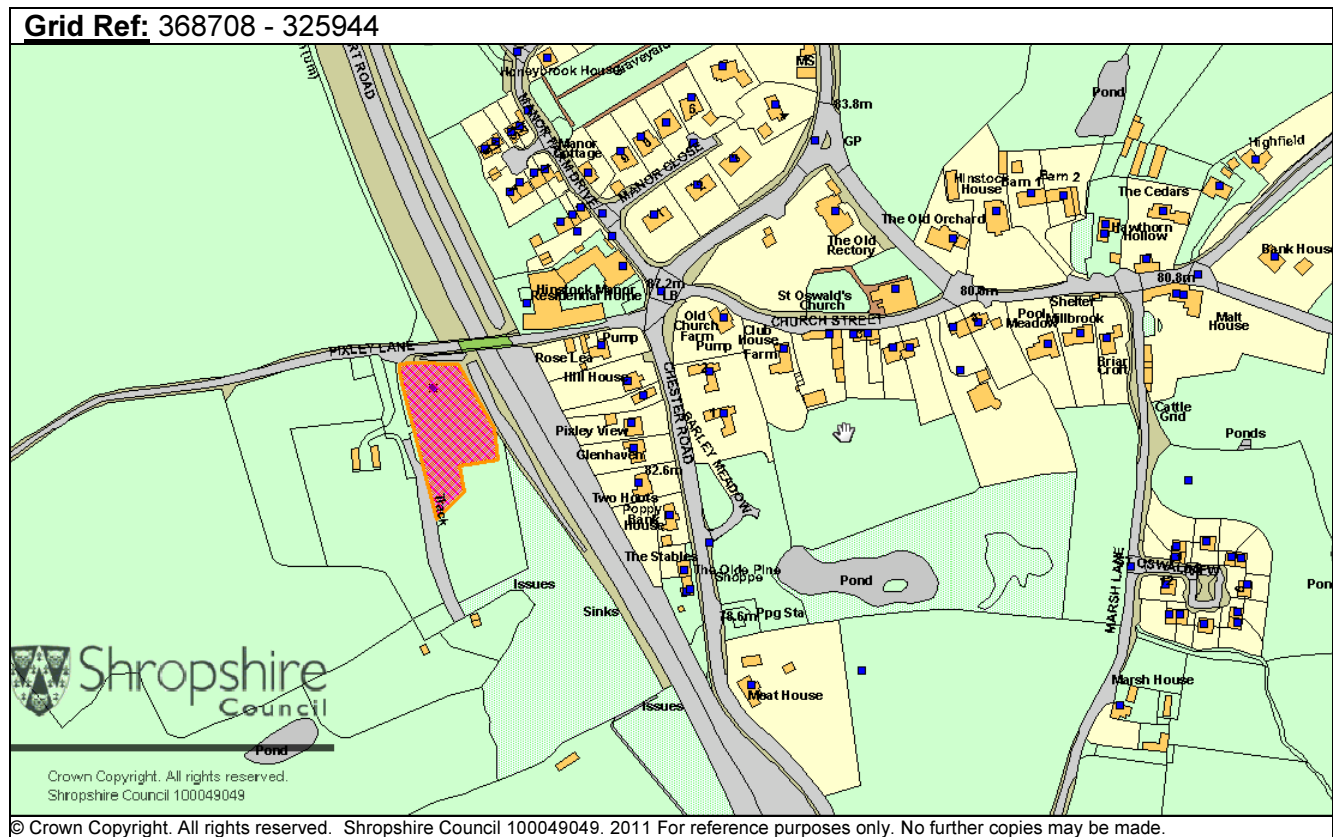


## Development Management Report

Responsible Officer: Tim Rogers  
 email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 12/04209/FUL	<b><u>Parish:</u></b> Hinstock
<b><u>Proposal:</u></b> Change of use of land for the stationing of caravans for residential purposes for 3 no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use	
<b><u>Site Address:</u></b> Land Off Pixley Lane Hinstock Shropshire	
<b><u>Applicant:</u></b> Mr Bishopsgate Property Management Ltd	
<b><u>Case Officer:</u></b> Karen Townend	<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>



