



Committee and date
Northern Planning Committee
 4th April 2023

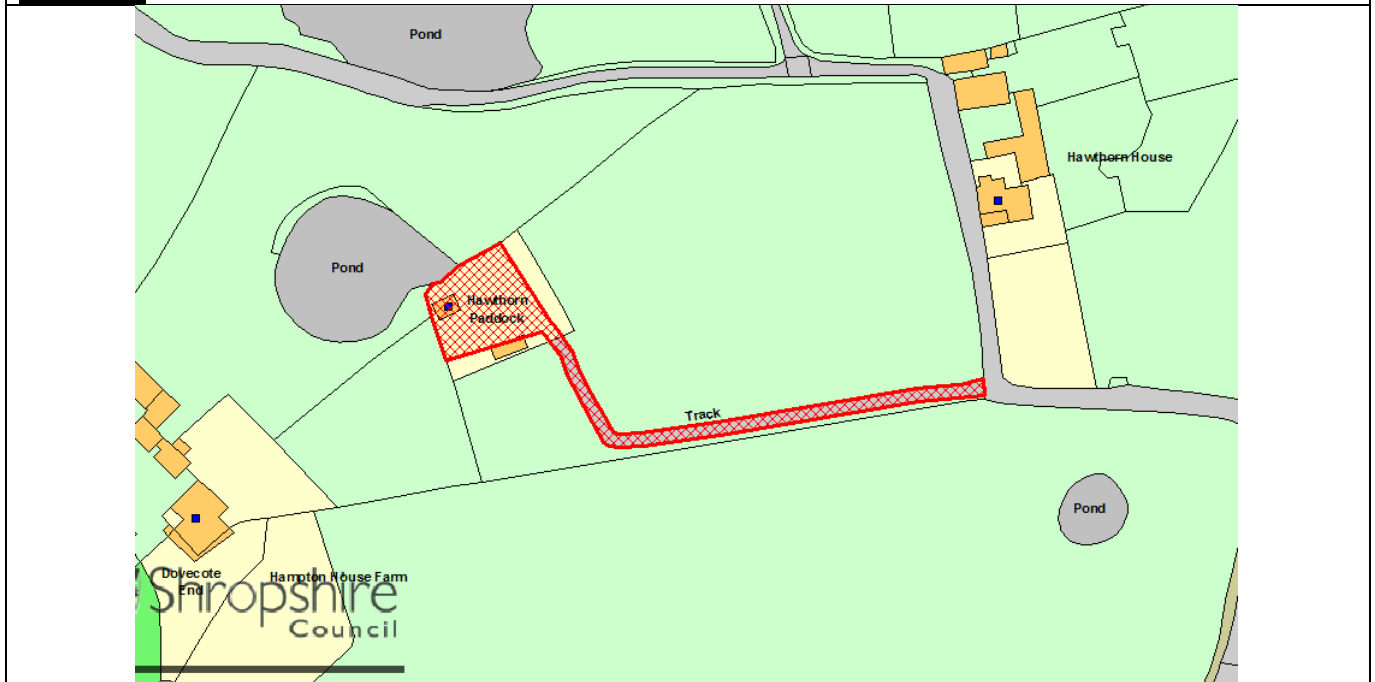
Development Management Report

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

Summary of Application

Application Number: 22/05515/FUL	Parish:	Welshampton And Lyneal
Proposal: Change from Temporary to Permanent Gypsy / Traveller Site to include 1 no. Static Caravan, 1 no. Touring Caravan, 1 no. Amenity Block, Storage Shelter, and Gravel Drive part retrospective (as approved on Planning Ref: 21/03044/FUL)		
Site Address: Hawthorn Paddock Welshampton Ellesmere Shropshire SY12 0NP		
Applicant: Mr And Mrs James Doran		
Case Officer: John Shaw	email: john.shaw@shropshire.gov.uk	

Grid Ref: 343355 - 335452



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission to allow a permanent single pitch gypsy/traveller site which would allow the retention of one static caravan, one touring caravan and the erection of 1x new amenity block along with associated works. An existing shelter which was erected for horses is being used by the family for storage and its use would be regularised as part of this application. Temporary permission for 1 year was granted on the site under application 21/03044/FUL and expired on 23/12/21. An earlier application (20/01361/FUL) for permanent use was refused by the council on 04/09/20.
- 1.2 The information submitted states that the proposed gypsy pitch would only be used for residential purposes and no business use on site is intended; the applicant would continue to use the rest of the land within their ownership for the grazing of horses.
- 1.3 The static caravan would be used for permanent residential accommodation while the touring caravan would enable the family to travel for work. The proposed timber clad amenity block would replace a smaller block permitted as part 21/03044/FUL and provide a dayroom for the family and a space for cooking and washing. The block would be 12m wide, up to 7.2m deep with a ridge height of 3.1m and would be located to the southern side of the site. The static caravan would be moved to the eastern side of the site to allow the siting of the new amenity building. The amended block plan shows proposed hedge and tree planting to the southern and eastern boundaries along with post and rail fencing around the entirety of the pitch.

