

AGENDA ITEM



Committee and date
Southern Planning Committee
14th March 2023

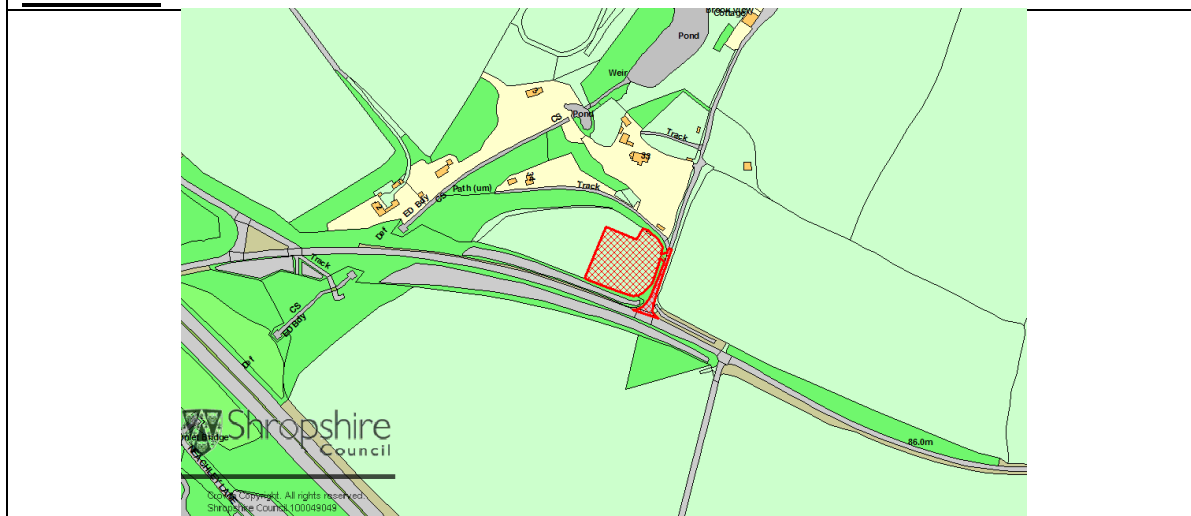
Development Management Report

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

Summary of Application

Application Number: 22/05521/FUL	Parish:	Tong
Proposal: Application under Section 73A of the Town And Country Planning Act 1990 for the change of use of land to Gypsy / Traveller Site consisting of four family pitches to include 4No. static caravans, 4No. touring caravans, 4No. amenity blocks with gravel drive and turning area (re-submission)		
Site Address: Land To The South Of Tong Forge Shifnal Shropshire		
Applicant: Mrs E Quinn		
Case Officer: Mike Davies	email: mike.daves.planning@shropshire.gov.uk	

Grid Ref: 378244 - 307890



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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is a retrospective planning application for the change of use of land to a Gypsy/Traveller Site and siting of 4 static caravans and 4 touring caravans for an extended gypsy/traveller family. The proposals also include for the provision of 2 single day room buildings along with a twin day room building to provide washing, toilet and cooking facilities for the residents of each of the 4 pitches.
- 1.2 The proposals also include for a pony paddock on the east part of site as well as gates to the site access. A native hedgerow will be planted along the boundary between the pony paddock and the residential caravan site. The western part of the site has been substantially covered in hardstanding since first occupation by the applicant in late 2021.
- 1.3 A similar proposal (21/04533/FUL) on this site last year was refused on 17th May 2022 for the following reasons:
1. *The proposal represents an inappropriate form of development which would be harmful to the openness of Green Belt and rural landscape character of the countryside which is contrary to the Section 13 of NPPF, Policy E of DCLG Planning Policy for Travellers Sites (2015), Policies CS5 and CS12 of the Shropshire Core Strategy (2011).*
 2. *The proposal does not represent a sustainable form of development due to its isolated nature and it is therefore contrary to Section 2 of the NPPF, Policy B of DCLG Planning Policy for Travellers Sites (2015) and Policy CS12 of the Shropshire Core Strategy (2011).*
 3. *The proposal is located a considerable distance from the nearest settlement boundary contrary to Policy H of the DCLG Planning Policy for Travellers Sites (2015) and Policy CS12 of the Shropshire Core Strategy (2011).*
 4. *The applicant has failed to undertake an appropriate ecological impact assessment which is contrary to Paragraph 180 and 182 of the NPPF, Policies CS6 and CS17 of the Shropshire Core Strategy and Policy MD12 of the SAMDev Plan.*
- 1.4 The revised application submitted contains substantially more information in relation to the personal circumstances of the appellants and their extended

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family the other site occupants which were not included with the previous submission.

