

Planning

Proof of Evidence

Town and Country Planning Act 1990
Section 78 appeal against the refusal of planning permission

Witness: Mr Matthew Shepherd BSc, MSc.

Subject of Evidence: Planning

Appeal: APP/W0340/W/22/3292211

Site: Land at Lawrences Lane, Thatcham

Proposal: Change of use to 7 no. Gypsy/Traveller pitches comprising 7 no. static caravans, 7 no. day rooms, 7 no. touring caravans and associated works

Date: November 2022

Council Reference: 21/02112/FUL

Proof of Evidence

Mr Matthew Shepherd BSc, MSc

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1. Summary

- 1.1 My name is Matthew Shepherd. I am a Senior Planning Officer at West Berkshire Council. I hold a Bachelor of Science in Geography from Swansea University and a Master in Science in Spatial Planning from Oxford Brookes University. I have 7 year's experience as a planning professional within West Berkshire Council. I am a member of the Development Management team
- 1.2 My Planning evidence should be read alongside the proofs of evidence presented by the other expert witnesses for West Berkshire Council. My evidence covers planning matters not covered by the other expert witnesses for the Council, including the overall planning balance.
- 1.3 My proof through different sections explain how the appeal proposal fails to comply with Policies CS7 and TS3 and their criteria as listed in the first reason for refusal. The proof goes on to summaries that
- 1.4 The proposal would not address the reason for refusal due to the generation of additional pedestrian traffic on Lawrences Lane which is sub-standard in respect of road width, lighting and security and would result in the increased risk of accidents to road users. The solution offered in the form of the pedestrian access to the south west corner of the site does not give sufficient detail in regards to its impact, its function, and its acceptability in regards to access, safety and construction.
- 1.5 The proposed development will cause irreversible and permanent harm to the local character of the area, the character of Lawrences Lane and to views from a number of receptors, as set out above. Accordingly, it fails to accord with the Council's policy CS7: Gypsies, Travellers and Travelling Showpeople, since there is material harm to the physical and visual character of the area. Furthermore, the harmful development fails to respect or enhance the character and appearance of the area, as required by CS14 and it does not contribute positively to local distinctiveness or sense of place. As such the Council's requirement through policy CS19 is that of the landscape character of the District is conserved and enhanced; however it is clear that the proposed development does not conserve or enhance character.

- 1.6 As demonstrated by the Councils evidence the movements of caravans (either towed or carried) along Lawrence's Lane is likely to have a noticeable impact on neighbouring amenity. This is true particularly in places where it is necessary to navigate the more narrow and winding sections of the road. From a perspective of safeguarding neighbouring residential amenity, there is considered to be an adverse effect on neighbouring amenity. Therefore the appeal proposal runs contrary to Development plan policies CS7 and CS14 of the West Berkshire Core Strategy 2006-2026. Policy OVS.6 of the Local Plan (Saved Policies) as well as the NPPF.
- 1.7 Mr Bacchus' evidence explores the effect of the proposed development on surface water and the proposed drainage solutions proposed. Due to the submission of further drainage information on the 04/11/2022 it has been agreed by the Inspector that the Council's proof of evidence shall be submitted by 22/11/2022. Therefore the Council may update this element of the planning proof once Mr Bacchus' proof of evidence is completed.
- 1.8 The loss of GI also has ecological impacts. This GI has been lost without replacement, contrary to Policy CS18. Overall, there is a net loss of green infrastructure as a result of the proposed development contrary to Policy CS18.
- 1.9 It is not considered that the impacts highlighted in the PEA with EclA provide enough detail including sufficient assurances that they have identified adequate locations to deliver the necessary compensation and mitigation measures.
- 1.10 The offsite mitigation cannot be secured by planning condition. It would need to be provided as a unilateral undertaking for the council to review and advise the inspector upon its acceptability. It has not been sufficiently demonstrated that the impact of the development adequately compensates for, and mitigates against, the impacts on ecology, biodiversity, and natural environment.
- 1.0 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the application should be determined in accordance with the development plan, unless there are material considerations that indicate otherwise.

