

AGENDA ITEM



Committee and date

Southern Planning Committee

26th November 2024

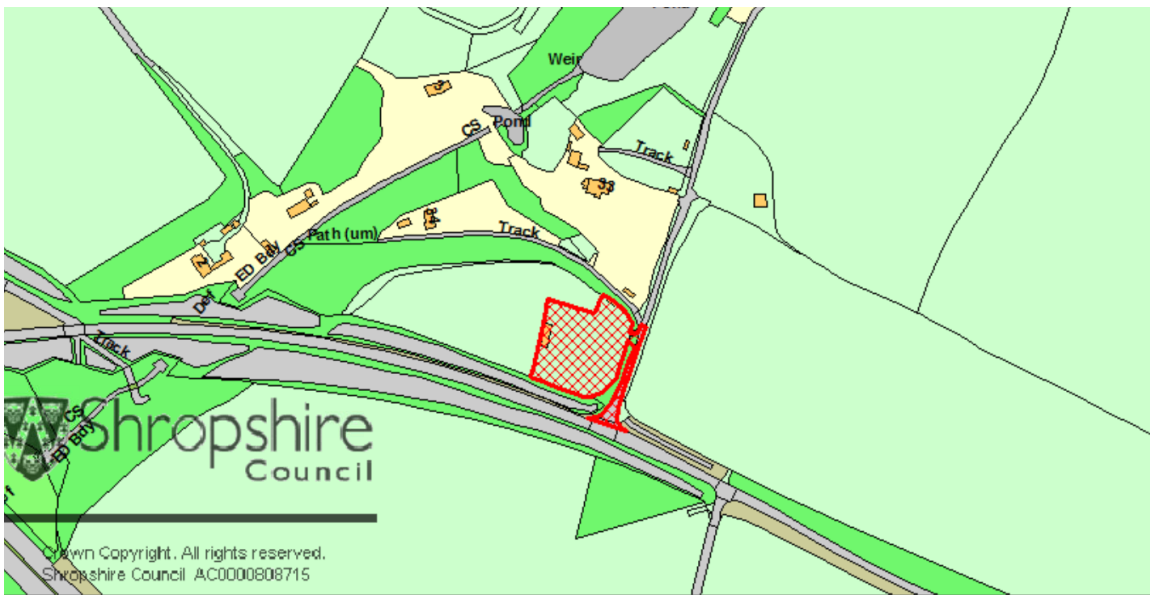
Development Management Report

Responsible Officer: Rachel Robinson, Executive Director Health Wellbeing and Prevention

Summary of Application

<u>Application Number:</u> 24/01534/FUL	<u>Parish:</u>	Tong
<u>Proposal:</u> 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		
<u>Site Address:</u> 35 The Caravan Tong Forge Shifnal Shropshire TF11 8QD		
<u>Applicant:</u> Mrs E Quinn		
<u>Case Officer:</u> Mike Davies	<u>email:</u> mike.davies.planning@shropshire.gov.uk	

Grid Ref: 378244 - 307890



Recommendation: - Refuse

Recommended reason for refusal

1. The proposal represents an inappropriate form of development which is harmful to the openness of Green Belt and rural landscape character of the countryside. The applicant has claimed that Very Special Circumstances exists based on the best interests of the children that attend Shifnal Primary School and personal circumstances however it is not considered that these material considerations outweigh the harm to the openness of Green Belt resulting from this development. Accordingly, the development 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) and Policy MD6 of the SAMDev Plan (2015).

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is a retrospective planning application for the 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 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 undertaken 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 (22/05521/FUL) submitted contained substantially more information in relation to the personal circumstances of the appellant and their extended family the other site occupants which were not included with the previous submission.
- 1.5 In addition, the definition of Gypsy 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.
- 1.6 Planning Permission was granted under 22/05521/FUL for a temporary period of one year which expired on 25th April 2024. The permission granted was also a personal consent to the applicant and named family members. The approval was also subject to several other conditions.
- 1.7 There are currently only three static caravans on site as opposed to the four previously granted temporary consent. The day rooms have not been constructed which is understandable given the previous approval was for a temporary period only.

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 even 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 however the ward member has expressed support for the proposals. The officer recommendation does not differ from the views of the ward member and therefore whilst the matter can be determined under delegated powers, without the agreement of the Chair/Vice Chair of the Southern Planning Committee, it was considered that given the previous temporary permission granted that the final decision should be made by the Southern Planning Committee.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **Tong Parish Council (AI)** - Object to the proposals as they did to the original planning application on the following basis.

