. Several letters of objection state that the applicant is running a scrap metal / transport business with one lorry, a pick-up and a variety of cars. The supporting statement confirms that whilst Mr Stevens will rely on a transit type pick-up to transport and store his equipment that there is no business use proposed. This will be controlled by a suitable worded condition which accords with the Model Conditions in Circular 11/95. In accordance with the requirements of CS12 the proposal makes provision for a small amenity area within the site for recreational purposes.

6.4.7 Given that the application site is located on a no through road and already benefits
from boundary screening, the proposal is considered by officers to protect the visual amenities of the area with regard to the local context and character of this former commercial site. As such the proposal is considered to comply with the requirements of Core Strategy Policy CS6. Meanwhile, as the proposal does not provide additional dwellings, an infrastructure contribution is not required under Core Strategy Policy CS9.

6.5 Impact on Residential Amenity
6.5.1 CS6 states that all development should safeguard residential and local amenities. The site is located approximately 140 metres from the boundary from the closest residential property of ‘The Kosters’. Letters of representation received object to the scheme on the grounds that the generator which is currently being used to provide electricity is creating a noise nuisance. The Supporting Statement states that it is hoped to connect to mains electricity if planning permission is granted and the Designing Gypsy and Traveller Sites Good Practice Guide states that this is essential. Therefore the connection to the mains electricity would remove the objection on noise grounds. Meanwhile built development will be limited to the provision of the 4 x 5 metre utility block measuring 3.56 metres to eaves. The design of the touring caravan and mobile home will not be prescribed as these will vary but a condition has been recommended preventing any vehicles over 3.5 tonnes being stationed on the site. The utility block is to be built of brick and tile with a pitched roof and as such the scale and design of the utility block is considered appropriate and the proposal is not considered to have any adverse impact on the amenities of neighbouring properties including their standards of light, sunlight or privacy.

6.6 Drainage
6.6.1 The application proposes the installation of a septic tank and soakaway and percolation test results were submitted on the 24th January 2012. The application was referred to the Council’s Flood and Water Management who considers that the septic tank and soakaway design are now acceptable following the submission of foul and surface water drainage details on the 10th and 14th February 2012. The Engineer has noted that if planning permission were to be granted, a drainage condition should be attached to ensure that the approved drainage schemes are implemented before the site is occupied. However, as the site is already occupied it is suggested that this be altered to requiring the agreed foul and surface water drainage works to be implemented within 3 months of the date of this consent.

6.6.2 A letter has been received from Severn Trent Letter responding to a letter sent directly to them by an objector. Severn Trent have informed the objector that this is not an issue for their Sewerage Asset Protection Department and that contact could be made with the Environment Agency if there are any concerns about the septic tank and with the Property Services Department of Severn Trent regarding the mast. It should be noted that the proposed installation of the septic tank does not meet the trigger for consulting the Environment Agency according to the adopted consultation matrix and the design and details of the septic tank will be subject to building regulations. The details of the soakaway associated with the septic tank have been assessed by the Council’s Drainage Engineer who is satisfied with the percolation test results and the size and design of the soakaway.

6.6.3 It should also be noted that the mast is operated by Orange Telecommunication
and not Severn Trent Water and that the proposal does not involve any works to
the site of the mast and no consultation is required.

6.6.4 As such, it is considered by officers that, subject to compliance with the condition
requiring the installation of the system, the site is considered capable of being
drained in a sustainable manner reducing flood risk in accordance with the
requirements of CS18.

6.5 Contaminated Land

6.5.1 The application has been referred to the Council’s Public Protection Specialist
Pollution Team for consideration. The Officer has noted how the proposed
development site occupies former rail land associated with a goods yard and a
number of railway lines traversed the site. In more recent years the site has been
used to park lorry’s and trailers. The above uses could have led to the
contamination of the land. Whilst it is acknowledged that the site appears to be
covered in hard-standing there are also other environmental considerations that
need to be taken into account as soakaways are proposed to dispose of surface
waters and they will also be associated with the proposed septic tank. The site
overlies a major aquifer and this could result in the mobilisation of contaminants.
Accordingly, because of this proposed change of use to residential land, the
Specialist Pollution Officer is of the opinion that an assessment of potential
contamination risks needs to be carried out. As such the suggested conditions
have been attached to the recommendation. Compliance with these conditions
should ensure that risks from land contamination to the future users of the land
and neighbouring land are minimised, together with those to controlled waters,
property and ecological systems. In addition these conditions should ensure that
the development can be carried out safely without unacceptable risks to workers,
neighbours and other offsite receptors. As such the proposal is considered
capable of complying with the requirements of PPS23: Planning and Pollution
Control.

7.0 CONCLUSION

7.1 There is an identified need for additional pitches for gypsy and traveller families
and the current application is from a genuine gypsy family. The proposed
development will not have an unacceptably detrimental impact on the character
and appearance of the area or the adjoining land users. The site is capable of
being safely accessed with sufficient parking and turning space. The general
need for gypsy accommodation, the applicants personal needs and the lack of any
alternative are given significant weight and the lack of any substantial material
harm leads to the conclusion that the application is in accordance with the
requirements of Policies CS12 and CS6 of the Shropshire Core Strategy and
Circular 01/06 – Planning for Gypsy and Traveller Caravan Sites.