- 1.5 In addition, the definition of Gipsy and Traveller has changed from that given in the PPTS (2015) as the recent Smith judgement determined that this was discriminatory on both disability and racial grounds and as such the definition should be altered to include those who could no longer travel due to being infirm or elderly.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated within the Green Belt at the junction of Stanton Road and Lizard Lane leading to RSN Commercials at Tong Forge. There is a hedgerow with a belt of trees around the perimeter of the site fronting on Stanton Road and Lizard Lane which is a restricted by-way. Public Footpath 0149/14/1 runs along the northern edge of the site.
- 2.2 The site is predominantly surrounded by agricultural fields with RSN commercials to the north. Access to the site is gained via a restricted by-way 0149/15/5 and as such whilst the by-way is a public highway and is maintainable at the public expense to a level commensurate with its public use – i.e. it is not publicly maintained to enable use by vehicles as there is no public right to do so.
- 2.3 The application makes various claims about the former use of the site, but offers very little in the way of substantive evidence to support these. There are no records held by the Council that offer any substance to these claims and historic aerial photos of the site do not indicate the site is previously developed land as suggested by the applicant.
- 2.4 In any event if the site was used at some point in the past as a contractor's compound in relation to the construction of the M54 motorway (1973-75), this would only have been a temporary use and since the use ceased the site has been reclaimed by nature leaving little evidence of any previous use which would support the claim that the site is previously developed land.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The Parish Council have objected to the application and the ward member objects, however the ward member whose constituency adjoins the eastern edge of the site has expressed support for the proposals. The officer recommendation differs from the views of the ward member and therefore the matter cannot be determined under delegated powers, without the agreement of the Chair/Vice Chair of the Southern Planning Committee.

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4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **Tong Parish Council** - This is contrary to the policy on the Green Belt- there are no extenuating circumstances here that would permit development.
- Additional traffic on Stanton Rd and Lizard Lane would promote further hazard.
 - There has never been hardcore on the land.
 - We fully support the Planning Authority, in its previous decision on this retrospective application.
 - The needs of travelling families are well provided for within the County and future needs come under the provision of the Local Plan.
- 4.1.2 **SC Waste Management** - The waste management team have offered standing advice in relation to new developments.
- 4.1.3 **Public Rights of Way** - The application proposes access over a route that is recorded as a public Restricted Byway that does not appear to carry public motorised vehicular rights. The applicant is very strongly advised to satisfy themselves that they can demonstrate a sufficient vehicular right of access before committing further resources to the proposal. Neither the granting of planning permission, nor any associated obligations relating to the proposed access, either grant or imply the existence of any right for the benefit of the applicant to use that way with vehicles and it is a road traffic offence to drive a motor vehicle on a Restricted Byway without lawful authority.
- 4.1.4 **County Ecologist** - No objection: The information and plans submitted in association with the application have been reviewed along with the survey work carried out. Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.
- 4.1.5 **SC Landscape Consultant** - The development has led to adverse landscape effects. The hardstanding, vehicles and other items on the site have introduced discordant landscape elements uncharacteristic of the receiving landscape and the loss of an area of grassland, with no mitigating measures other than a proposed length of new hedgerow to balance this loss. At an application site level, this represents a notable loss of the vegetation cover of the site. The Design & Access Statement notes that there will be no adverse visual impact but provides no evidence to support this statement, and from my site visit I consider that this will not be the case. The development is visible from Stanton Lane, from Restricted Byway 0149/15/4 from which access to the site is made, and from public footpath 0149/14/1 which bounds the site to the north. Filtered visibility of caravans was also noted from Lizard Lane to the west, although this view would be limited to winter months. As a

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result, and in the absence of any mitigation measures, the development is accompanied by adverse visual effects, however a landscape condition requiring additional screening could help to mitigate against visual impacts

The Design & Access Statement refers to the site being located in an Area of Great Landscape Value; however, I am not aware of this designation.

The development will also lead to permanent harm to openness of the Green Belt. Openness as a landscape characteristic described in a landscape character assessment refers to the degree of enclosure and visual permeability of the landscape; whereas openness of the green belt refers to an absence of urban features and built structures. This definition has been confirmed by the Supreme Court judgement in Samuel Smith Old Brewery (Tadcaster) & Ors, R (on the application of) v North Yorkshire County Council [2020], that the visual quality of the landscape is not in itself an essential part of the openness for which the Green Belt is protected. The development has introduced urban elements to a previously undeveloped and open site.

It is therefore considered that the development does not accord with Local Plan policy on landscape and visual matters, or with national or local policy on development in the Green Belt.

- 4.1.6 **Highway Authority** - The site has access onto the Class III road, Stanton Road to the south via a private track/road. From information currently available the private road also serves as a route to a business selling commercial vehicles, residential properties, and adjoining farm/agricultural land. The private road also provides the route of a restricted byway, route code no. 0149/15/4.

