

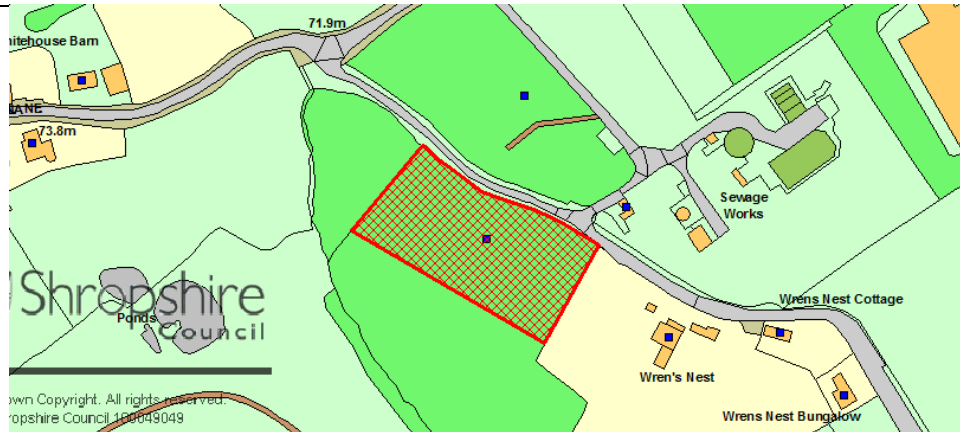
## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 21/01129/FUL	<b>Parish:</b>	Highley
<b>Proposal:</b> Application under Section 73A of the Town and Country Planning Act 1990 for the retrospective siting of six static caravans and six mobile caravans; laying of hardstanding, construction of new access and erection of 3 No. amenity buildings to include the change of use of land		
<b>Site Address:</b> Silverwoods Netherton Road Highley Bridgnorth Shropshire		
<b>Applicant:</b> Mr And Mrs J Jones		
<b>Case Officer:</b> Richard Fortune	<b>email</b>	: richard.fortune@shropshire.gov.uk

**Grid Ref:** 373981 - 282767



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application has been submitted as a result of an enforcement investigation. This partly retrospective application relates to the change of use of land to accommodate six pitches. Each pitch would accommodate two caravans, no more than one of which would be of the static/mobile home type. There would be three amenity buildings (Each shared by two pitches) along with grassed amenity areas and permeable hardstandings within each pitch. there is a shared, gated access drive with a junction onto the private road leading to the Highley Park Homes caravan site from Netherton Lane.
- 1.2 The amenity buildings would be single storey timber clad structures with a brick plinth under dual pitched dark grey slate or clay tiled roofs, each measuring some 6 metres by 4 metres. Post and rail fencing would define the boundaries of the individual plots. Additional hedgerow and tree planting is proposed to the northern, eastern and western site boundaries.
- 1.3 The agent has advised the site is not intended to accommodate business uses and asserts it is of sufficient size to provide adequate facilities for vehicle parking and children's play. He asserts in the supporting statement submitted with the application that the Gypsy and Traveller Sites Assessment (GTAA) Update published in February 2020 has limited weight as it has not been subject to public scrutiny but suggests a considerable level of unmet need in Shropshire which must carry substantial weight in favour of this application. (This claim is addressed in detail in section 6.2 below of this report).
- 1.4 The delay in bringing this application to Committee has been due to the need for a Ecological Appraisal, requested by the Council's Ecology Team in their comments of 30th April 2021 and which was submitted on 25th November 2021.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated in countryside some 150 metres to the south west of the Highley Development Boundary shown in the Site Allocations and Management of Development (SAMDev) Plan, and some 350 metres from the junction of Netherton Lane with the B4555 road at the southern end of the village. The access road to three dwellings and the Highley Park Homes static caravan site runs along the north eastern site boundary, on the opposite side of which is the village sewage treatment works. To the south east is a dwelling known as 'Wrens Nest, while to the west and north west is woodland, beyond which is a further cluster of properties at Netherton. The site contains an area of hardstanding, tall ruderal vegetation and a small amount of marshy grassland and bare earth. The site is relatively level.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council view is contrary to the Officer recommendation and the local ward member has requested Committee determination. The Chair and Vice Chair of the South Planning Committee, in consultation with the Principal Planner, consider that the material planning considerations raised in this case warrant determination by Committee.