2.0 SITE LOCATION

- 2.1 The site is in open countryside approximately 300m north of the settlement of Welshampton and 5km/3 miles east of Ellesmere. The nearest residential neighbouring dwellings are the Grade II listed Hampton House Farm 80m to the west and Hawthorn House 120m to the east.
- 2.2 The wider site is comprised of a large paddock with an access gate, track and hardstanding set on rising land within an undulating landscape. The site is accessed via a single lane unclassified road and is also a public footpath; the road connects to Copes Lane to the south-east which extends to the A495. The existing static caravan has walls formed of white aluminium panels, a shallow pitched roof and white upvc windows and doors. To the north-east of the application site is a timber shelter. The application site has 1.8m/2m timber close boarded fencing to all sides; to the northern and western boundaries there is a line of hedging with a small number of well-established trees.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The application has been referred to the committee for determination as the Planning Officer is recommending approval, contrary to the opinion of the Local Member and the Parish council who both object to the scheme and have provided material reasons for this objection. The views of the Parish Council cannot reasonably be overcome by negotiation or conditions and the Team Manager (Planning) in consultation with the committee chairman/vice chairman and the Local Member agrees that the

Parish/Town Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS (full details of the responses can be viewed online)

4.1 - Consultee Comments

4.1.1 Welshampton Parish Council – Objection

- Unacceptable in principle due to open countryside location which would conflict with CS5, CS12 and the PPTS
- Unsustainable location
- Harmful impact on character and appearance of area as it would be visually intrusive and incongruous given its setting in open countryside and harmful to the setting.
- Harm to residential amenity due to noise from site
- The proposal does not in any way sympathetically enhance the heritage asset Hampton House and will clearly have an adverse effect on the significance of the non-designated asset Hawthorn House, including its setting.
- Access to the site is via a substandard right of way which is a sub-standard single track where vehicles could have conflict with pedestrians
- Insufficient information relating to foul drainage from site
- Lack of evidence of insufficient supply of existing suitable sites and applicant's status
- The residents do not have a strong local connection to the area

- Planning Officer Comment: Concerns that approval of the application could set a precedent is not a material planning consideration and carries no weight in the determination of the application. Each proposal is assessed on its own merits.

4.1.2 SC SUDS – No Objection

Informatives recommended.

4.1.3 SC Conservation – Comments provided

'Please refer to previous comments made on application 21/03044/FUL. We do not wish to comment further from a Historic Environment perspective.'

4.1.4 SC Highways – No Objection subject to conditions

4.1.5 SC Ecology – No Objection subject to conditions

Final Response 06/03/23:

'Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.'

I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out.'

03/01/23 – Additional Information Required

'Additional information is required. 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 (Amendment) (EU Exit) Regulations.'

4.1.6 **SC Gypsy Liaison – No Objection (03/03/23)**

'There are currently no pitches available on the Park Hall site and can confirm having a waiting list comprising of several emerging households who would be deemed as a priority need.'

Following a recent survey conducted by Shropshire Council's GRT liaison officers, there are no available pitches in this geographical area on the privately owned sites. The family have four children, two attending the local school both having excellent attendance records. They have established good friendships with other children within the school and engage regularly in after school activities. They have also applied for a nursery placement for their 3rd child in the same school.

Their youngest child was recently born premature and has several serious health conditions, he is currently on around the clock oxygen (at the site) and regularly admitted to hospital for emergency care.

The submitted plans for a dayroom would facilitate a better suited lifestyle as the conditions are cramped in its current state especially now oxygen bottles and lines have been installed in the living and bedroom areas. The proposed dayroom is what I would expect for a family of this size on a site.

Gypsies and Travellers have some of the worst health and education outcomes in the country. This means shorter, less healthy lives and limited access to health and education services. A lack of provision is also a huge contributor to these problems and with the introduction of the Police, Crime, Sentencing and Courts Act 2022, it has made those wishing to continue a traditional nomadic lifestyle or those forced back onto the roadside an almost impossible way of life as it criminalises unauthorised camping in many instances, this highlights the importance of increasing the number of permanent sites for the Travelling community whether that be public or privately owned.

It is evident from my team's visits that the family are a very private and independent and committed to giving their children the best possible outcomes in life.

To my team's knowledge as front line GRT Liaison officers there are currently no suitable alternative locations/sites for the family.'