Whilst it is accepted that the formation of the proposed development will generate some additional traffic utilising the private road junction, these additional vehicle movements are considered unlikely to have a material impact in view of the existing ones arising from the operations/uses that currently use the road and its junction with Stanton Road. The proposal is considered unlikely to lead to severe harm on the adjacent highway network, which could be demonstrated and/or sustained at appeal.

The means of access to the site is via a restricted byway, the implementation of any permission granted requires the applicant to have actual rights of vehicular access to the site from the public highway. Stipulations governing the use of/implications of the restricted byway are covered by Shropshire Councils Outdoor Recreation Team.

- 4.1.7 **Environmental Protection** – No comments

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4.1.8 **County Arborist** – No Objections

4.1.9 **Local Lead Flood Authority** – Drainage shall be designed in accordance with the drainage hierarchy.

4.2 **Public Comments**

18 representations from the public supporting the proposals have been received, however they do not refer to any material planning considerations in their expressions of support.

5.0 **THE MAIN ISSUES**

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Highways and Transportation
Residential Amenity
Ecology
Personal Circumstances
Planning Balance

6.0 **OFFICER APPRAISAL**

6.1 Principle of development

6.1.1 Section 38(6) of the Town and Country Planning Act requires that applications should be determined in accordance with the up-to-date adopted development plan unless material considerations indicate otherwise.

6.1.2 The relevant Development Plan Policies are provided within the Shropshire Core Strategy (2011); Site Allocations and Management of Development Plan (2015); Sustainable Design SPD (July 2011); and National Planning Policy Framework (NPPF) (2021). The DCLG Planning policy for traveller sites' (August 2015) also needs to be taken into account in the context of these proposals. Those of relevance to the proposal are considered below as part of the appraisal.

6.1.3 The planning policy context for this development is that the site falls within the Green Belt. The National Planning Policy Framework advises at paragraph 147 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It continues at paragraph 148 stating:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green

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Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

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

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

- 6.1.5 The applicant in their supporting statement claims that the site was originally used by the Department of Transport as a compound for when the M54 was being built. Having checked the historical records of Bridgnorth Council there is no site history relating to this site which supports this claim. In any event whether or not this use can be substantiated it would only have been for a temporary period during construction of the M54 and it is evident from aerial photographic images that the site has been reclaimed by nature in the intervening period. Therefore, any former use relating to the construction of the M54 that could be attributed to the site has long since ceased.

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

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

- 6.1.7 However, at paragraph 16 the PPTS states *“Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.”*

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- 6.1.8 There is a requirement under paragraph 25 of the DCLG policy for local planning authorities to very strictly limit new traveller sites in open countryside that is away from existing settlements or outside areas allocated in the development plan. It continues to say that those sites in rural areas should respect the scale of, and not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure. Paragraph 26 states when considering applications local planning authorities should attach weight to the following matters:
- a) Effective use of previously developed (brownfield), untidy or derelict land
 - b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
 - c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
 - d) Not enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 6.1.9 It continues at paragraph 27 by stating that where a local planning authority is unable to demonstrate an up to date 5-year supply of deliverable sites, that this would be a significant material consideration when considering applications for the grant of temporary planning permission. It clarifies however that there are some exceptions to this statement, which include where the proposal is on land designated as Green Belt.
- 6.1.10 Shropshire Core Strategy policy CS5 relates to the Countryside and Green Belt and seeks to restrict housing to house agricultural, forestry or other essential countryside workers and other affordable housing/accommodation to meet a local need in accordance with national planning policies and policies CS11 and CS12. It advises that there will be additional controls over development in the Green Belt in line with Government Guidance. SAMDev Plan policy MD6 also relates to the Green Belt, requiring it to be demonstrated that proposals do not conflict with the purposes of the Green Belt.
- 6.1.11 Shropshire Core Strategy Policy CS12 relates to Gypsy and Traveller provision and pre-dates both the National Planning Policy Framework (NPPF) and the August 2015 DCLG Planning policy for traveller sites. It states that sites would be allocated to meet identified needs and would be supportive of suitable development proposals close to Shrewsbury, the Market Towns, and Community Hubs and clusters. The policy also indicates that suitable development proposals for small exception sites (under 5 pitches), where a strong local connection is demonstrated, may be acceptable under policy CS5 (Countryside and Green Belt). It was anticipated when the Core Strategy was adopted that the provision of new sites would be largely made in the Site

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Allocations and Management of Development (SAMDev) Plan. However, the SAMDev Plan adopted in December 2015 does not include site allocations for this purpose. The matter was considered by the SAMDev Inspector in her October 2015 report at paragraphs 71 to 79 (Issue 3). It was the Inspector's conclusion that the Council will be able to demonstrate a five-year supply of pitches and sufficient supply for the remainder of the plan period, having regard to the expected turnover of pitches on Council owned sites. She stated that the evidence confirms that it is not necessary for the SAMDev Plan to make further provision to meet the accommodation needs of the gypsy and traveller community and travelling show persons.