### **4.0 Community Representations**

#### **Consultee Comment**

- 4.1 Highley Parish Council - Object:

1. No Reports from Statutory Consultees Received or included with application.
2. No Ecological /Environmental Survey carried out on Land
3. Incorrect information on application regarding the removal of Trees etc
4. SUDS report states No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use whichever is the sooner): The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding. This had not been adhered to.
5. No investigation on the impact of increased traffic in the area of Netherton Lane /Borle Mill
6. Neighbouring Properties on Highley Park Homes were not informed or consulted on the application. The correct consultation process has not been carried out. Without any of these actions being carried out and reports being provided the Parish Council feel that they have not been given all the evidence and information for them to make an informed decision and this has meant that they have no option but to object to this planning application.

- 4.2 SC Highways - No Objection:

The proposed development site is accessed off a private road leading off Netherton Lane. A public right of way runs along the private road. The junction of the private road with Netherton Lane is wide and is located a short distance from the B4555.

The private road is a no through road which currently serves Highley Park Homes (105 homes) and a number of other properties. From a highways perspective it is considered that the additional traffic movements associated with the proposed development would be unlikely to cause severe harm to the surrounding highway network and a highway objection to the proposed development could not be sustained.

It is noted that some local concern has been raised to the access off the private road, however, this is a private matter between the landowner and developer.

4.3 SC Drainage - Comment:  
Recommend condition stating that no development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the local planning authority.

4.4 SC Ecology ) – Comment:  
I have reviewed Preliminary Ecological Appraisal undertaken by Midland Ecology, dated 16 August 2021 and plans submitted in association with the application.

Additional information is required with regards to great crested newt, a European Protected Species, and how the development accords with the mitigation hierarchy as per the requirements of the NPPF and local planning policies MD12 and SC17, with regards to a UK priority habitat (semi-natural woodland).

In the absence of this additional information I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under The Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended), or show compliance with the NPPF 180, Core Strategy CS17 and SAMDev Plan policy MD12.

4.4 SC Ecology (30.04.21) - Comment:  
There are recent protected species records within 250m (Great Crested Newts, Lesser Horseshoe bats and Badger records), and a pond within 100m and a watercourse designated as Corridor Habitat within 20 metres. These conditions trigger the criteria for requiring an Ecological Impact Assessment to be conducted by a licensed Ecologist.

4.5 Severn Trent Water - No Objections:  
As the proposal has minimal impact on the public sewerage system we have no objections to the proposals and do not require a drainage condition to be applied.

Severn Trent Water advise that there is a public 225mm surface water sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to

do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

### **Public Comments**

Comments received are summarised below and their full text is viewable on the Council's web site.

4.6

57 Objections:

- Ecological surveys need to be completed before the application is determined; no evidence that baseline habitat surveys or arboriculture surveys have been done.
- There is a drive to obtain 10% gain on biodiversity through the new Environment Bill and the current NPPF 2019 and how will this be implemented.
- No regard given to the wildlife in the area, namely Great Crested Newts, bats and birds.
- Great Crested Newts shown to be in area through environmental survey carried out in 2016 on planning file 14/05410/OUT relating to factory site on Netherton Lane.
- Loss of trees and woodland.
- Object to moving onto a site of special interest.
  
- Many elderly residents live at the adjacent age restricted residential mobile home park, who moved there for peace and quiet and a development with children and dog kennels in inappropriate in such an environment
- Narrow access dangerous and not suitable for more traffic; increased congestion.
- No footways or street lighting on the access road.
- Netherton Lane is narrow and poor, school children walk along it to get to buses by Station Road and some elderly residents in wheelchairs use it.
- Additional vehicle road traffic will endanger pedestrians and horses.
- Reduce accessibility of Emergency Services to Highley Park Homes.
- Netherton Lane not suitable for travelling caravans.
- Extra pressure on the junction of Netherton Lane with the B4555 when the currently outstanding for development of 14 new industrial units at Netherton Workshops is taken into account.
- Increased noise from barking dogs; unleashed dogs get into the lane which, if it continues, could prove fatal to the dogs and residents who regularly drive along the road.
  