1. ****Compliance with Planning Policies:**** Paragraph 25 of the PPTS and the NPPF mandate strict limitations on new traveller site developments in open countryside, particularly those away from existing settlements or outside designated areas in the development plan. The proposed development in question conflicts with these policies.

2. ****Proximity to Existing Dwellings:**** The development is situated within 2.5 metres of the nearest dwelling's boundary and 60 metres from the dwelling itself. The site adjoins the boundary of another dwelling approximately 100 metres away, which is a Grade II listed building. Other properties are also in close proximity, contradicting the requirement to be away from existing settlements.

3. ****Irrelevance of Cited Cases:**** The applicant referenced three cases to support their application, all of which predate the 2023 update to the PPTS, rendering them invalid and irrelevant.

4. ****Violation of Planning Conditions:**** Shropshire Council's Decision Notice dated 25th April 2023 granted temporary permission for 12 months, explicitly stating the development must cease after this period. The applicant has continued residing on

the site beyond this date and installed an additional park home on 28th May, further breaching planning laws.

5. ****Significance of Recent Appeal Decision:**** The recent appeal decision (APP/L3245/W/23/3334142) dismissed a similar proposal within the Green Belt, reinforcing the government's commitment to protecting the Green Belt and countryside. Shropshire Council's Statement of Case highlights available alternative pitches within the county, indicating the applicant's site purchase was speculative for financial gain.

6. ****Conclusion:**** The temporary development has caused considerable harm to the Green Belt and encroachment into the countryside, as indicated by the 12-month licence granted by Shropshire Council.

- 4.1.2 **Shifnal Town Council** - Object as development contrary to green belt policy with no exceptional circumstances. Detrimental to highway safety. It is considered that there has been no material change in circumstances since the previous refusal of permission. Shifnal Town Council support the objections raised by Tong Parish Council.
- 4.1.3 **Highway Authority** - As the application seeks to renew a temporary approval there are no objections.
- 4.1.4 **Regulatory Services** - No comments
- 4.1.5 **County Arborist** - There is no objection to this application on arboricultural grounds, providing care is taken to ensure that damage to tree branches or roots is avoided during any approved development. This can most readily be achieved by locating any new structures, including any new service runs and drainage infrastructure, outside the canopy spread and root protection area of the trees and hedgerow shrubs bordering the northern, eastern and southern sides of the site.
- 4.1.6 **Local Lead Flood Authority** - Recommend a condition be imposed requiring the submission of site drainage details.
- 4.1.7 **County Ecologist** - A planning application on this site should also be accompanied by information demonstrating biodiversity losses and gains, utilising the DEFRA Small Sites Metric and with accompanying documentation in line with BS 8683:2021 Process for designing and implementing Biodiversity Net Gain and good practice guidance ie Biodiversity Net Gain Good Practice Principles for development, CIEEM, 2016. The development must demonstrate at least a 10% net gain in biodiversity.

The Ecological Assessment prepared by Camlad Ecology (July 2022) is satisfactory with the recommendations and mitigation proposed that supporting the findings of the assessment. No further survey work is required.

- 4.1.8 **SC Landscape Consultant** - have reviewed the application documents, representations, and we made a site visit in relation to a previous application for the proposed development on the 3 February 2022.

It is note that planning application 22/05521/FUL was granted full permission subject to conditions, including the permission applying for a limited 12 month period. We understand that the proposed application under consideration here will broadly result in the permanent retention of the scheme permitted under 22/05521/FUL.

The following landscape condition was included as part of the approval of application 22/05521/FUL:

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.

This condition was discharged via application 23/02757/DIS through the submission of drawings and specifications as below:

71349. 1008 rev A

71349.1007 rev B

Landscape and Planting Specification by Trevor Mennell Planting, July 2023

In our comments on previous application 22/05521/FUL we noted that the development, in the absence of mitigation, had led to adverse landscape effects, particularly at a site level. We further noted adverse visual effects associated with the visibility of the development from Stanton Lane, from Restricted Byway 0149/15/4, and from public footpath 0149/14/1, all of which border the site.