4.1.7 **SC Planning Policy: Comments provided**

'The Coton appeal provides some useful yardsticks in considering the location of sites, in particular the relationship with and levels of accessibility to settlements specifically identified by the adopted plan. In this respect the assessment of reasonable accessibility applied by the Inspector in the case of the Coton appeal site would appear to similarly apply to the site at Welshampton...'

In conclusion whilst the Council's most recent evidence (GTAA 2019 update) does not identify a general need for sites, it also recommends that applications for small sites should continue to be considered as a means of addressing specific arising needs. The

availability of suitable, alternative accommodation for the site occupants is a key consideration...

It is also beyond the remit of policy comments to consider personal circumstances in detail other than to note that the information submitted to support the application highlights that there are personal circumstances to be taken into consideration, including relating to children currently living on the site, two of whom attend the local school. Paragraph 13 PPTS sets out as desirable policy objectives provision: of a settled base and ensuring that children can attend school on a regular basis with the need for consideration of the relevance of 'best interests of the child' referenced in planning practice guidance. These matters, together with availability of suitable pitches and other material considerations, all need to be taken into consideration in the planning balance and determination of the planning application'.

4.1.8 **SC Affordable Housing: No Objection**

4.1.9 **SC Environmental Protection: No Objection**

'Environmental Protection does not have any concerns from a contaminated land perspective and does not consider that any site investigation in respect of potentially contaminated land is considered necessary having regard to the site-specific circumstances'.

4.2 - Public Comments

4.2.1 This application was advertised via notice at the site and the Councils website. At the time of writing this report, a total of 19 letters of representation have been received with all letters objecting to the development. The reasons for the objections are summarised below:

- There is sufficient provision of gypsy and traveller sites nearby
- Isolated development outside of the settlement boundary of the village
- The applicants have no local connection
- Visual harm to the landscape due to its appearance and prominence
- Poor design and materials
- Harm to natural habitats
- Harm to the setting of Grade II listed Hampton House
- Undue increase in traffic on unsuitable roads
- Inadequate provision for parking/loading/turning
- Noise
- Contaminated Land due to previous use of site
- Flood risk
- Loss of agricultural land
- Concern was raised that commercial activities have been undertaken and may be undertaken again at the site.

- Planning Officer Comment on other reasons for objection: The proposal is for the residential occupation of the site by the applicant and his family; any potential non-residential uses of the site in the future by the applicant is not a material consideration. Similarly, concerns that approval of the application could set a precedent is not a material planning consideration and carries no weight in the determination of the application. Each proposal is assessed on its own merits.

4.2.2 In addition, the local member, Cllr B. Williams. has made comments on the application

which are provided below:

'I am strongly opposed to this development which is on a site in Open Countryside (the technical term for what many people think of as Green Belt). At the Shropshire Council Planning Committee in November 2021 the application was given TEMPORARY permission for twelve months from the date that the Decision was issue on December 21st, 2021. The only reason that such temporary permission was given on planning officers' recommendation, was because it was said that no temporary permission was available on the Council's gypsy site at Oswestry. This was subsequently discovered to be incorrect as planning officers had not made any enquiry of the Council's Gypsy Liaison team, but the decision had been issued and could not be legally rescinded. Such premises on the gypsy site are available (and have been for some time) and should now be taken up by the applicants and their unlawful occupation of the Open Countryside site terminated.

I request that this application be set down for a Planning Committee hearing & decision, with the history of the previous application accurately reported by officers'.

Planning Officer comment: For clarification purposes, it not the case that the term open countryside is interchangeable with 'Green Belt'. Open countryside is land outside of a designated settlement boundary whereas 'Green Belt' land are areas which are formally designated to prevent urban sprawl. Development in Green Belt is considered inappropriate unless the development conforms with paragraphs 149 and 150 of the NPPF or 'very special circumstances' apply. The application site is not within the Green Belt.

Gypsy Liaison Officer was consulted on the previous application where approval was granted for temporary permission; the comments of the Gypsy Liaison Officer were included in the committee report at paragraph 4.1.6. The Gypsy Liaison Officer stated that there had been no communication between his team and the planning agent before that application was submitted, however, his team were consulted by planning officers and his assessment was considered as part of the planning balance section at the end of the report.

5.0 THE MAIN ISSUES

- 5.1
- Policy and principle of development
 - Gypsy and traveller status
 - Impact on character and appearance
 - Heritage impact
 - Ecological Impacts
 - Other Matters
 - Planning balance

6.0 OFFICER APPRAISAL

6.1 Principle of development

Policy Background

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the

development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).