**Recommendation:- APPROVE 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 land to enable the creation of three gypsy pitches. The proposed works will involve the construction of hard standing for one static caravan and one touring caravan and the erection of a utility/ day room in each of the three pitches within hedge boundaries and the installation of associated foul drainage.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is a relatively flat grassed paddock with hedge boundaries to the east with the A41 and the north with Pixley Lane. To the west is the access track to the sewerage treatment plant and to the south is agricultural land. The site is on the edge of Hinstock, outside the development boundary, and the roof and one window of the Manor Place Care Home is visible from the site. The site is separated from the village by the A41 but the village is visible from the site.

### 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 **Hinstock Parish Council** – The Parish Council **objects** strongly to this application, for the following reasons;

- This development is not within the village envelope or the SAMDev policy framework for Hinstock
- The site is a green field which was sold for grazing. Core Strategy Policy CS5 says development on Greenfield is strictly controlled to protect the countryside and the green belt. This is not a suitable exception, as the application does not have strong local connections.
- Planning Policy for Travellers Sites, Paragraph 23 states that Local Planning Authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated for Development Plan. Again the applicant does not have strong local connections.
- There is insufficient information in the application, and some information given is not correct eg there is no hard standing area on the existing site and there is no regular bus service to the Village. The application form states that the surface water drainage from the proposed development (roofs and proposed hard standing area) is to be disposed of via soakaways. However no details of the proposed soakaways or percolation tests have been provided.

- Traffic concerns – Pixley Lane is a single track lane which joins the A529 on a bad bend, where there are already problems. The Parish Council is currently in talks with Shropshire Council to try to improve safety for pedestrians and motorists in this area and additional traffic in the form of large caravans would make it more hazardous.
- The Parish Council meeting held on November 1<sup>st</sup> 2012 was attended by 138 parishioners who wanted to show their objection to this application, showing great community apprehension.
- Parishioners fear an increase in crime in the Parish.
- No Ecological Assessment has been provided and as such it is not possible to conclude that the development will not cause offence under the Conservation of Habitats and Species Regulations (2010) and as such fails to meet policy CS17, which seeks to protect and enhance the natural environment, as it is believed that there are great crested newts in this area.
- The potential visual and sound impact on the adjoining neighbours has not been assessed or the potential disruption to the enjoyment of existing local rural amenities.

#### 4.1.2 Council Public Protection Officer – raised concerns.

Having considered the potential for an adverse impact of odour produced by the sewage treatment plant on proposed residential caravan sites is satisfied that there is unlikely to be any significant odour impact due to the fact that the sewage treatment plant is enclosed. Wind may carry some odour towards the proposed caravan plots on occasion but I would not expect it to cause any change in behaviour of residents as a result due to its likely intensity and frequency. Therefore I am satisfied that the condition relating to odour specified in correspondence from this service on 23rd November 2012 is not required should this application be granted approval.

There is a potential for the occupiers of the proposed residential caravans to be impacted by road traffic noise associated with vehicles using the busy A41 trunk road running adjacent to the site. No noise assessment has been submitted and recommends that a condition is imposed to require an assessment to be submitted and approved before any work commences.

No details are submitted in relation to a lighting scheme for the site. The use of inappropriate lamps (including positioning and direction) might give rise to light nuisance to nearby residents and as such recommends a condition.

There is also a potential for noise and other nuisance to impact on the occupiers of nearby residential properties on Pixley Lane and Chester Road if inappropriate activities are undertaken on site.

- #### 4.1.3 Council Highway Officer – No objection.
- The proposal is for the provision of 3 gypsy pitches served off Pixley Lane. Pixley Lane is an unclassified road and forms a no through road. The lane becomes a track with blue advisory signs stating 'unsuitable for motor vehicles' to the west of the site access. As such therefore the lane is considered to be lightly trafficked with vehicular movements associated with residents/occupiers directly adjoining the lane. Whilst the lane

experiences a narrowing at approximately half way between its junction with Chester Road and the application site it is of a satisfactory width for a majority of this length to allow vehicles to pass one another with good forward visibility and a pedestrian footway also available for most of this length too.