- Village infrastructure in a bad state
- Site does not meet NPPF principle of sustainability. While within reach of Highley the site does not have adequate infrastructure and access, failing the economic test; nor will it protected or enhance the natural environment, failing the environmental test; meeting a perceived local need not outweighed by the landscape/environmental and access impacts of the development.
- Question compliance with Gypsy and Traveller Accommodation policy CS12; exceeds number of pitches threshold for small exception sites (under 5 pitches).
  
- Work has started on site without planning permission by moving homes onto the land.
- How can it be acceptable to break the law and then ask for retrospective planning

permission?

- Set a precedent if permission is granted.
- No benefit to the local community.
- Policing of site would fall on an already busy workload of the Council and Enforcement Agencies

- Out of character

- Site visible from road unlike existing park homes.

- High density and over-development.

- Area designated as agricultural land.

- Looks unsightly.

- Concerns about the disposal of sewage and waste water.

- Potential storage of hazardous materials; burning of waste.

- Devalue properties

- Overlooking, loss of privacy.

- Light pollution in a country area.

- Caravans had to be removed from adjacent sites on the order of Shropshire Council and so why should this application go ahead after others were ordered to remove their caravans.

- Caravan site is large enough without any need for expansion.

- Highley already has lots of new homes being built and need to keep as much agricultural land as we can.

- Site within 20m of watercourse; risk of contamination of that watercourse.

- Amenity blocks are unnecessary if static and mobile (Park Homes) only suggesting touring caravans are expected at a later date.

- Potential for more caravans to move onto the site.

- Careful future planning can secure a great future for the quaint rural village as an even more successful tourist destination.

- The Council has an obligation to provide accommodation for the Gypsy and Traveller Community and it is not the responsibility of the Gypsy community to purchase and develop their own land wherever they choose; would set a precedent for anyone else to do the same regardless of their Ethnic Origin.

- Local rented accommodation is available.

- The caravans should be removed immediately.

- Why do 2 families comprising of 2 adults and two young children in addition to 3 single young men require a total of 12 housing units?

- If overcrowding occurred at their previous site, why should we believe that would not be repeated here?

- Believe the site at Kinlet View Lodges was/is owned by the Jones family and Silverwoods is an expansion of the family business.

-Previously John Jones received planning permission from Wyre Forest District Council (Ref.16/0542/FULL) to expand the gypsy/traveller site at Gatehouse Caravan Park, Nelson Road Sandy Lane Industrial Estate, Stourport On Severn.

-Pitch directly opposite the sewerage works access would appear to be near or over Severn Trent Waters pipework.( Referred to in a Deed of Grant dated 16th January 1998) and has their consent been sought?

4.7

4 letters of Support:

-This is a hard-working family who keep themselves to themselves

-Have watched the youngest children grow up and become kind and compassionate young boys; saddened that people are judging them without prior knowledge of them.

-Applicants have substantially improved site security for younger family members to all live together in harmony and made improvements to an otherwise barren area.

-As the family have lived locally for so long they will not be putting an additional strain on local services such as schools or medical practices.

-They are aware of how important ecological matters are and are willing and competent to comply with such regulations.

-Applicants are nice friendly people

-Dogs are never allowed to roam the lane unattended and are supervised at all times

- Have gone past the site many times on foot and by car and there is never any noise or disturbance..

-Traffic from one family moving onto the lane no more than when relatives and friends come to visit Highley Park.

-Have witnessed how fast residents from Highley Park come flying down Netherton Lane and round the blind corner into the entrance on many occasions.

-The family are Romany gypsies with centuries of heritage and they will be the sole residents.

-The children attend the local school, parents own businesses and are kind and helpful people.

-The site will be well maintained, immaculately clean and will be well screened for the residents benefit and their own.

-Six plots next door to over 100 park homes will not make any difference

-Please let's welcome this family, as the families of the park homes have been welcomed.