- 6.1.12 The latest assessment of the need for gypsy and traveller pitches in Shropshire is the 2019 update. It summarises the need for gypsy and traveller pitches, transit pitches and travelling show person's plots in Shropshire as assessed in the Gypsy and Traveller Accommodation Assessment 2014 (updated January 2015), with the SAMDev Plan Inspector's Report (20th October 2015) providing additional clarification of baseline figures.
- 6.1.13 With respect to Residential Gypsy and traveller pitches this data shows an assessed need to 2019 of 165 pitches.
The current need (excluding turnover) = assessed need – assessed and additional supply since January 2015 = 11 Pitches.
The current need (including turnover) = assessed need – assessed and additional supply since January 2015 = - 24 pitches.
- 6.1.14 At the time of writing this report the Council has commissioned a Gypsy and Traveller Accommodation Assessment (GTAA) review, which will feed into the partial review of the SAMDev Plan to roll that document forward until 2036. A Green Belt review is also underway at the present time as part of the partial review of the SAMDev Plan.

The agent has submitted supporting information in relation to the children of the applicants being schooled locally and underlying health issues that other occupants of the site suffer from. The applicant has provided confidential information detailing their 'personal circumstances' in support of this planning application.

- 6.1.15 The Council's Gypsy Liaison Officer has verified that the applicant and the occupiers of the site are all Travellers. He has knowledge of the family from when he worked for Telford and Wrekin Council. The immediate family of the applicants live in Telford within a bricks and mortar property. He further advises:

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Shropshire Council has no vacant sites at present and Telford and Wrekin Council do not have any pitches available either. A letter of support has also been received from Gypsy Liaison Officer at Telford and Wrekin Council confirming the local connection and non-availability of alternative sites within their district.

- 6.1.16 The GTAA for Telford and Wrekin and that for South Staffs both show that there are shortfalls in site provision to be addressed.
- 6.1.17 The GTAA for South Staffs is dated January 2014 identifies a shortfall of 11 gypsy and traveller pitches over the period 2013/14 to 2017/18 and that, over the longer term for the Plan Period 2013/14 to 2027/28 that a total of 33 additional pitches are required.
- 6.1.18 The June 2016 Telford and Wrekin GTAA has identified a need for 32 gypsy and traveller pitches for the period 2014 to 2031. (The Telford and Wrekin Local Plan is currently at examination).
- 6.1.19 While taken on their own the latest Shropshire Council figures, when turnover is taken into account, indicate that there is no shortfall in provision in Shropshire, account needs to be taken of the geography of the Shifnal area, effectively bounded to the east and north by Authorities which both have a shortfall in provision, and the information provided by the Council's Gypsy Liaison Officer to the effect that there are no pitches available at present on Council operated sites to accommodate the applicants.
- 6.1.20 The above national planning policy and Development Policy context demonstrates that any shortfall in Shropshire to providing a 5-year supply of deliverable pitches, the condition of the land and the personal circumstances of the adults are unlikely to amount to very special circumstances sufficient to justify inappropriate development in the Green Belt. The weight to be accorded to the best interests of the child in addition to any other positive attributes that the site has for the use sought is considered in the Planning Balance section of the report below.
- 6.1.21 In addition to the issue of harm to the Green Belt caused by the inappropriateness of the proposed use and associated built development, consideration must also be given to whether a key characteristic of Green Belt – openness – would be harmed.
- 6.1.22 Openness is both a feature of the quantum of development and the visual impact of the proposal. (Court of Appeal judgement in John Turner v SSCLG and East Dorset Council [2016] EWCA Civ 466). In this case the structures comprising of four static caravans, three facilities buildings, four touring caravans and parked vehicles would, by their very presence, impact upon

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openness in comparison with previous agricultural use of the land. However, all these items would be contained within large level plots and the visual impact would be limited due to the extent of the hedgerows surrounding the site and the proposed landscaping. The harm to openness is considered to be moderate but not significant in this case, but it is a matter to which weight must be attached. This factor is also included in the Planning Balance below. It is considered that a decision to permit this application would not need to be referred to the Secretary of State as a departure with reference to the relevant guidance.