It is therefore considered that effective implementation of the landscape scheme of planning discharge 23/02757/DIS is important for the proposals to be considered acceptable in landscape and visual terms. To this end, we request that prior to determination, photographic evidence be provided for the successful implementation and on-going establishment of the approved landscape as per 23/02757/DIS, to include hedges, tree planting and wildflower seeding.

4.2 **Public Comments**

- 4.2.1 5 objections have been received in relation to the proposals these are based on the following grounds

- Contravention of Green Belt policy
- No Very Special Circumstances
- Detrimental to highway safety
- Previous approval expired on 25/04/2024 and site continues to be occupied in breach of permission
- Application is inaccurate and misleading in several respects
- Proposals conflict with development plan
- Conflicts with NPPF
- Certificate of ownership submitted with the application is inaccurate as the access way to the site is not in the applicants ownership
- The access is on a restricted bye-way which prohibits motorised vehicles from using it.
- There are restrictive covenants on the site which restrict the use of the site to agriculture and prevent the erection of structures.
- Enforcement action requiring the site to be vacated should be pursued

4.2.2 13 representations in support of the proposals have been received on the following grounds.

- Site will provide a permanent home for the family allowing the children to attend school
- The site is well kept and is an asset to the community
- The applicant and family are part of the Shifnal community

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
Conditions
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 other material planning 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) (Dec 2023). 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 152 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 153 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 until the potential harm to the Green Belt by reason of inappropriateness, and any other harm, 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, 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 and it is evident from aerial photographic images that the site has been reclaimed by nature in the intervening period. Therefore, it is clear that any former use that could be attributed to the site had long since ceased, prior to the applicant occupying the site.

- 6.1.6 At Policy H (Decision taking) of the above DCLG policy 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.*”

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 are away from existing settlements or outside areas allocated in the development plan. It continues 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 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 Allocations and Management of Development (SAMDev) Plan. However, in the event 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.

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.

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.

- 6.1.13 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.
- 6.1.14 The Council's Gypsy Liaison Officer previously 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 Telford within a bricks and mortar property. He further advises: Shropshire Council has no vacant sites at present and Telford and Wrekin Council

do not have any pitches available either. A letter of support was previously submitted by Gypsy Liaison Officer at Telford and Wrekin Council in relation to the original application granted a temporary approval confirming the local connection and non-availability of alternative sites with their district.

- 6.1.15 The family moved onto this site in 2022 having acquired the site and have remained on the site since this time. On a recent visit to the site by officers it was observed that there are currently three mobile homes on the site.
- 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 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 A number of appeal decisions relating to G&T sites in Shropshire have been received since the temporary permission was granted for this site in April 2023 and there is a clear and consistent message emanating from these that whilst the current policy is permissive and several sites have been allowed in the countryside in the intervening period, this type of development in the Green Belt is inappropriate and appeal decisions have consistently adopted this approach.
- 6.1.24 The High Court earlier this year rejected an effort to overturn a planning inspector's refusal of a planning consent for caravan pitch in the Essex green belt, dismissing a claim that the claimant's human rights should have been given more weight in the decision-making process. (*Ward v Secretary of State for LH*). The judgment said the inspector had "explained why the interference was necessary, stating that the issue of inappropriateness in relation to the green belt, along with the resulting harm to the openness of the green belt, was so substantial that, in the wider public interest, it was not outweighed by 'the personal circumstances of the appellant and/or the other considerations'"
- 6.1.25 The inspector had also acknowledged in their decision that in a time-limited planning permission, "the bar would be set at a lesser level than that of a permanent permission. However, the harm to the green belt would still exist for the duration of the occupation of the site, which was contrary to the wider public interest in the protection of the green belt." This is precisely the scenario that we have in this case. At the time of granting the temporary permission the local plan review was much less advanced than at present and the policy position in relation to Gypsy and Traveller provision was much less clear. In addition, there was not a readily available alternative site.
- 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 in hardstanding.
 - 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 has provided additional evidence with this application to renew the temporary permission on a permanent basis to support this claim that the site is Previously

Developed Land. However, the fact remains that there is no site history to suggest that it was anything other a green field and in any event nature had clearly reclaimed the site in the intervening years prior to the applicant moving onto the site.