4.8

Cllr.Tremellen - Objects:

I object to this application on the basis of insufficient information regarding the probable environmental impact of the ongoing illegal development that preceded it, and which progressed without the benefit of the guidance that could possibly have been contained within reports from statutory consultees that would have informed any assessment of this development's impact on its environment and potential damage to its ecology and what actions could have been taken to mitigate any such damage caused by the unmanaged land clearance that included mature trees.

As it is, that opportunity has been lost, which is why it is so important to assess

what ecology is left and how the development's illegal stages may have damaged what might once have been there

It is essential that the potential for harm identified by statutory consultees (who, it is important to remind ourselves, may conclude that no such harm was caused by those earlier illegal activities) especially with regard to bats and great crested newts, known to be breeding on neighbouring land (reference pen factory studies relating to earlier planning applications on that site to the east of the one under consideration), is known by all those now being asked to comment on the merits of this application. They are, after all, statutory consultees.

The local community I represent (including the parish council, of which I am a member) insist that more is known about the possible/potential ecological impact this development has had and may continue to have on an environment that is already under pressure.

It is also important to note concerns that changes in land ownership in the immediate area neighbouring the one under consideration here (with identical characteristics) to this development show all the signs of speculative acquisition pending the outcome of this application. In that regard, the principle of ecological/environmental safeguarding is rendered even more significant, certainly in terms of the council's expectation that landowners acknowledge that they have a shared responsibility to the planet by sticking to both the spirit and the word of the council's planning policies and not ride rough-shod through them.

I would also like it noted that, given the significance to the local community and to take the 'emotions' out of the issue, I wish to register my formal request that this retrospective application be called in to committee.

## **5.0 THE MAIN ISSUES**

Principle of development  
Need for Gypsy and traveller sites (GTAA)  
Visual impact and landscaping  
Highway Safety  
Ecology  
Residential Amenity  
Drainage  
The Planning Balance

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 Central Government Planning Policy for Traveller Sites (PPTS) August 2015, which sets out the relevant national planning policy relating to Gypsy and Traveller sites, applies. This in any case needs to be read together with the National Planning



Policy Framework (NPPF 2021), whilst relevant elements of Core Strategy Policies CS5 and CS12 provide the local context together, with other relevant Core Strategy and SAMDev Plan policies, for example, those relating to the natural and historic environment and general development management matters.

6.1.2 Core Strategy Policies CS5 and CS12 (together with PPTS which provides the most recent national policy) currently provide the criteria against which proposals for Gypsy and Traveller sites (including those in countryside) will be considered, having regard to sustainable development and other material considerations. Policy CS5 controls development in the countryside and in line with national policy in NPPF lists residential exceptions that may be permitted on appropriate sites in countryside, including accommodation to meet a local need in accordance with CS12. Policy CS12 provides criteria for the consideration of situations where there may be no identified need requiring site allocation but where planning applications result. CS12 includes detailed criteria applying to general proposals for sites (bullet 2) and for the consideration of rural exception sites (bullet point 3). Since the submitted application is described as being for development to meet general need, the proposal should be considered under bullet point 2 of Core Strategy Policy CS12, with reference to PPTS and NPPF.

6.1.3 National policy (PPTS) requires that sites are sustainable and highlights the following, amongst other relevant matters, in addition to general development management considerations, when considering proposals:

1. Whether effective use is made of previously used/derelict/untidy land;
2. Whether a scheme makes a contribution to enhancement of the environment and increase of openness;
3. Promotion of healthy lifestyles (e.g. recreational opportunities);
4. Where landscaping is required, that it is appropriate and attractive and in particular hard landscaping does not give the appearance of creating an isolationist barrier;
5. The appropriateness of the scale of any rural site relative to nearest settled community and capacity of local infrastructure;
6. Need to avoid areas of high flood risk;
7. Whether planning conditions or obligations can be used to mitigate impacts and overcome planning concerns;
8. Any heritage or natural environment designations.

It is also recognised that additional pitches may support social sustainability by making provision for growth within family units; improving access to employment opportunities and that settled sites can improve health and social outcomes.