The development is considered to be in effect establishing three residential units with movement of the touring caravans into and out of the site being on a seasonal basis and as such it is considered that the likely traffic generated by the proposal is unlikely to result in adverse highway implications.

From the highways aspect therefore I raise no objection to the development and recommend that the access, drive and turning areas be satisfactorily laid out and completed in accordance with the approved details prior to the site being first occupied. In respect of the access apron over the highway verge this should be improved in accordance with the Council's specification with 20 mm surface course using 6 mm aggregate, 40 mm dense binder course using 20 mm aggregate and 200mm Type 1 MOT sub base.

As the provision/improvement of the access will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.

- 4.1.4 **Council Rights of Way Officer** – It does not appear that this application would affect a public right of way and as such the Outdoor Recreation Team would raise **no objection**.
- 4.1.5 **Council Drainage Engineer** – **No objection, the details required can be dealt with by condition.**

The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been provided. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval. A catchpit should be provided on the upstream side of the proposed soakaways.

Full details, plan and sizing of the proposed package sewage treatment plant and drainage fields should be submitted for approval. British Water Flows and Loads: 3 should be used to determine the sizing of the package sewage treatment plant and drainage field should be designed to cater for the correct number of persons. The design of the drainage fields is incorrect. Vp used in the calculations should be 32 not 18 and the width of the drainage fields should not be greater than 0.9m.

On the Pluvial Flood Map, the site is at risk of surface water flooding. The applicant should provide details of how the surface water will be accommodated and should ensure that the finished floor levels of the development are set above any known flood level.

4.1.6 **Council Ecologists** – Following submission of additional information confirmed **no objection** subject to conditions.

Further to the request for an Ecological Assessment a report by Star Ecology has been submitted with the application. This concludes that the habitats on site are of low ecological value; however the hedgerows on site may be used by breeding birds. Star Ecology (2013) recommend measures to be taken if any hedgerow would be removed during bird nesting season and artificial nests should be provided.

Star Ecology conducted a Great Crested Newt assessment in 2013 following reports from Hinstock residents that one or more of the reed beds in the Severn Trent Water Sewage Treatment Works had open water and was used by amphibians.

Star Ecology was not provided access to the reed beds to carry out a comprehensive Great Crested Newt Assessment. An assessment was made from a public property on April 25<sup>th</sup> 2013.

The application site is part of an improved grassland field and contains improved grassland, bare ground and hardstanding, and is bounded by three intact species poor hedgerows.

The reed beds are located approximately 50m southwest of the site. The two reed beds together have the approximate surface area of 750m<sup>2</sup>. It is understood from Seven Trent Water that the reed beds:

- Contain gravel planted with Common reed
- Provide tertiary horizontal flow treatment of effluent
- Are dug-out and refurbished every 7-10 years

Although access was not granted to survey the site Star Ecology was able to complete a Habitat Suitability Index assessment. The HSI score of 0.71 means that the suitability of the reed beds for the breeding purposes of Great Crested Newts is 'Good'.

Star Ecology (2013) conclude that irrespective of whether Great Crested Newts successfully use the reed beds for breeding purposes or not, considering the scale of the proposed development, the habitats on site and the distance of the site from the reed beds: risk avoidance measures would be considered proportionate mitigation.

The site also has the potential for foraging and commuting bats and as such recommends a condition to require submission of lighting details.

4.2 **Public Comments**

4.2.1 253 comments have been received objecting to the application on the following grounds:

- Outside the development boundary and SAMDev boundary
- Not within the two sites identified for future development in the village
- Loss of agricultural land in time of food shortages