- 1.1 The appeal proposal runs contrary to the Development Plan as a whole. The Council considers that there are significant conflict with the development plan and dis benefits to which the benefits of the development do not outweigh.
- 1.2 Furthermore the policy conflict with the up-to-date development plan attracts substantial weight and indicates that the proposal should be refused unless there are material considerations that would justify a different decision.
- 1.3 In this case none of the benefits, individually and/or in their totality, outweigh the dis-benefits and/or the extensive policy conflict.
- 1.4 Giving due regard to the duties under the Human Rights Act (1998) and the Equality Act (2010) which are taken into account in the GTAA 2021, and the best interests of the children, the unacceptable harm identified can only be addressed by the dismissal of the appeal and is necessary and proportionate.
- 1.5 In conclusion, the Council's evidence demonstrates that the appeal proposal is contrary to Development Plan policy, national policy and there are no material considerations to outweigh this substantial conflict.
- 1.6 In view of the above the Council will respectfully request that the appeal is dismissed and planning permission is refused.

2. Introduction

Qualifications and Experience

- 2.1 My name is Matthew Shepherd. I am a Senior Planning Officer at West Berkshire Council. I hold a Bachelor of Science in Geography from Swansea University and a Master in Science in Spatial Planning from Oxford Brookes University. I have 7 year's experience as a planning professional within West Berkshire Council. I am a member of the Development Management team whereby I am responsible for determining minor and major planning applications and other commensurate development management duties for the Local Planning Authority.
- 2.2 I am familiar with the appeal site, the surrounding area, the appeal proposals, and the relevant planning policies and material considerations. My evidence covers those planning matters not covered by my colleagues, including the overall planning balance. My evidence refers to West Berkshire Council both as the "Council" and the "Local Planning Authority (LPA)".
- 2.3 My Planning evidence should be read alongside the proofs of evidence presented by the other expert witnesses for West Berkshire Council. My evidence covers planning matters not covered by the other expert witnesses for the Council, including the overall planning balance.
- 2.4 I confirm that the evidence which I have prepared and provided for this appeal is true to the best of my knowledge and belief and it has been prepared and is given in accordance with the guidance of the RTPI. I confirm that the opinions expressed are my true and professional opinions.

Purpose and Scope of Evidence

- 2.5 This proof of evidence has been prepared in respect of an appeal lodged on behalf of Ms Gumble (the Appellant) against refusal of planning permission (Council reference 21/02112/FUL) for the change of use to 7 no. Gypsy/Traveller pitches comprising 7 no. static caravans, 7 no. day rooms, 7 no. touring caravans and associated works at Land at Lawrences Lane, Thatcham.
- 2.6 Detailed analysis of the refusal reasons 1 (Principle of development (CS7) limited to the Ecology considerations), 4 (Substandard pedestrian access), 5 (Landscape and visual amenity), 7 (Drainage) and the Council's 5 year supply position and other Gypsy/Traveller specific issues for Gypsy/Traveller sites falls outside of the scope of this proof of evidence and will be provided in the proofs of evidence presented by following expert witnesses for West Berkshire Council:
- Mrs Holden on Ecology
 - Mr Goddard on Highways
 - Mr Flatman on Landscape
 - Mr Bacchus on Drainage
 - Mr Bullock on the Council's 5 year supply position and other Gypsy/Traveller specific issues for Gypsy/Traveller
- 2.7 As the planning witness for the Council, I rely on the evidence of the above professionals. This proof of evidence covers the principle of development, amenity, green infrastructure and other relevant materials considerations. It also summarises / has regard to the evidence of my colleagues on their respective issues, against the policies of the Development Plan and other material considerations, including the policies of the emerging Local Plan Review and the NPPF.
- 2.8 In this proof of evidence, a planning balance is undertaken, apportioning the appropriate weight that should be afforded to each consideration. Taking all these matters into account I then reach my conclusion and recommendation.