- 6.1.2 CS5 strictly controls development in accordance with national policies protecting the countryside. The policy lists housing exceptions that may be permitted on appropriate sites in countryside locations, to include those that meet a local need in accordance with national policies and policy CS12. Policy CS12 (Gypsy and Traveller Provision) recognises the need to meet the housing needs of the gypsy and traveller population and sets out how this will be achieved. Reference is made to supporting suitable development proposals for sites close to market towns and key centres and ensuring all sites are reasonably accessible to services and facilities. The supporting text of CS12 states the policy '*sets out a positive approach to meeting the accommodation needs of individuals and families through the encouragement and consideration of development proposals as they arise*' and this includes '*where appropriate, consenting currently unauthorised sites as a way of responding to the identified need*'.
- 6.1.3 The SPD Type and Affordability of Housing (2012) goes on to advise that the need for Gypsy and Traveller sites in Shropshire is identified in the Gypsy and Traveller Accommodation Assessment and that, in assessing a planning application, the Council will consider whether the applicant is a bona fide Gypsy or Traveller and the availability of alternative suitable sites.
- 6.1.4 Gypsy and Traveller Accommodation Assessment (GTAA) identifies the needs of Gypsies and Travellers from across the county, the aim of which is to provide a robust evidence base to plan for future provision and to inform the consideration of planning applications.
- 6.1.5 The National Planning Policy Framework (2021) (NPPF) and the Planning Policy for Traveller Sites (2015 update) (PPTS) together provide the national policy basis for addressing the accommodation needs of the travelling community and are material considerations when determining planning applications which relate to gypsy and traveller sites.
- 6.1.6 The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations to address under provision while directing LPA to ensure new sites respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
- 6.1.7 Paragraph 24 of the PPTS states LPAs should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- a) the existing level of local provision and need for sites*
 - b) the availability (or lack) of alternative accommodation for the applicants*
 - c) other personal circumstances of the applicant*
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
 - e) that they should determine applications for sites from any travellers and not just those with local connections*

- 6.1.8 It is considered inappropriate to reference draft Policy DP8 of the emerging Local Plan (which addresses Gypsy and Traveller Accommodation) as a significant material consideration at this time as the plan remains under examination and a number of unresolved objections to DP8 have been raised.

Sustainability of location

- 6.1.9 Policy CS12 states that an application which seeks 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 clusters. Such a site may be in countryside. The Council's Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) recognises the extreme difficulties in obtaining sites for Gypsies and Travellers in towns and villages. Accordingly, it suggests new sites may need to be further outside settlements than would normally be the case for other developments. Furthermore, there is no specific requirement in the PPTS that gypsy sites should be close to facilities
- 6.1.10 The PPTS (paragraph 25) does however state 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*'. Paragraph 13 requires that policies ensure sites are economically, socially, and environmentally sustainable, avoid undue pressure on local infrastructure and ensure that access to health services and attendance at school is facilitated. It is a local policy requirement (bullet point 5 of CS12) that sites are '*reasonably accessible to services and facilities and suitably accessed*'. It should be highlighted though that the PPTS only looks to strictly limit new Gypsy and Traveller sites in the open countryside, rather than to entirely prohibit such development
- 6.1.11 The application site is situated in open countryside, as defined by Policy CS5, and outside any recognised settlement. The nearest settlement, the village of Welshampton is approximately 400m to the south has a defined development boundary and is designated as a Community Cluster within S8.2 (vi) of the SAMDev.
- 6.1.12 It is acknowledged that as part of the previous applications at the site, the case officer concluded that the development would represent sporadic and isolated development. Since that decision, an appeal has recently been allowed at Five Oak Stables, Coton, Whitchurch (APP/L3245/W/22/3300532) for a change of use from equestrian to a mixed use of equestrian and the stationing of caravans for residential purposes. The appeal site and the site subject of this application bear significant similarities in their relation to their accessibility to nearby settlements and as such the appeal decision would be deemed to be a material consideration in assessing the accessibility of this gypsy and traveller site.
- 6.1.13 The application site is detached from Welshampton, however, CS12 supports gypsy and traveller sites close to specified categories of settlements; 'close to' is not defined though it is appropriate to consider a site with reasonable accessibility to services as being close to a settlement. Welshampton has a bus service, public house and school all of which are a 2-minute drive from the site. A broader range of facilities including secondary schools, supermarkets and health services are located at Ellesmere which is just 7 minutes away by car. The short drive times from the development to the nearest settlements and following on from the inspector's decision for the Coton appeal, it is concluded that the site would not be unduly isolated. The occupiers could easily access a range of day-to-day services and facilities by car. In line with the NPPF, CS5 supports development that maintains and improves the sustainability of rural communities by bringing local

economic and community benefits. The development's location near to Welshampton and Ellesmere and the short drive times means it is likely occupants would support local services; children that live on the site attend the school in Welshampton, so demonstrating such support. The permanent occupation of the site by one family would not cause undue pressure on local infrastructure.