- Lack of local infrastructure
- No benefits to local community, countryside, employment, tourism or recreation
- No evidence of need or local connection
- The road fronting the site is part of established 5k and 10k runs which bring visitors to the area
- No information is provided on the use of the remaining land
- A previous application for use as car parking for Hinstock Manor was refused
- Proposed development and large areas of hard standing are out of character and will have a negative visual impact
- Removal of hedgerow and erection of 1.8m fencing will be an eyesore and unacceptable
- The junction of Pixley lane and the width is not sufficient for emergency vehicles
- Concern over capacity of the bridge for heavy vehicles
- The un-adopted road may require upgrading and this will be very costly given the width of the bridge
- No maximum numbers provided for vehicles
- Increase in traffic and significant road hazard
- Pixley Lane is a bridleway
- No street lighting in area
- Impact on recreational use of lane
- Hinstock is not on a bus route
- The use of generators will increase noise and air pollution
- Loss of privacy to existing residents
- Will result in light pollution
- Close proximity to A41 and sewerage plant will impact on residents of site and be a safety risk
- Impact on great crested newts and other wildlife and plants
- No mains water or drainage on the site
- The Biodigester T6 model is only suitable for 6 persons or one single residential caravan
- The land is clay and during heavy rain water runs off the field and down the lane
- Possible site of local historic interest

4.2.2 In addition a petition of 158 signatures has been received objecting to the proposal.

4.2.3 One support comment has been received.

4.2.4 A substantial number of the objectors also raised that the site is within Greenbelt. However, this is not correct. The Greenbelt in Shropshire runs along the south east of the County, there is no Greenbelt in the north. The site is classed as countryside for planning purposes but is not Greenbelt.

## 5.0 THE MAIN ISSUES

- Policy & principle of development

- Need and status of applicants
- Suitability of proposed site
- Layout of site, scale and design of buildings
- Impact on local area and neighbours amenities
- Access and highway issues
- Trees and ecology
- Drainage
- Other matters

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & Principle of Development

- 6.1.1 This application is to establish a new site for 3 gypsy traveller plots. Gypsy travellers are defined in the planning policy for traveller sites (2012) as being: *“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently but excluding members of an organised group of travelling show people or circus people travelling together as such.”*
- 6.1.2 The development of such sites, by their very nature, is often contentious. However, local planning authorities are obliged to ensure that the accommodation needs of gypsies and travellers is assessed and addressed through a plan-led process.
- 6.1.3 At a National level the new 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 Gypsies and Traveller Provision (Policy CS12). 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 PPTS and NPPF are also supplemented by additional key evidence and supplementary policies namely;
- Regional Gypsy and Traveller Accommodation Assessment 2008
  - Designing Gypsy and Traveller Sites. National Good Practice Guide (2008)
- 6.1.5 The key issues when assessing applications for new gypsy and traveller sites are set out in the PPTS as follows:
- The existing level of local provision and need for sites
  - The availability (or lack) of alternative accommodation for the applicants
  - Other personal circumstances of the applicant
  - 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,

eg:

- 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

It is consideration of these issues which forms the basis of this report.

## 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. July 2005 Caravan Count figures show that there are around 16,000 gypsy and traveller caravans, with around three quarters of these on authorised sites.

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 facilitate the provision of 79 residential pitches up to 2017. It is intended that this new pitch provision should be balanced between public and private sites. 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 for gypsy and traveller sites is a material consideration which must be given significant weight by the Council in reaching any decision.

6.2.3 Policy CS12 has three bullet points relating to the location of gypsy accommodation. Firstly sites will be allocated to meet identified need which will be done through planning policy and site allocation. Secondly proposals for sites close to Shrewsbury, Market Towns, Key Centres, Community Hubs and Clusters will be supported. And thirdly suitable development proposals for small exception sites of under 5 pitches will be supported where a strong local connection is demonstrated. The PPTS states that new traveller sites in the open countryside, away from existing settlements or outside areas allocated in the development plan should be strictly limited but does not prevent sites in rural areas. There are two issues here, Hinstock is being promoted as a community hub and as such the second bullet point would be relevant to an application for the proposed site, which is close to the cluster. Furthermore as the Shropshire Council policy in relation to sites away from hubs and clusters is more restrictive than the more up to date PPTS developments for gypsy sites in the countryside need to be considered against the PPTS where the need to show local connection is not required.

6.2.4 The concerns of Hinstock Parish Council and the local residents are noted, however, there is no requirement for the applicant to prove a local connection under the PPTS or the NPPF and both of these documents supersede the Core Strategy. The site is considered to be on the edge of an existing settlement which is being promoted as a community hub and as such policy CS12 is supportive of the principle of the proposal.