Reasons for Refusal

2.9 The application was refused for the following reasons:

1. ***Inaccurate drawings***

The submitted drawings include the following inaccuracies:

- a) There are conflicting measurement annotations on drawing number 001 09/08/2021 Rev 1:1 (plans and elevations of day rooms): the title states 800m x 400m whereas the plan dimensions are 8000mm x 4000mm.*
- b) The size and shape of plots 6 and 7 as built deviate from the proposed site plans, as the boundary location between the two is markedly different.*
- c) The site plan does not show the two stable buildings that have been erected on plots 1 and 5, and no elevations or plans have been provided.*

2. ***Principle of development (CS7)***

According to Policy ADPP1, the scale and density of development will be related to the site's accessibility, character and surroundings. Only appropriate limited development in the countryside (outside of the defined settlement boundaries) will be allowed, focused on addressing identified needs and maintaining a strong rural economy. Policy CS7 (Gypsies, Travellers and Travelling Showpeople) is the principal development management policy for this proposed development. It states that to meet the identified need for Gypsies, Travellers and Travelling Showpeople pitches within the District, the Council will make appropriate provision through the identification of sites within the Site Allocations and Delivery DPD. For the purpose of considering planning applications relating to sites not identified in the relevant DPD, Policy CS7 gives nine criteria which must be satisfied for sites outside settlement boundaries.

The provision of additional pitches at the application site would contribute positively to meeting the overall need in West Berkshire. However, for the reasons elaborated below, the proposed development fails to comply with Policy CS7 because it does not comply with the following criteria:

- a) Safe and easy access to major roads and public transport services;*
- b) The possibility of the integrated co-existence between the site and the settled community, including adequate levels of privacy and residential amenity both within the site and with neighbouring occupiers;*
- c) The compatibility of the use with the surrounding land use, including potential disturbance from vehicular movements...;*
- d) Will not materially harm the physical and visual character of the area;*
- e) Where applicable have regard for the character and policies affecting the North Wessex Downs AONB.*

The proposed development also fails to comply with the following criteria of Policy TS3 (Detailed Planning Considerations for Travellers Sites):

- a) Provide an integrated water supply and drainage strategy in advance of development to ensure the provision of adequate and appropriate infrastructure for water supply and waste water, both on and off*

site. Development will be occupied in line with this strategy. All sites that are not connected to the mains sewerage system will ensure there are no deleterious effects to Special Area of Conservation (SACs) and river and wetland Site of Special Scientific Interest (SSSIs).

- b) *Include appropriate landscaping proposals, retaining and incorporating key elements of landscape character into the site design.*
- c) *Demonstrate that surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS).*
- d) *Identify measures to be provided to mitigate the impact of development on the local road network....*
- e) *Provide an extended phase 1 habitat survey together with further detailed surveys arising from that as necessary. Appropriate avoidance and mitigation measures will need to be implemented, to ensure any protected species are not adversely affected.*
- f) *Provide appropriate mitigation to offset impact on key species and habitats through appropriate buffering, on-site mitigation and off-site compensation measures.*

Consequently, the application conflicts with Policies ADPP1 and CS7 of the West Berkshire Core Strategy 2006-2026, Policy TS3 of the Housing Site Allocations DPD 2006-2026, the National Planning Policy Framework, and the Planning Policy for Travellers Sites. The intentional unauthorised development undertaken is also contrary to national policy set out in the DCLG Chief Planning Officer letter dated 31st August 2015, and the associated Ministerial Statement to Parliament on 17th December 2015.

3 Substandard road

The proposal would generate additional traffic on Lawrences Lane, which is sub-standard in respect of road width and would result in the increased risk of accidents to road users. This would be contrary to the National Planning Policy Framework, and Policies CS7, CS13 and CS14 of the West Berkshire Core Strategy 2006-2026.

4 Substandard pedestrian access

The proposal would generate additional pedestrian traffic on Lawrences Lane which is sub-standard in respect of road width, lighting and security and would result in the increased risk of accidents to road users. This would be contrary to the National Planning Policy Framework, Policies CS7, CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, Policy LTP3 of the Local Transport Plan for West Berkshire 2011-2026, and the Council's declared Climate Change Emergency.

5 Landscape and visual amenity

The application site is located in a sensitive rural location within open countryside to the north of Thatcham that forms part of the setting of the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Lawrences Lane is an unclassified, narrow and winding, rural road that connects Thatcham and Cold Ash. It is locally valued as a recreational route for pedestrians and cyclists, as demonstrated by recent proposals to

restrict motor vehicle traffic and create a quiet route for recreational access to the countryside.