6.1.14 Residents of the site are unlikely to walk to and from facilities as the routes are unlit with no roadside pavements. However, cycling trips into Welshampton would be feasible given the short separation distances. In addition to the bus service which serves Welshampton, wider ranging and more regular bus services are accessible from Ellesmere while Wem is just a 15-minute drive from where the applicants would have quick access to the nearest train station with links beyond Shropshire. As such, there is potential for occupiers of the development to utilise sustainable modes of transport for trips elsewhere in the county and further afield.

6.1.15 It is accepted that the site's occupants would likely rely on car travel for many trips. This would not be unusual given that the occupiers are Gypsies or Travellers who have a nomadic habit of life. CS12 does not explicitly require Gypsy and Traveller sites to be accessible by pedestrians or public transport. The policy allows new sites outside of settlements and so it is to be expected that accessibility by non-car modes of transport would be less when compared to developments in towns and villages. Also, whilst promoting walking, cycling and public transport, the NPPF recognises the opportunity to use sustainable modes of transport varies between urban and rural areas. With these factors in mind, it is considered the development would provide an appropriate level of accessibility by means other than the car. Bearing in mind the rural location and the difficulty in finding Gypsy and Traveller sites in villages and towns, the site provides reasonable access to services and facilities. For these reasons, the development is in a suitable location having regard to CS5 and CS12, the PPTS, and the NPPF and would be consistent with the findings of the inspector as part of the recent Coton appeal.

Need for Gypsy and traveller sites (GTAA)

6.1.16 National Policy requires that need for Gypsy and Traveller sites is assessed by the LPA and expects a 5-year supply of sites against locally set targets to be identified along with supply over at least a 10-year period.

6.1.17 The GTAA 2019 update identifies a potential cultural need for 113 pitches (of which 43 pitches were identified as PPTS need). With evidenced turnover (i.e., existing pitches which become available over the period to 2038) expected to continue at an average of 9.3 pitches p.a., the GTAA 2019 update assessed that there is no residual shortfall in pitches (for cultural or PPTS need) either over the initial 5 year or whole plan period. Therefore, it is not considered that there is a considerable level of unmet need as suggested in the Design & Access statement submitted. It should be noted however that, as with more general housing need, the GTAA 2019 update considers provision and need across Shropshire and not that specific to the Welshampton/Ellesmere area.

6.1.18 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, over the Plan period. This is in line with the Government aspiration to promote more private traveller site provision, as set out in PPTS. It also recognises that needs can arise for a number of reasons, including accessibility to school and health facilities; pitch

vacancies at the particular time; issues of ethnic mix and compatibility; ability of available sites to accommodate large family groups, etc. In this respect it is pertinent that the information submitted to support the application highlights that there are personal circumstances to be taken into consideration, including relating to children currently living on the site, two of whom attend the local school. It should be highlighted at this point that for gypsy and traveller applications, the PPTS (paragraph 24) is clear that the personal circumstances of the applicant should be considered.

Personal circumstances & availability of suitable alternative sites

6.1.19 In addition to paragraph 24 of the PPTS, paragraph 13 states LPAs should ensure they promote a settled base and ensuring that children can attend school on a regular basis with the need for consideration of the relevance of the best interests of the child referenced in planning practice guidance. These matters, together with availability of suitable pitches and other material considerations, all need to be taken into consideration in the planning balance and the determination of the planning application.

6.1.20 The council's Gypsy Liaison Officer has been consulted and confirmed that there are currently no pitches available on the Park Hall site and that there is a waiting list comprising of several emerging households who would be deemed as a priority need. There are no available pitches in this geographical area on privately owned sites.

6.1.21 The applicant has submitted information including confidential details to the planning officer about the family's circumstances and have hosted a visit from the council's Gypsy Liaison team. The family have four children, two attending the local school in Welshampton. They have also applied for a nursery placement for their 3rd child in the same school. Their youngest child was recently born premature and has several serious health conditions, he is currently on around the clock oxygen (at the site) and regularly admitted to hospital for emergency care.

6.1.22 The Gypsy Liaison Officer concluded that the proposed '*dayroom would facilitate a better suited lifestyle as the conditions are cramped in its current state especially now oxygen bottles and lines have been installed in the living and bedroom areas. The proposed dayroom is what I would expect for a family of this size on a site.*

6.1.23 It must be clarified at this point in response to some objections, that the need to undertake an exercise where personal circumstances of the applicant are weighed against harm by reason of inappropriateness only applies in accordance with paragraph 16 of the PPTS where the site is in the Green Belt. This is not a Green Belt site and therefore the need for personal circumstances to be represent 'very special circumstances' to allow approval does not apply.