6.1.4 Core Strategy Policy CS12 is the main relevant policy for meeting the identified accommodation needs of Gypsy and Travellers, through site allocation and other

suitable development on appropriate sites. As required by PPTS, where there is no identified need requiring site allocation it sets out the criteria which are used to assess any planning applications which come forward. Where a proposal does not relate to an exception site, CS12 states that an application to meet the accommodation needs of the Gypsy and Traveller community will be supported if it is a suitable proposal located close to Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Such a site may be in countryside. However, the PPTS (paragraph 25) sets out a requirement that Local Planning Authorities 'should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan'. Consequently, new traveller sites should be appropriately controlled in open countryside locations and siting close to settlements (bullet 2, CS12) is required. It could reasonably be said that the location of this proposal is close to a key centre being less than 150m from Highley's development boundary.

6.1.6 The implications of the Human Rights Act, Equality Act 2010 and the best interests of the child, are also significant considerations in determination of an application.

6.1.7 The Council's Gypsy Liaison Officer has verified that the applicants and their extended family would meet the PPTS definition and therefore qualify for consideration under the above policies. He states also that Shropshire Council has no vacant sites that could accommodate this extended family. Details have been received setting out the personal circumstances of the occupants of the site, but requires this information to be kept CONFIDENTIAL and not be published in the public domain. Elements of this report therefore need to be redacted in the version that is made public.

6.1.8 **CONFIDENTIAL IN PUBLIC VERSION**

## 6.2 **Need for Gypsy and traveller sites (GTAA)**

6.2.1 The previous assessment of the need for Gypsy and Traveller sites in the Gypsy and Traveller Accommodation Assessment (GTAA) carried out in 2017 has been updated to support the review of the Shropshire Local Plan. The Local Plan review will 'roll' forward the Plan period to 2038, with an update of housing requirements including provision for Gypsies and Travellers. The GTAA 2019 update also considers the 5-year supply picture in Shropshire. It is acknowledged, as stated in the agent's supporting statement, that the updated GTAA, has not been through the scrutiny of Local Plan examination but the robustness of this evidence is discussed below.

6.2.2 Acknowledging that there is a requirement to consider all housing need, the GTAA 2019 update considers the accommodation needs of all Gypsies and Travellers including those that meet the definition set out in Annexe 1 of Planning Policy for Traveller Sites (PPTS) 2015 and settled Travellers who do not meet that definition but identify as Gypsy or Travellers. However, the analysis of survey data for the purposes of the GTAA 2019 update (in paragraph 7.27) indicates that around 37.7% of Gypsies and Travellers in Shropshire satisfy the PPTS Annexe 1

definition, and applies this proportion to the entire cultural need evidenced for 5 year and longer term modelling to establish PPTS need for pitches. Thus, if solely considering PPTS need (in line with the applicants submitted Design and Access statement which suggests that permission be granted subject to a condition limiting site occupation to PPTS definition individuals) this is identified as 9 pitches over the initial 5-year period (5 year supply) and 43 pitches in total to 2038, excluding turnover. With evidenced turnover (i.e. existing pitches which become available) which is expected by evidence within the GTAA 2019 update to continue at an average of 9.3 pitches p.a., there is no residual shortfall in pitches (for cultural or PPTS need).

- 6.2.3 Therefore, it is not considered that there is a considerable level of unmet need as suggested in the application. It would be expected that where pitches become available that they should be used to help address local needs and it is understood that the Council maintains a waiting list for its pitches to seek to manage allocations and the Gypsy Liaison team can clarify their approach if required. It should be noted however that, as with more general housing need, the GTAA 2019 update considers provision and need across Shropshire and not specific to the Highley area and there are no sites recorded within that locality. Sites within Shropshire are largely concentrated around Shrewsbury and in the north of the County, with clustering around the A41/A49 corridor.
- 6.2.4 Although the applicant's agent disagrees with the GTAA methodology, in particular the inclusion of turnover, this approach was accepted by the Inspector of the adopted SAMDev Plan. The methodology used to determine an appropriate turnover figure has additionally been further refined for the GTAA 2019 update to ensure cautious interpretation of information to exclude turnover which does not result in the genuine release of pitches. Also, turnover which will inevitably occur on private sites is not included as it cannot be satisfactorily evidenced by the Local Authority. This is significant as, of the total 147 authorised pitches, 83 are on private sites (Table 4.5). Furthermore, the analysis and turnover calculation also takes into account and is moderated to reflect the exceptional turnover of the 16 pitches at the Craven Arms site (i.e. whole site vacated and subsequent re-occupancy with new tenants in 2015) as detailed in Tables 7.4 & 7.5 & paragraphs 7.30 - 7.34. It can be noted that total figures in Table 7.6 also reflect that the Craven Arms site experienced a much higher level movement from outside Shropshire than other local authority sites. The GTAA is however clear at para 7.34 that households moving outside the county are a key driver for turnover.
- 6.2.5 Whilst the GTAA 2019 update concludes that there is no current requirement for site allocations or evidence of the need for the identification of sites for longer term provision, it does recommend that the Council should continue to consider planning applications for appropriate small sites to address any arising needs of Gypsy and Traveller families, should they be forthcoming over the Plan period. This is in line with the Government aspiration to promote more private traveller site provision, as set out in PPTS 2015 and highlighted in the applicants D & A statement. It also recognises that needs can arise for a number of reasons, including accessibility to school & health facilities; pitch vacancies at the particular time; issues of ethnic mix