## 6.3 **Suitability of proposed sites**



- 6.3.1 The application site is outside the development boundary for Hinstock as identified in the saved North Shropshire Local Plan and as such, for planning purposes the site is considered to be countryside. However, the development boundaries are now given little weight in the consideration of applications for any form of residential use due to the lack of deliverable housing land within the County, this is the case for both open market housing and restricted housing including sites for gypsies and travellers. It is on the opposite side of the A41 to the majority of the built development of Hinstock, however the village is visible from the site and the site is only a short distance along a narrow road from the village. It is considered by officers that the development of this site for the proposed use would be appropriate and would enable integration with the community.
- 6.3.2 The school, public house and shop within the village are all accessible on foot or by bicycle and Hinstock is being promoted as a Community Hub in the forthcoming Site Allocations and Management of Development (SAMDev) document. The village has 2 proposed allocated housing sites to provide approximately 38 of the suggested 60 houses in the SAMDev. As such the village is considered to be a sustainable settlement with services and facilities.
- 6.3.3 Furthermore, it is 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; provides the occupants with a settled base to access health services and schools and reduce the need for long distance travel. The issues of impact on the amenities of future residents are considered later in the report, however there is no issue of flooding at this site, the scale of the development would not place undue pressure on the local infrastructure and services and the site provides the opportunities for a live work balance on the 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 The proposed layout plan shows the site hard surfaced and subdivided into 3 by fencing and hedges. The four proposed day rooms are 8m by 5m, single storey, with a low pitched roof. Internally the building will provide an open plan kitchen/day room, a bathroom and a wash room. It is proposed to construct the buildings out of brick and clay tile. The provision of day rooms on gypsy and traveller pitches is accepted as there are known hazards and welfare issues with cooking and bathing in a caravan on a regular basis. The principle of day rooms is not unacceptable and the scale and design of the proposed structures are considered to be appropriate for the use and the site.
- 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. It is acknowledged that the three pitches will be hard standing, however these are broken up with hedging and are also small areas of hard standing designed in accordance with the good practice guide on designing

gypsy and traveller sites. The retention of the existing roadside hedges and trees and the planting of additional hedges will help to soften the development.

- 6.4.4 Although the A41 separates the site from the village officers consider that the development of the site for three gypsy pitches would be read as part of the village of Hinstock and not as a visually intrusive development in the countryside. It will result in a change of appearance of the site and any future lighting may also result in a greater impact. However, officers do not consider that this impact is of significant harm to outweigh the benefits of providing three additional pitches towards the identified need in the County.

## 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 in a rural area regard should be had to the scale of the nearest settled community. As noted above Hinstock 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 northeast of Shropshire and has a number of services and facilities. The proposals for three gypsy pitches would not therefore dominate the settlement.
- 6.5.2 The Parish Council and residents have raised concerns about the impact on recreational use of lane and the impact on the amenities of existing residents from noise, air pollution, loss of privacy and light pollution. The nearest neighbouring property would be the accommodation within Hinstock Manor residential care home which is over 40 metres from the edge of the site and with the A41 in between. 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. The noise and air pollution from the site would not be any greater than if the site were in a residential use and as such would not be any greater than the noise and air pollution from the existing residential properties. There is no business use proposed on site beyond the parking of business related vehicles however the occupants could use the site for business ancillary to the residential use as any with dwelling.
- 6.5.3 The concerns about the impact on the leisure use of the lane are noted and it is acknowledged that the development will increase traffic movements on the lane and increase noise and light in the immediate area. However, as detailed below, the proposal for three pitches would not result in a significant increase in traffic, the noise of the A41 should also be taken into account when considering noise from the site and the lighting can be controlled through condition. Overall officers consider that the scale of the development proposed would not result in a level of harm to the leisure use of the lane as to warrant refusal of the scheme.
- ## 6.6 **Access and highway issues**
- 6.6.1 It is proposed to serve all three pitches off Pixley Lane off a single point of access which is currently used to access the sewerage treatment plant. Pixley Lane is off Chester Road which is the main road through Hinstock with the junction adjacent to Hinstock Manor. Concern has been raised about the junction of Pixley Lane onto Chester Road (A529), the level of traffic movements, the capacity of the bridge which carries Pixley Lane over the A41 and that Pixley Lane is a bridleway with no street lighting.