6.1.24 Several objections refer to the absence of a local connection. Again, there is no need to establish a local connection as part of this application. CS12 refers to the need for an applicant to demonstrate a strong local connection for small exception sites (under 5 pitches), however, the application has not been submitted for consideration as an exception site. Moreover, the PPTS makes clear that LPAs must determine applications from any travellers and not just those with local connections.

6.1.25 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.

- 6.1.26 Overall, it has been established that there is an absence of alternative sites while the personal circumstances of the applicants weigh in favour of allowing a settled base for the family. Furthermore, approving this pitch would accord with paragraph 24 of the PPTS which has the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation.

Conclusion regarding principle of development

- 6.1.27 The site is in a suitable location for a gypsy and traveller pitch due to the good level of accessibility occupiers would enjoy when travelling to and from local settlements. Though, it has been demonstrated that there is not a level of unmet need across Shropshire that would require new allocations, it is the case that the council should support the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation. In addition, the council are unable to provide any alternative sites and finally, personal circumstances including the best interests of children at the site have been established which means the permanent residential of the site would in principle comply with policies CS5 and CS12, the PPTS, and the NPPF.
- 6.1.28 The report shall now review the status of the applicants and then move to a review of other planning considerations before undertaking a balancing exercise to consider whether any harm of allowing the proposal that can be identified would outweigh the compliance of the application with local and national planning policy as has been established.

6.2 Gypsy and Traveller Status

- 6.2.1 It is necessary to the acceptability of the development that the site would be occupied by Gypsies and Travellers. Information with regards to the of the gypsy status of the applicant has been provided within the submitted Design and Access Statement as part of the current application and 21/03044/FUL, as well as within emails sent to the Planning Officer. The Gypsy Liaison Officer has confirmed that the information pertaining to the applicants status is accurate and that they continue to meet the definition of Gypsies and Travellers. Therefore, if permission was granted, a condition would be imposed to ensure the residential element is occupied by Gypsies and Travellers; the condition would be worded so that it would not exclude those who have ceased travelling permanently in line with the recent Court of Appeal judgement in Lisa Smith v SSLUHC [2022] EWCA Civ 1391 which held that the exclusion of Gypsy and Travellers who have ceased to travel permanently is discriminatory.

6.3 Impact on the character and appearance of the area

- 6.3.1 The application site is situated in open countryside where there are long distance views toward the site from surrounding public viewpoints. The nearest viewpoint is the public right of way to the east which runs along the boundary of the applicants ownership. This boundary is formed of field hedge interspersed with mature trees, however the site will clearly be visible to receptors utilising this footpath.
- 6.3.2 Additionally, there are public viewpoints from the surrounding highways network to the east and south-east. The site when viewed from the highway and surrounding area does not reflect the character of the surrounding area.
- 6.3.3 The proposal would result in the permanent retention of a single unit static caravan (currently sited to the south of the site but proposed to the eastern boundary), an amenity block and a single touring caravan. The site also includes an existing shelter originally constructed to shelter horses but is being used to store children's toys, a small shed to

house a borehole and fencing. Each of these aspects of the development have a visual impact, particularly the caravan where it is recognised in policy MD11 '*Static caravans, chalets and log cabins are recognised as having a greater impact on the countryside*' irrespective of their use. The surrounding context of the site is predominantly open arable agricultural land with native species tree and hedge planting forming field boundaries. The nearest built development is detached properties with associated outbuildings and agricultural development.

- 6.3.4 The public viewpoints around the site would not result in all encompassing view, rather there will be certain vantage points where the static caravan in particular, is more prominent and others where a limited amount of the development is visible. Certain aspects of the development could be conditioned to reduce their visual impact; the external materials of the amenity block could be controlled to ensure the cladding would be appropriate to this rural, agricultural area. The close boarded fence which currently encloses the site is incongruous and during the application, the applicant has agreed to amend the proposed site plan to show post and rail timber fencing. A further landscaping condition could be applied to ensure native species planting to the site boundaries to further mitigate the visual intrusion the development represents. It is however accepted as was the case under the previous application 21/03044/FUL, that the static caravan, hardstanding area and touring caravan, parking and associated paraphernalia, whilst they can be partially mitigated against with suitable landscaping, cannot be screened entirely and it would not be appropriate to do so. Given the prominence of the site from some areas of higher ground to the south and south-east, it is accepted that there would be some visual and landscape harm even with the suggested conditions above. The proposal is therefore considered contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and paragraphs 130 of the NPPF in relation to the impact on the character and appearance of the area.