and compatibility; ability of available sites to accommodate large family groups etc. It is noted that the details supplied indicate that this is a proposal for provision for a family group.

### 6.3 **Visual impact and landscaping**

6.3.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev policy MD2 requires development to respect locally distinctive or valued character and existing amenity value.

6.3.2 This site is not conspicuous in the wider rural landscape due the topography, the woodland screening to the west and the mix of existing surrounding land uses. The additional hedge and tree boundary planting proposed, the full details of which could be conditioned on any grant of planning permission, would also assist in making the site, stationed caravans and parked vehicles less conspicuous at closer range views. The proposed design and materials for the amenity buildings would be sympathetic to the rural setting.

### 6.4 **Highway Safety**

6.4.1 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel reduced. It also seeks to secure safe developments. The NPPF, at paragraph 110 requires that developments provide a safe and suitable access to the site can be achieved for all users. Paragraph 111 continues by stating that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

6.4.2 The road over which access to this site is gained already serves in excess of 100 static caravans/ park homes and other residential properties. The Council's Highways Consultants are content that the site access and local road network can accommodate safely the type and volume of traffic likely to be generated by this application, which proposes wholly residential plots and not their dual use for business purposes. The close proximity of the site to Highley and the services available there mean that the site occupants are not wholly reliant on the private car to access them. There are no highway related grounds for refusal which could be sustained at appeal in this case.

### 6.5 **Ecology**

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

6.5.2 An Ecological Appraisal was requested and provided in the form of a Preliminary

Ecological Appraisal (Extended Phase 1 Habitat Survey) by Midland Ecology. This has established the baseline conditions, includes a discussion of impacts and then makes recommendations. The Appraisal sets out best practice measures in respect of protecting bats should any works to trees and hedgerows be proposed, to protect nesting birds, to monitor any badger activity and precautionary measures to take with respect to reptiles and small mammals. It comments that due to the presence of a breeding pond in close proximity it should be assumed that great crested newts are present within the suitable terrestrial habitat (tall ruderal, marshy grassland, log piles and hedgerows). Works within 250 metres of a known great crested newt breeding pond require a European Protected Species Licence from Natural England in order to proceed legally. Given that this is a partly retrospective application and adverse impacts which may have arisen with respect to works already done on site would be a matter for the licensing authority - Natural England. The recommendation of the Council's Ecology Team that further information is required with regards to great crested newts is acknowledged, but account has to be taken of the fact that some works have already been carried out on site and that it is occupied. Were planning permission to be granted then it would have to be conditioned that no further works are carried out until such time that the appropriate licence has been obtained from Natural England.

- 6.5.3 The Ecological Appraisal makes recommendations that, where possible, the development should incorporate wildlife friendly lighting; measures to protect existing trees from construction activities; inclusion of bat and bird boxes; hedgehog hibernation box; inclusion of plants of known value to wildlife in the landscape design; removal of Himalayan Balsam identified on site; creation of wildlife refuge areas (habitat piles) and measures to improve ecological connectivity, such as strengthening tree-lined boundaries. A further planning condition would require the development to be carried out in accordance with the recommendations of the submitted Ecological Appraisal.