- 6.6.2 For confirmation the lane is used as a bridleway but is not restricted in that it does not prevent vehicular use. Beyond the site the lane does become a track with an advisory note 'unsuitable for motor vehicles'. As such, although it is accepted that the proposed development will add additional traffic to the lane, including the occasional moving of caravans, the lane is currently lightly trafficked and the Council Highway Officer has advised that it is appropriate for the proposed use with sufficient space for passing and a pedestrian footway.
- 6.6.3 Although there is no control over traffic movements it is unlikely that the larger static caravans would be moved from the site once they have been sited unless either ownership changes or a new caravan is purchased. The majority of traffic movements would be with cars or 3.5T or less vehicles as could be associated with any domestic dwelling. The touring caravans are likely to move when the occupants travel but this could also be expected at an open market property with a caravan.
- 6.6.4 The Council Highway Officer has confirmed that they have no objection and recommended that the access, drive and turning areas be laid out before use. The Officer has also confirmed that the access from Pixley Lane to Chester Road is acceptable given the level of vehicle movements that would be associated with the proposed development. It is accepted that the local community do not consider that this access has good visibility but it is also noted that the access is within the village where the speed limit is 30mph and at a point where a number of roads meet.
- 6.7 **Trees and ecology**
- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The site is currently agricultural land with established trees and hedges on the boundary and with open countryside beyond. An ecological survey has been undertaken and submitted with the application and considered by the Council's Ecologist.
- 6.7.2 Within the design and access statement submitted in support of the application the agent confirms that the existing hedgerows, bunds and areas of vegetation will be retained and augmented and that no trees will be affected by the proposal. Additional native hedgerow and tree planting is indicated on the plans and the concern of local residents that the hedgerows are to be removed and replaced with fences is not what is shown on the proposal. New fencing is shown on the boundaries between the pitches and along the access track but these are shown with hedges along the outside. As such the external appearance of the development will be of hedgerows.
- 6.7.3 The Council Ecologist has now confirmed that the additional information provided is sufficient and recommended conditions to ensure that the work is done in accordance with the survey so as to ensure no impact on great crested newts and to provide artificial nests and appropriate lighting for the bat corridors and informatives relating to bats, nesting birds and great crested newts.

6.7.4 It is acknowledged that the hedges and trees on the edges of the site and the treatment works adjacent to the site may provide habitat for protected species but the proposed development would not result in harm to the habitats or species and as such the development can be considered to be compliant with policy CS17.

## 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. The application form advises that the foul drainage from the development is proposed to be disposed of to a package treatment plan and surface water disposed via soakaways.

6.8.2 The preference is for foul drainage to be connected to mains drainage, however as noted by the objectors there is no mains drainage to the site. As such a package treatment plant is generally considered the next most suitable means of dealing with foul drainage. Full details of the proposed treatment plant will be required but can be dealt with by condition and any system would need to be sufficient to deal with the potential occupancy of the three pitches as advised in the Council Drainage Engineer's response.

6.8.3 Percolation tests will also be required to ensure that the surface water drainage system is designed appropriately and provided with sufficient length of outfall. The Council Drainage Engineer has confirmed that this could also be dealt with by condition and would also need to include details of how the surface water will be accommodated and the finished floor levels to ensure that they are above the known flood levels of the surface water flooding.

## 6.9 **Other matters**

6.9.1 Policy CS12 policy also requires all new gypsy traveller sites to make provision for essential business use. No information has been provided to detail what business proposals there are for the site however the site layout does not show any space allocated specifically for business use and the Design and Access Statement advises that vehicles will be a maximum of 3.5T and as such it is considered that any business operated from the site would be similar to any business which could be operated from a residential dwelling.