6.4 Heritage impacts

- 6.4.1 To the south-west of the application site, approximately 80m away, is Hampton House Farmhouse, a Grade II listed building with a range of curtilage listed farm buildings to its rear. To the north-east of the site is Hawthorn House which, along with an "L" range of farm buildings indicated on the 1900 mapping, appear to have retained much of its historic interest and would be a non-designated heritage asset as defined in Annex 2 of the NPPF. Considering the proximity of heritage assets, the following local and national policies would be applicable; CS6 and CS17 of the Core Strategy, MD2 and MD13 of the SAMDev, Section 16 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 6.4.2 The Conservation Officer commented on the previous application 21/03044/FUL following the submission of a Heritage Impact Assessment which has been resubmitted as part of the application. The Conservation Officer concluded:

'We do not consider that minor use of this site as indicated (notwithstanding the structures which are not included on the application) would cause harm to the significance of the designated heritage asset and therefore would not engage Section 66 (1) of the PLB&CA Act 1990, in this instance...'

In considering this application, special regard to the desirability of preserving the buildings and their settings, together with its features of special architectural and historic interest which it possesses, has been made in line with Section 66 (1) of the above act.'

6.4.3 The development would therefore be deemed to comply with CS6, CS17, MD2 and MD13 of the Local Plan where they relate to the preservation of the character and setting of non-designated and designated heritage assets and would not engage Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

6.5 Ecological impacts

6.5.1 The SC Ecology team have raised no objection following correspondence with the applicant's ecologist during this application and submission of an updated Ecological Assessment carried out by Camlad Ecology (February 2023). It is considered that the limited ground works would not carry any significant risk to great crested newts and no further mitigation, over and above the recommendations of the assessment, would be necessary. Conditions shall be imposed to ensure

- works are carried out in accordance with the submitted method statement
- the submission of details of a lightning scheme
- 1 bat box and 2 bird boxes are erected at the site

6.5.2 Subject to these conditions, the application would comply with CS6, CS17 and MD12 of the Local Plan.

6.6 Other matters

6.6.1 Regarding impact on residential amenity, the separation distance from the nearest residential properties is considered sufficient to ensure that subject to the imposition of conditions on lighting and no business use of the site, it would be unlikely for undue impacts to arise from this small-scale development to warrant refusal of the application.

6.6.2 The highways access in terms of safety and visibility, together with the parking and turning layout within the pitch boundary are acceptable subject to the imposition of conditions recommended by the council's Highways Officer. A further condition would be added to ensure access gates at the site are set further back from the highway than existing to prevent obstructions to the highway which is also a public footpath.

6.6.3 The use of septic tank was accepted as part of the previous temporary permission and no concerns have been raised by the council's Drainage team relating to either foul or surface water drainage from the site.

6.6.4 Concerns have been raised by some objectors about the potential for land contamination. Objectors have stated that a hole dug at the site in 2017 prior to the refused application 17/04505/FUL for a pony ride business, was subsequently filled in by the placement of an on-site HGV trailer into the hole. The LPA cannot confirm if this was how the trailer was disposed of in 2017, however the council's Environmental Protection Team have confirmed that even if this was the case then the risk to human health and the environment having regard to the use of the land and site-specific circumstances would likely be low and not warrant further site investigations.

6.7 Planning Balance

6.7.1 This report has established that the site is close to settlements and provides reasonable access to a range of facilities. It is in a rural area and so most trips to and from the site would be by car, however, services needed on a day-to-day basis, including schools and health facilities, are at local settlements within short driving distances. Therefore, it is reasonable to expect occupiers would support the vitality of rural communities. Also, the

site is a short drive from bus and railway links to towns further afield. Bearing in mind the rural location, the difficulty in finding Gypsy and Traveller sites in villages and towns and the recent Coton appeal, the site is assessed to provide reasonable access to services and facilities. For these reasons, it is concluded that the development is in a suitable location having regard to CS policies CS5 and CS12, the PPTS and the NPPF.

- 6.7.2 As the development would comply with gypsy and traveller development plan policies then it would not be reasonable or necessary to limit the occupation to the current residents for a temporary period to make the development acceptable. Consecutive temporary permissions on the site would not accord with national planning guidance and would only cause further uncertainty for the applicants and their children. The LPA furthermore cannot confirm when suitable sites may become available thereby making any temporary permission still yet more unreasonable.
- 6.7.3 The LPA accept there are no other locally available sites and that the needs of the family which includes 4 children would be best served by a permanent, settled base in proximity to the school where two of the children attend. In determining the application, the best interest of the child is a primary consideration in all actions by public authorities concerning children. If permission was refused then it would be likely that the applicants would be required to leave the site and with no available alternative sites there would be the prospect that the family would have to lead a roadside existence which could impact on access to medical or other services that they may need. Significant weight would be attributed to the needs of the children and the absence of alternative sites.
- 6.7.4 Weighed against the above is the visual and landscape harm that has been identified, however, though the harm would not be wholly mitigated by conditions, it is the case that the site's compliance with national and local gypsy and traveller policies in relation to accessibility to local settlements, the lack of alternative sites and the circumstances of the family would outweigh this harm to justify approval for a permanent gypsy and traveller pitch.