## 6.6 Residential Amenity

- 6.6.1 Core Strategy policy CS6 seeks to safeguard residential amenity. The proposed siting of the pitches would not unduly impact on the privacy of other residential properties in the vicinity or lead to overbearing impacts. While there are noises associated with any residential use it is not considered, with the separation distances between properties, that a planning refusal on grounds of noise disturbance could be sustained. (The comments made by some third parties alleging noise disturbance from barking dogs is a matter to be addressed through other legislation should it be found to constitute a nuisance). The separation distance of the site from the infrastructure contained within the sewage treatment plant to the east would be sufficient to ensure that the amenities of the occupants of the caravans would not be unduly harmed. (Severn Trent as operator of that facility has raised no concerns on this issue in their consultation response).

## 6.7 Drainage

- 6.7.1 Core Strategy policy CS18 seeks to ensure proposals include measures for

sustainable water management and reduce flood risk. This application includes permeable hard surfaces and the foul drainage would be via a septic tank . The site falls within flood zone 1, which are areas at minimal risk of flooding. The Council's Drainage Consultants are content that the details of the drainage arrangements can be conditioned on any grant of planning permission.

## 6.8 **The Planning Balance**

- 6.8.1 Local Policy and evidence, including supply of sites, is a significant material consideration. The current evidence, as set out in the GTAA 2019 update does not identify any strategic need for Gypsy and Traveller sites but recommends that the Council continues to consider applications for small sites for family use as they arise, using its criteria-based policy.
- 6.8.2 PPTS is also clear that irrespective of identified need it is expected that applications which come forward on unallocated sites will be assessed on their merits against local policy criteria (currently in CS12) which facilitate the traditional way of life of travellers. There is also a need to consider the best interests of the child under the Human Rights, Equality Act 2010, personal circumstances and establish the availability of alternative accommodation (para 24 PPTS).
- 6.8.3 The adopted Plan Policy CS12 currently provides the relevant local criteria for the consideration of applications. The policy seeks to direct most pitch provision to locations which are in reasonable proximity of sustainable settlements with services and facilities to facilitate access to education, health, welfare and employment opportunities. However whilst it is recognised that to promote sustainable lifestyles and communities, sites should be reasonably accessible to facilities and services, this must be balanced with the need to: provide affordable opportunities for sites; the requirements of Gypsy and Traveller traditional lifestyles, local environmental capacity and the ability of local infrastructure to absorb additional requirements.
- 6.8.4 The site is located in countryside. Whilst PPTS paragraph 25 states that new traveller sites in open countryside away from settlements should be very strictly limited, provision is made for appropriate sites in rural areas. The appropriateness of the scale of any rural site relative to nearest settled community and capacity of local infrastructure is an important consideration and in this case the site will need to be considered in the context of its relative close proximity and accessibility to Highley, a Key Centre.
- 6.8.5 The Council's most recent GTAA evidence is considered robust. It is not agreed that there is general need for traveller pitches as set in the D & A Statement. However, whilst the published evidence indicates that there is no strategic requirement for pitches over either the current Local Plan period (to 2026) or the Local Plan review period (to 2038)\_it also recommends that applications for small sites should continue to be considered as a means of addressing specific arising needs.(See 6.2.5 above).
- 6.8.6 A 6 pitch site could be considered appropriate in scale in the context of Highley and specific needs are cited. The applicant's family and occupiers of the pitches have

been confirmed by the Council's Gypsy Liaison Officer to be Romany Gypsies and it is important to them to live as part of an extended family group.

- 6.8.7 The site is close to village facilities which include a large range of shops, health facilities and a primary school. Paragraph 13 of DCLG 2015 states that LPAs should ensure traveller sites are sustainable economically, socially and environmentally and should ensure that, among other matters which are listed, site locations ensure that children can attend school on a regular basis.
- 6.8.8 Were the application to be refused and enforcement action taken, the families are likely to return to living on the road and disruption to the education of the children (And their health care). It is considered that the needs of the children are a primary material consideration relevant to the determination of this application.
- 6.8.9 Planning conditions would be necessary on any approval limiting the occupation of the site to gypsies and to the persons named in the supporting information, due to the site only being acceptable because of the identity of the occupiers and their identified needs.
- 6.9.10 The ecological impact of the development, as reviewed by the Ecological Appraisal, indicates that measures can be incorporated in the development to safeguard those interests, which could be secured through planning conditions.