- 6.1.23 The issue of visual impact on the Green Belt was further clarified by the Supreme Court in Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council. The court held that openness was a broad concept in relation to the Green Belt and not necessarily related to the quality of the landscape.
- 6.2 Siting, scale and design of structure
- 6.2.1 The application seeks consent for the siting of 4 static caravans and 4 touring caravans, along with 2 single day rooms and a twin day room. The site was previously a green field site which is supported by aerial photographic evidence from Google. Approximately half the site has now been covered into hardstanding without planning permission.
- 6.2.2 The applicant claims that the site is a previously developed site within the Green belt but aerial photographs of the site do not support this. The applicants have not provided any evidence to support their claim that the site is Previously Developed Land and there is no site history to suggest that it was anything other a green field.
- 6.2.3 The site is situated in open countryside within the Green Belt. It is located away from the nearest settlements of Tong which lies on the eastern side of the by-pass (A41) and Shifnal which is located to the south of the M54. The development is near to a small cluster of development around Tong Forge which is located a short distance from the edge of Shifnal albeit on the other side of the M54 motorway. The site is well screened from Stanton Lane by a hedgerow and trees along the boundary with the highway. It is therefore considered that the proposal will not result in substantial harm in terms of Green Belt and its purpose.
- 6.2.4 Policy CS12 advocates support for suitable development proposals for small exception sites (under 5 pitches) in accordance with Policy CS5, where a strong local connection can be demonstrated. In this case a strong local connection does exist, and this is confirmed by the Council's G&T Liaison Officer. It is understood that the applicant and the extended family are based

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in the Telford area and support has also been offered by the G&T Liaison Officer from Telford and Wrekin.

- 6.2.5 The recent appeal allowed under APP/L3245/W/22/3300532 - Five Oak Stables, Coton, Whitchurch did not support the LPA's contention that the site was isolated or in an unsustainable location. In this case given the site is located closer to amenities in Shifnal than that of the Whitchurch site and having regard to the fact there are no major physical barriers preventing access to Shifnal it is not considered that reasons 2 and 3 related to the previous refusal of planning application 21/04533/FUL could be sustained at appeal. Policy B of the DCLG Planning Policy for Travellers sites makes it clear that the same considerations for sustainability of housing sites should be applied to Gypsy and Traveller sites however the appeal decision makes it clear that this needs to be considered pragmatically on a site by site basis given that G&T sites will often be located at the extremities of settlements.
- 6.3 Visual impact and landscaping
- 6.3.1 The primary function of the Green Belt is to protect the openness between settlements and prevent them merging into one another. The site was a green field within the Green Belt prior to the applicant moving onto site and introducing hardstanding, caravans and vehicles to the site. The site has changed its appearance and character appearing more urban in form as a result of this unauthorised development.
- 6.3.2 The applicant has suggested that the site is screened by existing hedgerow and trees, but the interior of the site is still visible through these from Stanton Road. The development therefore presents an intrusion into the Green Belt which whilst screened to an extent nevertheless diminishes the openness of the site.
- 6.3.3 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. Additional planting can be secured via condition to further screen the development from outside view. At present the site is surrounded by trees and hedging with glimpses into the site through this foliage, bolstering this would effectively fully screen the development from outside view.
- 6.4 Highways and Transportation
- 6.4.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph 111 it states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety."

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- 6.4.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and pertinent matters to consider include ensuring the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.
- 6.4.3 Concern about the suitability of the access onto Stanton Road has been raised by objectors. However, the Highway Authority do not share these concerns. The relatively low level of trips generated are not considered to have an unacceptable impact on highway safety which is the test set in paragraph 111 of the NPPF.
- 6.4.4 Stanton Road connects the settlement of Shifnal to the A41, however traffic volumes along this route are modest, with the B4379 and A464 acting as the primary routes through Shifnal.
- 6.4.5 The issue of motorised traffic using a restricted by-way has been raised by both the highway authority and the public rights of way officer. Given there is a commercial operation further up Lizard Lane along with residential properties, the by-way is already serving as an access to these properties. Whilst the applicant needs to satisfy themselves legally that they have access to the site, this is a civil matter and not a material planning consideration.
- 6.5 Residential Amenity
- 6.5.1 The site is generally surrounded by countryside with isolated residential properties in the locality. It is not considered that the development will have any significant adverse impact on the amenities of existing residents living in immediate proximity of the site.
- 6.5.2 The use itself is primarily residential in nature and the application does not seek approval to undertake any business activities from the site itself. Whilst, vehicles connected with the businesses of the occupants of the site will be parked on site, business activity is likely to be conducted away from the site and therefore any impact on amenities is unlikely to be at a level which would cause harm to neighbours.
- 6.5.3 To safeguard the amenities of the immediate locality a condition could be attached to any permission preventing business use being undertaken on the site

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6.6 Ecology

6.6.1 The Ecological Assessment carried out by Camlad Ecology (July 2022) found no trees suitable for roosting bats on site. The vegetative boundaries and trees are considered suitable for nesting birds. Ponds within 250m were assessed for their suitability to support great crested newts. No impact is considered likely to newts.

6.6.2 Any external lighting to be installed on the building should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area.

6.6.3 SC ecology require biodiversity net gains at the site in accordance with the NPPF and CS17. The installation of bat boxes and bird boxes will enhance the site for wildlife by providing additional roosting and nesting habitat. The proposals therefore satisfy the requirements of policies CS6 and CS17 of the Core Strategy and policy MD12 of the SAMDev Plan.