6.9.2 Hinstock Parish Council and local residents have raised concerns that the development would increase crime in the area. However, the fear of crime is only a material consideration where the use, by its nature, would provide a reasonable basis for concern. These concerns need to be carefully considered and given the scale of the development proposed as a small settled site for three gypsy pitches the proposed use of the site would not inevitably result in an increase in crime and there is no evidence to support these concerns.

6.9.3 The Council Public Protection Officer also initially raised concerns about amenities the future occupants of the caravans due to the close proximity of the sewerage treatment plant and the A41. The Public Protection Officer has since visited the site and confirmed that the sewerage treatment plant will not cause any harm to future residents. Although the Public Protection Officer remains concerned about the potential for noise impact on the future residents he has also advised that a

noise survey could be conditioned.

- 6.9.4 However, members should note that consent has now been granted by appeal for a site at Adbo Hill. This site is also on the A41 and was for 4 pitches in closer proximity to the highway carriageway than the proposed site at Pixley Lane. Although the Public Protection Officer requested a noise assessment this request was made after the planning application was refused and no noise assessment was submitted. The planning inspector will have re-considered the proposed development and all of the consultees comments including those of the public protection officer but did not comment on the noise impact on the residents of the proposed caravans or recommend a condition.
- 6.9.5 As such officers consider that it would be difficult to argue the need for a noise survey on the site at Pixley Lane when one has not been required for a similar site up the road. However, the land owner has put forward a suggestion of providing an acoustic fence along the boundary with the A41 inside the site and therefore inside the existing landscaped bank of the A41 which would help to mitigate any potential noise and the details of this fencing can be controlled by condition.

## **7.0 CONCLUSION**

- 7.1 The application site is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy as the site is close to the proposed community hub of Hinstock and as such is close to a sustainable settlement. The scale and design of the development is considered to be acceptable and although it would result in some harm to the character and appearance of the area this harm is not considered to be significant. 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 and the intervening highway.
- 7.2 The unmet need for gypsy sites within Shropshire also needs to be given weight and previous appeal decisions have given this matter significant weight and deemed that this need outweighed the harm

## **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 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.

## 10.0 BACKGROUND

### 10.1 Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework  
Planning Policy for Traveller Sites

Core Strategy and Saved Policies:  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS12 - Gypsies and Traveller Provision  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management

## 10.2 Relevant planning history:

13/00244/OUT Outline application (all matters reserved) for the erection of one bungalow REFUSED 5<sup>th</sup> November 2013 for the following reason:

*The proposed development is located within an area of defined as countryside for planning policy purposes and accordingly would lead to sporadic development that would undermine the "rural rebalance" approach to development. Accordingly the proposal is considered contrary to adopted Policies CS1, CS4, CS5 and CS6 of the Shropshire Core Strategy, and to Government advice contained in the National Planning Policy Framework (in particular paragraph 55). Although it would in terms of ecology and highways be in accordance with adopted policies, these do not outweigh the overriding policy objections.*

## 11.0 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 Andrew Davies
Appendices APPENDIX 1 - Conditions

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

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

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

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

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 site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites.

Reason: To control the occupation of the site in accordance with adopted policy.

4. No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 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. Work shall be carried out strictly in accordance with the Risk Avoidance Measures (RAMs) for Great Crested Newts and attached as an appendix to this planning permission within the Great Crested Newt Assessment conducted by Star Ecology (15th August 2013)

Reason: To ensure the protection of Great Crested Newts, a European Protected Species.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

6. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
  - Means of enclosure
  - Hard surfacing materials
  - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
  - Planting plans
  - Written specifications (including cultivation and other operations associated with plant and grass establishment)



Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate  
Implementation timetables

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

7. At the same time as the landscaping scheme required by the above condition is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule. The existing hedges around the site shall be retained at the agreed minimum height for the lifetime of the development.

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

8. Prior to the first siting of any caravans on the site details of the position, height and manufactures specifications for the proposed boundary fencing shall be submitted to and approved by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site and thereafter retained.

Reason: To provide adequate privacy and an acceptable external appearance.

9. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

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

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

10. A total of 5 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the caravans hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

11. No external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved scheme and no other lighting shall be installed or operated.

Reason: To ensure the amenity and character of the area is protected.

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

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.

-