## **7.0 CONCLUSION**

The personal circumstances of the occupiers, particularly having regard to the educational needs of the children and the positive attributes of the site in terms of not impacting on residential amenity of existing properties; the proximity of services for the occupants (Including education for the children); safe access onto the local road network; the limited visual impact due to topography and surrounding land uses; the lack of available pitches on authorised traveller sites in Shropshire to accommodate this extended family are factors which, cumulatively, result in the recommendation for approval.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

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

than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## **8.2 Human Rights**

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

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

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

## **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## **9.0 Financial Implications**

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

## **10. Background**

### Relevant Planning Policies



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

Shropshire Core Strategy and SAMDev Plan Policies:  
CS3 - The Market Towns and Other Key Centres  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS12 - Gypsies and Traveller Provision  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management  
MD1 - Scale and Distribution of Development  
MD12 - Natural Environment  
MD13 - Historic Environment  
Settlement: S9 – Highley

SPD Type and Affordability of Housing

#### 11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=QPGL1PTDL8N00>

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

Design and Access Statement  
Ecological Appraisal

Local Member

Cllr Dave Tremellen

Appendices  
APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

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

2. The residential occupation of the land hereby permitted shall be carried on by John Jones and Karen Jones; Jack and Jadine Finney; Dylan Jones; Anthony Jones and Rhys Jones, and their resident dependants, and shall be for a limited period being the period during which the land is occupied by them.

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

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

Reason: Planning permission has only been given because of the personal circumstances of the occupiers and their identified needs and to safeguard the natural and local environment.

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

Reason: Planning permission has only been given because of the personal circumstances of the occupiers and their identified needs and to safeguard the natural and local environment.

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

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

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

Reason: To define the permission for the avoidance of any doubt and to limit the impact of the development on the countryside and neighbour amenity.

7. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK and any future update to that document.

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

8. The development shall be carried out in accordance with the recommendations of the Extended Phase 1 Preliminary Ecological Appraisal by Midland Ecology in respect of Silverwoods, Netherton, Highley dated 16/08/2021 with final sign off date of 20/09/2021.

Reason: To safeguard ecological interests.

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

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

10. No work shall commence on the amenity blocks until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the amenity blocks are first brought into use.

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

11. Prior to further works being carried out on site, including the erection and servicing of the amenity blocks, a European Protected Species Licence with respect to great crested newts shall be obtained from Natural England and a copy supplied to the Local Planning Authority.  
Reason: To safeguard a protected species that could be present on site due to the close proximity of a known breeding pond for that species.

### **Informatives**

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. In determining this application the Local Planning Authority gave consideration to the following policies:

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

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

SAMDev Plan:  
MD2 Sustainable Design  
MD12 The Natural Environment

MD13 The Historic Environment  
S9 Highley Area

SPD on the Type and Affordability of Housing

3. Himalayan balsam is listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to allow this species to be released into, or cause it to grow, in the wild and landowners should not allow it to spread onto neighbouring land, although they may not be obliged to remove or treat it on their own land.

Treatment of Himalayan balsam should be carried out by an experienced contractor and development cannot commence until the plant has been completely removed from the site.

Use of herbicides alongside water courses should only be undertaken by experienced, licensed contractors following advice from the Environment Agency.

Himalayan balsam is classed as a controlled waste and should be disposed of by an experienced contractor to an approved waste site in accordance with the Environmental Protection Act (Duty of Care) Regulations 1991).

4. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal and/or conversion, renovation and demolition work in buildings [or other suitable nesting habitat] should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

5. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

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

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

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

[Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.]

6. Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is

occupying a sett.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

7. It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

Should any works to mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works. The bat survey should be carried out by an appropriately qualified and experienced ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition).

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

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Location: Silverwoods, Netherton Road, Highley, Bridgnorth, Shropshire

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