6.7 Personal Circumstances

6.7.1 The Council's Gipsy and Traveller Liaison Officer has indicated that the family have a local connection to Telford. However, the lack of detail in the previous submission about who would be living on site meant it was impossible to establish that anyone except the applicant themselves had a local connection. No details were contained in the application about whether children or elderly relatives form part of the extended family and therefore it was difficult to attribute any weight to the personal circumstances in the absence of such detail.

6.7.2 The new application comprises a statement that sets out the personal circumstances of the occupants of each pitch in much more detail than the previous application and on the basis of this additional information it should be easier to assess whether the personal circumstances put forward by the applicant are sufficient to outweigh other material planning considerations in this particular case.

6.7.3 The statement of personal circumstances is supported by two letters from the Headteacher at Shifnal Primary School which confirm that one child residing on the site started school on 4/10/2021, and another child attended between 4/10/2021 and 20/07/2022.

6.7.4 The statement in support of the application also places significant emphasis on the ongoing health issues that several members of the extended family experience, but no corroborative evidence was submitted to support these

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claims. The agent was subsequently requested to supply evidence, and this has now been supplied with the health issues relating to occupants being verified by health professionals.

6.7.5 It is therefore considered that based on the personal circumstances advanced with the application relating to the schooling of children locally and underlying health conditions that a case can be made for the existence of 'very special circumstances' in this case based on personal circumstances.

6.8 The Planning Balance

6.8.1 There is a presumption against inappropriate development in the Green Belt. The use of the land as a gypsy and traveller site is inappropriate development in the Green Belt and permission should only be granted if very special circumstances are identified. The NPPF advises at paragraph 148 that very special circumstances will not exist unless the harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. A key characteristic of Green Belts is openness, to which there would be moderate harm by the presence of structures and caravans on this land. Substantial weight must therefore be attached to the harm to the Green Belt caused by the development.

6.8.2 There are a number of other factors to weigh in the planning balance against this harm to the Green Belt, which are considered to be material planning considerations, and these are set out below:

6.8.3 It has been established that there is currently no provision available on existing Shropshire Council sites to accommodate Gypsy and Travellers and adjacent authorities in their GTAA assessments acknowledge under provision of sites. This must be tempered by paragraph 27 of the DCLG Planning Policy for traveller sites (DCLG 2015) which states that even if a LPA is not able to demonstrate a 5 year supply (Shropshire Council's position is that it has sufficient supply if turnover is taken into account), the absence of such a supply is a significant material consideration where a proposal is within the Green Belt, however within the county only around 15% of it is Green Belt with this all being south of the A5 and east of the River Severn.

6.8.4 Whilst it is not for individual planning applications to review Green Belt boundaries (Policy E DCLG 2015) the observation can be made that, with regard to the five purposes of the Green Belt set out in paragraph 134 of the NPPF, the site is located in open countryside within the allocated Green Belt in the adopted SAMDev Plan. The site plays an important role in checking unrestricted urban sprawl, acts as a buffer zone preventing neighbouring settlements merging and assists in preventing encroachment into the

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countryside. By tightly controlling development in the Green Belt this also encourages the redevelopment of brownfield sites. The site given its open nature plays an important part in the visual amenities and rural character of the area.

- 6.8.5 The applicant has been confirmed by the Council's Gypsy Liaison Officer to be Irish travellers, the applicant has also advanced forward personal circumstances to justify a relaxation in Green Belt policy, Policy E, paragraph 16 of DCLG 2015 advises that personal circumstances are unlikely to clearly outweigh the harm to the Green Belt on their own.
- 6.8.6 For the purposes of planning policy, the Annex 1: Glossary defines gypsies and travellers as "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such."
- 6.8.7 In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:
- a) whether they previously led a nomadic habit of life
 - b) the reasons for ceasing their nomadic habit of life
 - c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances. However, a recent court of appeal decision declared the planning definition of 'Traveller' as discriminatory. The definition will now have to change to be more encompassing to include both those of the G&T community who travel and those that don't.
- 6.8.8 The site is situated in open countryside between from the settlements of Tong and Shifnal. However, it is situated closer to Shifnal than the recent appeal allowed at Whitchurch and as such it is therefore considered that the previous reasons for refusal in relation to it being an isolated and an unsustainable location could no longer be sustained having regard to that decision. Paragraph 13 of Policy B 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.
- 6.8.9 Weight must therefore be attached to the nature of the site and its connection to the settlement of Shifnal. The extended family members on the site comprise the applicants and their younger children, two older siblings who are married and an elderly relative. The family have a demonstrable local connection to the Telford area, and it is therefore considered that, in the light

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of the contents of the DCLG Planning Policy for Gypsy Sites August 2015 (DCLG 2015), the planning balance in this case would be such that no very special circumstances to outweigh the harm to the Green Belt have been advanced, which would justify a departure from the adopted Development Plan.