- 6.2.3 Irrespective of whether or not the evidence available supports that it was previously developed land, it is clear that the site has been open in character for many years which is the most important characteristic of the Green Belt as its primary purpose is to prevent urban sprawl and the merging of settlements.
- 6.2.4 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 not related directly to other development in the locality and will appear as an isolated feature in the landscape. The site is partially screened from Stanton Lane by a hedgerow and trees along the boundary with the highway. The site itself though is very open in character and performs an important role in the Green Belt. It is therefore considered that the proposal will result in substantial harm in terms of Green Belt and its purpose.
- 6.2.5 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 particular case a 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 in the Telford area, but this is not supported by any evidence submitted in support of the proposals. In addition, the scale of development is significantly larger than that supported by Policy CS12 and no details have been provided in the application in relation to the existing/future occupants of the site except the named applicant.
- 6.2.6 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 applicant moving onto site and introducing hardstanding, caravans and vehicles to the site. The site has substantially 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 could be secured via condition to further screen the development from outside view. However, this would still fail to deal with the fundamental conflict with Green Belt policy.
- 6.4 Highways and Transportation
 - 6.4.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph 115 it states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety."
 - 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 115 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 in this instance.

6.5 Residential Amenity

6.5.1 The site is largely 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 a 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 not cause harm to amenities of nearby neighbours.

6.5.3 To safeguard the amenities of the immediate locality a condition was attached to temporary permission granted preventing business use being undertaken on the site. There have been no complaints to suggest this condition has been breached at any time during the occupation of the site by the applicant.

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 An external lighting condition was imposed to control the impact of the development by keeping it to a low level to allow wildlife to continue to forage and commute around the surrounding area without interruption. The details required by this condition were subsequently discharged under 23/02757/DIS.

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 and again these details required by condition have now been discharged.

6.6.4 As this application relates to the renewal of a previous approval granted prior to bio-diversity net gain becoming mandatory this application is not subject to a 10% BNG uplift.

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.

6.7.2 The 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, which another child attended between 4/10/2021 and 20/07/2022. The Education service have confirmed that two children attend Shifnal Primary School, with attendance being below 90%, although the school do have a positive relationship with the family. There are also two children of secondary school age years 9 and 11 who are home schooled and there is also a 1-year-old child on site.
- 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 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. However, these need to be weighed in the planning balance against the inappropriateness of the development in the Green Belt.
- 6.8 Conditions
- 6.8.1 Several conditions requiring the submission of further details to be approved were attached to the temporary planning permission granted to the applicant for this site under 22/05521/FUL. These were submitted under application 23/02757/DIS which discharged details to satisfy conditions 7 (landscaping), 8 (bird & bat boxes), 9 (lighting), and 13 (drainage) on planning permission 22/05521/FUL. The remainder of the conditions imposed were compliance conditions not requiring further submissions.
- 6.9 Planning Balance
- 6.9.1 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 153 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.

- 6.9.2 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:
- 6.9.3 It has been established that there is currently limited provision available on existing Shropshire Council sites (Craven Arms only) 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 not a significant material consideration where a proposal is within the Green Belt which is the case here.
- 6.9.4 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 designated Green Belt in the adopted development plan and it is not intended to release this site as part of the local plan review. 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 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.
- 6.9.5 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. In granting the temporary approval previously it was made clear that the rationale for this was based on finding a more appropriate site outside of the Green Belt. It is considered that alternative sites are available north of the A5 which whilst based in the countryside is not within the Green Belt and as such given recent appeal decisions the LPA would look to support as a more appropriate location to that of the application site.
- 6.9.6 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 showpeople or circus people travelling together as such."
- 6.9.7 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.

- 6.9.8 The application site is situated in open countryside away 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 to 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.
- 6.9.9 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 comprises the applicants and their younger children, two older siblings who are married and an elderly relative who does not appear to be resident on site at the current time. The family have a demonstrable local connection to the Telford area, and it is therefore considered that, in the light of the contents of the DCLG Planning Policy for Gypsy Sites August 2015 (DCLG 2015), that 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.
- 6.9.10 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 at present. Whilst the applicants have stressed the importance to them of having a settled base so that their children, can attend the local school.
- 6.9.11 Were the application to be refused the applicants have indicated that they are likely to return to living on the road and which will lead to disruption of the education of the child (And their health care). Whilst it is considered that the future needs of the child 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 in this case.