The West Berkshire Landscape Character Assessment (2019) includes the land within the Cold Ash Woodland and Heathland Mosaic (WH4) character area. The area is dominated by an east-west orientated, healthland ridge and characterised by varied topography, from flat plateau area to steeply undulating slopes. It provides a rural setting to the adjacent towns of Thatcham and Newbury and also in containing settlement within the area and contributing to the rural character. Open farmland on lower slopes contributes to a sense of separation between the elevated character area and the towns of Thatcham and Newbury in the valley below. The strong network of public rights of way, the extensive areas of open access land, and the proximity of these to the settlements of Newbury and Thatcham give the character area a high recreational value.

The proposed development would detract from the landscape character of the area as the characteristics of the development are consistent with identified detractors in the LCA. Firstly, the development would extend development further up Lawrences Lane, thereby decreasing the separation between settlements and eroding the transition between settlement and countryside. This is contrary to the area's landscape strategy which seeks to avoid extended linear development along roads, which creates a more developed character.

The proposed development also has an adverse visual impact through the introduction of fencing and the siting of caravans on the land. Whilst the visual impact is localised to the stretch of Lawrences Lane outside the application site, and some distance glimpsed views further up Lawrences Lane and from the public footpath to the east, the visible development is nevertheless a detracting feature in the landscape.

The propensity of the development to introduce additional traffic, including occasional larger vehicles, would further detract from the landscape character of the area. Heavy traffic on narrow rural lanes is another recognised detractor within this landscape character area. The Council's draft proposals to restrict access for vehicles to create quiet routes for access to the countryside demonstrates that this is a key issue along Lawrences Lane, and increases the weight that should be given to this consideration. The increased traffic generated by the development would be inconsistent with these draft proposals, which are another element of the landscape strategy for the area.

The application is therefore contrary to the National Planning Policy Framework, Policies CS14 and CS19, the West Berkshire Landscape Character Assessment (2019), and the North Wessex Downs AONB Management Plan and Position Statement on Setting.

6 Amenity

According to Policy CS14, new development must demonstrate high quality and sustainable design that makes a positive contribution to the quality of life in West Berkshire. Paragraph 127 of the NPPF states planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. Consequently, all development should be designed in a way to avoid any unacceptable harm

to neighbouring living conditions. Specific to traveller sites, Policy CS7 also seeks to consider the compatibility of the use with the surrounding land use, including potential disturbance from vehicular movements.

Concerns have been raised regarding the vehicle movements associated with the unauthorised development that has taken place to date. Whilst the frequency of vehicle movements after construction is likely to be less, the nature of a caravan is that it is mobile and capable of being moved. It is considered that any movements of caravans (either towed or carried) along Lawrences Lane is likely to have a noticeable impact on neighbouring amenity, particularly in place where it is necessary to navigate the more narrow and winding sections of the road. From a perspective of safeguarding neighbouring residential amenity, there is considered to be an adverse effect on neighbouring amenity in this respect. This application is therefore contrary to the National Planning Policy Framework, and Policies CS7 and CS14 of the West Berkshire Core Strategy 2006-2026.

7 Drainage

The site is located within Flood Zone 1, which indicates a low risk of fluvial (river) flooding. It is also not within any critical drainage area identified by the Strategic Flood Risk Assessment for the district. As minor development, a Flood Risk Assessment (FRA) is not required by Policy CS16, and there are no fundamental policy objections to the development on grounds of flood risk. However, Policy CS16 states that on all development sites, surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS) in accordance with best practice and the proposed national standards and to provide attenuation to greenfield run-off rates and volumes, for all new development and re-development and provide other benefits where possible such as water quality, biodiversity and amenity. The application is not accompanied by any drainage strategy to indicate how the development could comply with Policy CS16. Whilst detailed specifications may be reserved for consideration by condition, the key principles of a drainage strategy are required before any planning permission can be granted. The application is contrary to Policy CS16, the Council's adopted Sustainable Drainage SPD, and the National Planning Policy Framework.