7.0 CONCLUSION

- 7.1 Though visual and landscape harm has been identified, the site is in a suitable location for a gypsy and traveller pitch due to the good level of accessibility occupiers would enjoy when travelling to and from local settlements; the site's location is therefore in accordance with policies CS5 and CS12, the PPTS, and the NPPF. It is furthermore the aim of the council in accordance with the Core Strategy, the GTAA and the PPTS to support the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation. It has been confirmed that the council are unable to provide any suitable alternative sites and finally, personal circumstances weigh in favour of approval as it has been established that the best interests of children at the site would be served by having a permanent base at which to live. In conclusion, the permanent residential use of the site is recommended for approval subject to conditions.

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.

The Equality Act 2010 says public authorities must comply with the public sector equality duty (PSED). The PSED requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. It is considered that this report has had due regard to the need to advance equality of opportunity between Gypsies and Travellers on the one hand, and non-Gypsies and Travellers on the other.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS12 - Gypsies and Traveller Provision

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S8 - Ellesmere

National Planning Policy Framework

PPTS - Planning Policy for Traveller Sites

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

20/01361/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works REFUSE 4th September 2020

21/03044/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works (part retrospective) GRANT 23rd December 2021

22/01811/DIS Discharge of Conditions 3 (Landscaping) and 4 (Caravan and amenity materials) relating to Planning Permission 21/03044/FUL DISAPP 5th May 2022

22/05515/FUL Change from Temporary to Permanent Gypsy / Traveller Site to include 1 no. Static Caravan, 1 no. Touring Caravan, 1 no. Amenity Block, Storage Shelter, and Gravel Drive part retrospective (as approved on Planning Ref: 21/03044/FUL) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RMJBRBTDKZ800>

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

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. 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.

2. Prior to first occupation of the amenity block, the following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific) 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.

3. Within three months of this permission, a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. Only external lighting in accordance with approved details shall be provided on the site

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

4. 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 4.2 of the Ecological Assessment (Camlad Ecology, February 2023).

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).

5. The amenity block hereby permitted shall not be occupied until the areas shown on the Proposed Block Plan Drawing No. 71370:1001 for parking, loading, unloading, and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

6. There shall be no more than 1 pitch on the site and no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed at any time, of which only 1 caravan shall be a mobile home/static caravan. The mobile homes/static caravans shall be positioned in accordance with the details as shown on the approved plans. Any touring caravan shall only be positioned on the area as shown on the approved plans and nowhere else on the site.

Reason: To safeguard the amenities of the locality

7. The development hereby approved shall not be occupied by any persons other than Gypsies and Travellers, defined 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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: This permission is only granted in view of the exceptional circumstances of the gypsy community within the Local Planning Authority's area at the date of the permission hereby granted.

8. No construction works on the amenity block hereby permitted shall commence until full details of external materials of the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

9. The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr James Doran and Mrs Barbara Doran.

Reason: To ensure that the site is only occupied by the Applicant/s and their named dependants

10. Within three months of the date of this permission, details of new, replacement access gates, including elevations and details of their materials, shall be submitted to the Local Planning authority for approval prior to their installation. The access gates shall be set a minimum distance of 10 metres from the carriageway edge and shall be made to open inwards only. The existing field gate that is set back 1m from the carriageway edge shall be removed. The development shall be undertaken in accordance with the approved details.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- the erection of fences, gates or walls or other means of enclosure

Reason: To enable the Local Planning Authority to control the development and to safeguard the character and appearance of the development.

12. Within three months of the date of this permission, a hard and soft landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) size, species (including scientific names) and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including driveway, parking area, patios) and
- (d) any retained planting.
- (e) a detailed programme of implementation

The hedge and tree planting shall be carried out in accordance with the approved details within the first planting season. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with all of the approved details.

Reason: In the interests of the visual amenities of the area

Informatives

1. Protection of Visibility Splays on Private Land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

Please note Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

2. Nesting birds informative

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 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 for active bird nests should be carried out. If vegetation 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.

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

General site informative for wildlife protection

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 2006 Natural Environment and Rural Communities Act. 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 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 amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common 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.

Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

Please contact me, or one of the other Ecology team members, if you have any queries on the above.

Demi Cook
Planning Ecologist
Shropshire Council
Tel: 01743 254316
Email: demi.cook@shropshire.gov.uk

3. A sustainable scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's SuDS Handbook which is available in the Related Documents Section on the Council's Website:
<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

Shropshire Council will not permit new connections to the Highway Drainage network.

Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

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