- 6.8.10 Whilst paragraph 13 of DCLG 2015 references the need to ensure that children can attend school on a regular basis. The contents of Policy E of DCLG 2015 relating to Traveller Sites in Green Belt is prefaced by "Subject to the best interests of the child..." The applicant at present has school aged children on site one of whom attends the local primary school and whilst another is registered to attend, but does not do so at present. The applicants have stressed the importance to them of having a settled base so that their children, so they can attend the local school and the headteacher has also written in support of the proposals to allow the children to receive a proper education.
- 6.8.11 Were the application to be refused the applicants have indicated that they are likely to return to living on the road which will lead to disruption of the education of the children (and their health care). Whilst it is considered that the future needs of the children are a material consideration relevant to the determination of this application. On balance this consideration, when coupled with the negative attributes of the site identified, cumulatively are not considered to amount to very special circumstances of sufficient weight to outweigh the harm to the Green Belt on their own in this case.
- 6.8.12 Policy H of The DCLG Planning Policy for Travellers sites is clear that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Given the Green Belt designation of this site these other material considerations would have to constitute 'very special circumstances.' The case put forward by the applicant does not at present provide a compelling case as to why this site is required above any other and is essentially based on the site being in the ownership of the family. Clearly, many people own land in the Green Belt and all are subject to the same restrictions in terms of developing their land. To allow such a development as proposed would set an undesirable precedent and in the absence of any compelling evidence to the contrary as to why it is necessary to be located on this site as opposed to another more appropriate site it is clear that this proposal also conflicts with the spatial policies of the Development Plan, along with Policy CS12 of the Core Strategy which specifically relates to Gypsy and Traveller sites.
- 6.8.13 A recent appeal APP/L3245/W/20/3253805 for a single G&T pitch in the Green Belt at Beamish Lane at Albrighton was dismissed on the basis of the weight attached to the protection of Green Belt along with the site's isolation

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outweighing personal circumstances, a lack of provision and the best interests of the child. The appeal however was based on a single G&T pitch for a young couple expecting a child, so whilst there are some similarities in terms of the Green Belt location the personal circumstances advanced are much more pronounced in the case of the current application.

6.8.14 However, more recently the Planning Inspectorate allowed an appeal for a G&T site in the countryside APP/L3245/W/22/3300532 at Five Oak Stables, Coton, Whitchurch SY13 3LQ. In this case the Inspector cited a lack of alternative provision as weighing in favour of the development. However, this site whilst having a countryside allocation was not Green Belt.

6.8.15 The lack of available Council managed sites in the south east of the county and neighbouring districts, coupled with no future site allocations in the current or emerging local plan means that there is a lack of alternative sites available and as such the LPA approach tends to be reactive in such a situation. At present there are no alternative sites in the vicinity of Shifnal and as the settlement boundary is constrained by the Green Belt any proposals which come forward will always be subject to Green Belt policy considerations. The nearest area of countryside outside of the Green Belt lies to the north of the A5 towards Sherrifhales and two Council owned sites have been identified here as potentially being appropriate, however more detailed investigations would be required before it can be properly be established that these are viable alternative sites.

7.0 CONCLUSION

7.1 The site is situated within the Green Belt and as such the proposals are considered to be inappropriate development. The applicant has however advanced their personal circumstances to support the application as part of their argument in relation to 'Very Special Circumstances' existing in this case.

7.2 It is noted that in the recent appeal decision referenced above, the Planning Inspector conclusions referenced a lack of alternative sites as weighing in favour of the proposals. They also referenced that there were still unresolved objections relating to the G&T policy DP8 in the emerging local plan and that the examining inspectors' final comments were awaited. As such, there was uncertainty as to whether policy DP8 will be adopted in its current form and so it was attributed limited weight. The objections essentially relate to the whole approach of the Council to the issue of G&T's of relying on turnover on existing sites to meet demand and the methodology employed to calculate need. Therefore, these objections go right to the heart of the current and future policy approach and as such could have significant impacts if the objections are supported by the inspectors.

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- 7.3 The recent appeal decision related to a site in the countryside as opposed to the Green Belt which this site is located in. Around 85% of the county is located outside of the Green Belt however the area east of the River Severn and south of the A5 is designated Green Belt, this therefore covers the south east of the county which adjoins the Green Belt of South Staffordshire district.
- 7.4 With this in mind, whilst the proposal is considered to be inappropriate development in the Green Belt and therefore contrary to both national and local planning policy, it is considered that there are extenuating circumstances relating to the personal circumstances of the applicant and the extended family (including the interests of the children and health issues), the lack of alternative provision in the south east of the county, the local plan review, which would weigh in favour of granting a temporary permission for a year.
- 7.5 As previously mentioned, this application is retrospective and is a resubmission following an earlier refusal under 21/04533/FUL. It includes a hard standing area and day room buildings which have already been installed on site without the benefit of planning permission. Should planning permission be refused this is likely to be the subject of follow-on enforcement action to remove unauthorised development and return the site to its former condition. However, any enforcement notice would have to provide the applicants with a reasonable compliance period and they would also have the right of appeal.
- 7.6 Therefore, having regard to the issues discussed above it is considered expedient on this occasion to grant a personal permission to the applicant on a temporary basis to allow them to explore alternative sites, as well as to allow the local plan review to progress so that we have a clearer understanding of emerging policy DP8 and how this is viewed by the local plan examining inspectors given there are unresolved objections to it.