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

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

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

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

9.0 FINANCIAL IMPLICATIONS
9.1 There are likely financial implications of the decision and/or imposition of conditions is 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. The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.
10.0 BACKGROUND

Relevant Planning Policies

Central Government Guidance:

PPS1 – Delivering Sustainable Communities
PPS1 – Supplement – Planning and Climate Change
PPS3 – Housing
PPS7 – SUSTAINABLE DEVELOPMENT IN RURAL AREAS
PPS23 – Planning and Pollution Control
Circular 01/06 (ODPM) – Planning for Gypsy and Traveller Caravan Sites

West Midlands Regional Spatial Strategy Policies:
QE1 Conserving and Enhancing the Environment
QE3 Creating a high quality built environment for all

Core Strategy and Saved Policies:
CS1 – Strategic Approach
CS5 – Countryside and Greenbelt
CS6 – Sustainable Design and Development Principles
CS7 – Communications and Transport
CS12 – Gypsy and Traveller Provision
CS18 – Sustainable Water Management

SUPPLEMENTARY PLANNING DOCUMENTS:
TYPE AND AFFORDABILITY OF HOUSING
Sustainable Design (Part 1)

Adopted Local Plan Policies:
D6 – Control and Design of Extensions
D7 – Parking Standards

SITE HISTORY:

Appeal
NS/04/00032/REF Erection of one 17.5m high telecom mast with 3 antennas, 1 dish and an equipment cabin APPEAL WITHDRAWN 2nd November 2004

NS/04/00447/FUL Erection of one 17.5m high telecom mast with 3 antennas, 1 dish and an equipment cabin REFUSED 15th July 2004

NS/01/00662/TELE Erection of a 15 metre high lattice mast and attach six dual band plain polar antennas and four 0.6 metre dishes, equipment cabin and ancillary development PERMITTED DEVELOPMENT 5th September 2001

NS/98/00318/LDC Application for lawful development certificate for the parking of lorry units and trailer, general storage in breach of condition 3 attached to planning permission 78/275 dated 26.10.78 APPROVED 17th December 1998

NS/82/00361/FUL Erection of building (40' x 17') for the storage of pre-packed coal. GRANTED 29.06.1982

Contact Stuart Thomas on 01743 252665
NS/82/00118/FUL Temporary siting of portable office accommodation (160 sq.ft.). GRANTED 22.03.1982

NS/78/00275/FUL Use of land for parking of lorries and trailers. GRANTED 26.10.1978

NS/78/00020/FUL Continued use of land as coalyard and extension of coalyard onto disused railway tracks. GRANTED 14.02.1978

11. Additional Information

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<th>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</th>
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APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development shall be carried out strictly in accordance with the deposited plan location, block and proposed floor and elevation plans received on the 5th October 2011.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

2. The erection of the amenity block hereby approved shall not take place until samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

   Reason: In the interests of visual amenities.

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

3. Within 3 months of the date of this consent or prior to the first use of the toilet / utility block hereby approved, whichever is the sooner, the works for the disposal of surface and foul water drainage shall be provided in accordance with the approved details received on the 14th February 2012.

   Reason: To ensure satisfactory drainage of the site and to avoid flooding.

4. Within 3 months of the date of this approval an investigation and risk assessment (in addition to any assessment provided with the planning application) must be completed and submitted for written approval to the Local Planning Authority. The investigation and risk assessment should be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

   (i) a survey of the extent, scale and nature of contamination;

   (ii) an assessment of the potential risks to:

      • human health,

      • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
• adjoining land,

• groundwaters and surface waters,

• ecological systems,

• archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency’s ‘Model Procedures for the Management of Land Contamination, CLR 11’.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

5. Within 3 months of the date of this approval a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted for written approval to the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

6. The approved remediation scheme must be carried out in accordance with the agreed details within 3 months of the written approval of the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the
requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8. Within 3 months of the date of this approval a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of time to be agreed in writing, and the provision of reports on the same must be prepared and submitted for written approval to the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency’s ‘Model Procedures for the Management of Land Contamination, CLR 11’.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 7 has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

10. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: This permission is only granted in view of the exceptional circumstances of the gypsy community.

11. No more than one static caravan and one touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway.

Reason: In the interests of visual amenities.
12. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site. No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.

Reason: In the interest of visual amenities.

13. No commercial activities shall take place on the land, including the storage of materials.

Reason: To protect residential and visual amenities.

14. Prior to the installation of any lighting on site details of the lights, wattage, spill and supports of all external lighting for buildings, plant and or open areas, including associated car parking and servicing areas, shall be submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK. The development scheme shall thereafter be carried out in accordance with the approved scheme and no further lighting erected on site.

Reason: In the interest of visual amenity of the area and to minimise disturbance to bats.

Informative

1. It will be necessary to provide adequate access for emergency fire vehicles. There should be access for a pumping appliance to within 45 metres of all points within the relevant buildings. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter. ‘THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5.’ provides details of typical fire service appliance specifications. Watch Manager Cameron Taylor For Chief Fire Officer