- 6.9.12 The potential availability of alternative sites outside of the Green Belt in the county also means that by working in partnership with the applicant and third-party landowners the Council should be able to satisfactorily relocate the applicant and his family to a nearby alternative site outside of the Green Belt. Therefore, having regard to this change in circumstance the argument around 'very special circumstances' to justify this site becomes even less compelling.
- 6.9.13 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.
- 6.9.14 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 outweighing personal circumstances, a lack of provision and the best interests of the child. The characteristics of this application are similar in many ways to this dismissed appeal, although the personal circumstances of the applicant and the extended family have been articulated in more detail as part of the supporting case to the application. Similarly, an appeal APP/L3245/W/23/3334142 on the western side of Shifnal at Knowle Bank Farm, Priorslee Road also in the Green Belt for two G&T pitches was also dismissed.
- 6.9.15 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. Therefore, it is becoming increasingly clear from appeal decision that Green Belt sites are not acceptable for this type of development.
- 6.9.16 The lack of available Council managed sites in the southeast of the county and neighbouring districts, coupled with no future site allocations in the current or emerging local plan meant that there was a lack of alternative sites available at the time of the original application. On this basis a temporary permission was granted

to allow time to explore alternative sites whilst not taking account of the applicant's personal circumstances and connection to the local area.

- 6.9.17 The LPA approach has tended to be reactive in the past as situations have arose as opposed to being proactive by identifying and providing sites. At present there are limited 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.
- 6.9.18 The nearest area of countryside outside of the Green Belt lies to the north of the A5 towards Sherrifhales and alternative sites have been identified here as potentially being more appropriate and viable than the current site which is the subject of this application. Recent appeal decisions certainly support the view that G&T pitches in countryside locations which are not Green Belt will be looked on more favourably.

7.0 **CONCLUSION**

- 7.1 As has been set out above, 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 uncertain as to whether policy DP8 will be adopted in its current form and so it was attributed limited weight.
- 7.3 However, in this case there are alternative sites which are available and situated outside of the Green Belt. Therefore, the argument around the need for the development in the Green Belt and 'very special circumstances' does not stand up to scrutiny. It is clear that the only reason this site has been chosen is due to the applicant acquiring it and not out of an overriding need to occupy this particular site. Alternative sites outside the Green Belt which are more appropriate exist and therefore there is no justification for granting a permanent planning permission for the continued use of the site for its current purpose.
- 7.4 The recent appeal decisions have steadfastly identified that G&T pitches in the Green Belt are inappropriate development whilst accepting that in the countryside they can be acceptable in the right circumstances. 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.

- 7.5 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. When the temporary approval was granted it was considered that there were 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. It is considered that this is no longer the case as alternative sites outside of the Green Belt have been identified.
- 7.6 As previously mentioned, this application is a renewal of a temporary permission which expired on 25th April 2024. It includes for a hardstanding area which has already been installed on site. 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.
- 7.7 Therefore, having regard to the matters discussed above it is considered there are no longer any extenuating circumstances which would outweigh the harm to the Green Belt resulting from this development as an alternative provision outside of the Green Belt has been identified. Therefore, in light of this it is considered that the harm to the Green Belt resulting from these proposals outweighs the personal circumstances of the appellant and as such it is recommended that Planning Permission should be refused.
- 7.8 Having regard to the recommendation to refuse and the fact that this proposal is retrospective, it is further recommended that an enforcement notice be issued requiring the site to be vacated and reinstated to its former condition within a prescribed period of 6 months subject to the provisions of S.173a of the Act.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10.0 Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS12 - Gypsies and Traveller Provision

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD6 - Green Belt & Safeguarded Land

MD7A - Managing Housing Development in the Countryside

PPTS - Planning Policy for Traveller Sites

MD12 - Natural Environment

Settlement: S15 - Shifnal

SPD Sustainable Design Part 1

National Planning Policy Framework

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) GRANT 25th April 2023

23/02757/DIS Discharge of conditions 7 (landscaping), 8 (bird & bat boxes), 9 (lighting), and 13 (drainage) on planning permission 22/05521/FUL DISAPP 21st August 2023

24/01089/FUL Change from Temporary to Permanent Gypsy / Traveller Site following Planning Approval 22/05521/FUL for 4 no. family pitches APPRET

AGENDA ITEM

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35 The Caravan

24/01123/VAR Application Reference Number: 22/05521/FUL
25/03/2024

Date of Decision:

To make permission permanent
NA. APPRET

24/01534/FUL 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 PDE

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SC3M9WTDH6G00>

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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 Chris Schofield
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Local Member

Cllr Ed Bird

AGENDA ITEM

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35 The Caravan