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

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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.

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10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

21/04533/FUL Siting of 4No static caravans and 6No touring caravans on existing hardstanding by an extended Gypsy/Traveller family REFUSE 17th May 2022

22/03757/FUL Application under Section 73A of the Town And Country Planning Act 1990 for the change of use of land to Gypsy / Traveller Site consisting of four family pitches to include 4No. static caravans, 4No. touring caravans, 4No. amenity blocks with gravel drive and turning area (re-submission) DD 30th August 2022

22/05521/FUL Application under Section 73A of the Town And Country Planning Act 1990 for the change of use of land to Gypsy / Traveller Site consisting of four family pitches to include 4No. static caravans, 4No. touring caravans, 4No. amenity blocks with gravel drive and turning area (re-submission) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RMKRLMTDOM200>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Ed Bird

Appendices APPENDIX 1 - Conditions

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APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be for a limited period being the period of 12 months from the date of this permission. At the end of this period the development hereby permitted shall cease and the site shall be cleared and reinstated to its former condition.

Reason: The development is considered to be inappropriate development in the Green Belt and very special circumstances for allowing a permanent planning permission have yet to demonstrated to the satisfaction of the local planning authority.

2. The use hereby permitted shall be carried on only by the following persons Michael and Emily Quinn.

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

3. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no further development within Part 1, Class E of the Order shall take place without planning permission being obtained from the Local Planning Authority.

Reason: To prevent further inappropriate development in the Green Belt in accordance with Policy CS5 of the Shropshire Core Strategy.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no further development within Part 1, Class F of the Order (defined as hard surfaces incidental to the enjoyment of a dwellinghouse) or Part 2, Class B of the Order (defined as means of access to a highway) shall take place without planning permission being obtained from the Local Planning Authority.

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Reason: To prevent further inappropriate development in the Green Belt in accordance with Policy CS5 of the Shropshire Core Strategy.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no further development within Part 2, Class A of the Order (defined as gates, fences, walls or other means of enclosure) shall take place forward of any wall fronting a road without planning permission being obtained from the Local Planning Authority.

Reason: To prevent further inappropriate development in the Green Belt in accordance with Policy CS5 of the Shropshire Core Strategy.

7. Within 2 months of this permission a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, which shall include: i) Existing and proposed levels or contours ii) Proposed and existing services above and below ground iii) Details of boundary treatments and hard surfaces iv) The location, size and species of all trees to be planted v) The location, size, species and density of all shrub and ground cover planting and vi) A schedule of implementation.

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

8. Within 2 months of this permission a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, which shall include: i) Existing and proposed levels or contours ii) Proposed and existing services above and below ground iii) Details of boundary treatments and hard surfaces iv) The location, size and species of all trees to be planted v) The location, size, species and density of all shrub and ground cover planting and vi) A schedule of implementation.

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

9. Prior to first occupation / use of the buildings, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

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- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 4 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), and/or small birds (32mm hole, standard design).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

10. A lighting scheme for the site shall be submitted within 2 months of this permission for approval by the local planning authority. The lighting scheme shall not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

11. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding great crested newts and birds as provided in Section 4.5 of the Ecological Assessment (Camlad Ecology, July 2022).

Reason: To ensure the protection of and enhancements for Great Crested Newts, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

12. There shall be no more than four static caravans and four touring caravans on site at anytime.

Reason: In order to protect the openness of the Green Belt and prevent further inappropriate development from taking place contrary to Policy CS5 of the Shropshire Core Strategy.

13. No Business activity or Storage of materials shall take place on site. The site shall be used for residential purposes only.

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Reason: In order to protect the openness of the Green Belt from further inappropriate development and safeguard the amenities of nearby residents.

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. It is recommended that the applicant investigate ways of incorporating techniques of 'Sustainable Urban Drainage' into this development. These will help to minimise the impact of the development with features such as porous parking, detention ponds, grass swales and infiltration trenches. This will maintain the recharge of groundwater resources, reduce large fluctuations in river flows during rainfall and stop pollutants from road runoff from entering watercourses. Further information can be obtained from the Environment Agency.

3. Nesting birds

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.

[Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>.]

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[If during construction birds gain access to [any of] the building[s] and begin nesting, work must cease until the young birds have fledged.]

4. General site informative for wildlife protection

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.

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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.]

5. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.