8 Green infrastructure

Green infrastructure (GI) is the network of multi-functional green space, both new and existing, both rural and urban, which supports the natural and ecological processes, and is integral to the health and quality of life of sustainable communities. For the purposes of the Core Strategy, green infrastructure is defined as including (amongst others): natural and semi-natural green spaces (including woodlands, urban forestry, scrub, grassland; and green corridors (including rights of way). According to Policy CS18, the district's green infrastructure will be protected and enhanced. Developments resulting in the loss of green infrastructure or harm to its use or enjoyment by the public will not be permitted. Where exceptionally it is agreed that an area of green infrastructure can be lost a new one of equal or greater size and standard will be required to be provided in an accessible location close by.

As open grassland (before the development commenced), the application site comprised green infrastructure. This GI has been lost without replacement, contrary to Policy CS18. There has also been tree loss

associated with the development, as elaborated below. Overall, there is a net loss of green infrastructure as a result of the proposed development, contrary to Policy CS18.

9 Trees

Whilst the application site does not contain any tree preservation orders (TPOs) and is not within a conservation area, there are many trees around the perimeter of the site that collectively make a positive contribution to the street scene and character of the area. The site is bounded to the north and west by old hedge on a bank, parts of which seem to have been removed to facilitate the erection of fencing. Other direct impacts that have been noted include at least one HGV was parked very close to a Hazel stool, and excavations have been made around individual trees on the site to facilitate the localised levelling and surfacing of land.

The parking of vehicles, laying of aggregate and compaction of the soil close to the boundary hedge will negatively impact the root protection area of the trees within it. There are other trees on the eastern side which will also be affected by increased vehicle movements into and out of the site. These factors have caused and will lead to further loss of trees, thereby negatively impacting on local amenity, and no mitigation measures are proposed. In the absence of an acceptable Arboricultural Method Statement and remediation, and a proposed site layout that responds accordingly, the proposal will result in an unacceptable threat to the sustainability of trees that contribute to the landscape character of the area, and damage that would lead to decline is unacceptable because tree loss would impact on local amenity. The application is therefore contrary to Policies CS14, CS17, CS18 and CS19, and the National Planning Policy Framework.

Procedural Matters

Withdrawn Reasons for Refusal

2.10 As confirmed in the Council's statement of case, as a result of the Wheatcroft Consultation, documents and the negotiations and agreement of the Statement of Common Ground the Council withdraws the following reasons for refusal

- Refusal Reason 1- Inaccurate Drawings
- Refusal Reason 3- Substandard Access
- Refusal Reason 9- Trees

3. Principle of Development

Relevant Policies

- 3.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF provides a presumption in favour of sustainable development (paragraph 11), which for decision taking means approving development proposals that accord with an up-to-date development plan without delay. Conversely, paragraph 12 states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The NPPF follows statute in this respect.
- 3.2 Paragraph 11d of the NPPF provides a 'tilted balance' in favour of granting permission where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Neither limb applies and the 'tilted balance' of paragraph 11d is therefore not engaged.
- 3.3 The most important policies for determining whether the principle of development is acceptable are Policies ADPP1, ADPP3 and CS7 of the Core Strategy, and Policy TS3 of the Housing Site Allocations DPD. The Core Strategy includes a Spatial Strategy (ADPP1 and ADPP3) that provides a broad indication of the overall scale of development in the district, applying the principles of sustainable development, and based on defined spatial areas and a settlement hierarchy. Policies CS7 and TS3 relate to gypsy and traveller sites. Together, these policies comprise "the basket" of most important policies.
- 3.4 According to Policy ADPP1, most development will be within or adjacent to the settlements in the hierarchy, and related to their transport accessibility and level of services. The urban areas will be the focus for most development. The scale and density of development will be related to the site's accessibility, character and surroundings. Only appropriate limited development in the countryside (outside of the defined settlement boundaries) will be allowed, focused on addressing identified needs and maintaining a strong rural economy.
- 3.5 Policy ADPP3 is the spatial strategy for Thatcham. However, it is not considered to include any points which are directly relevant to this proposed development.

- 3.6 **Policy CS7 (Gypsies, Travellers and Travelling Showpeople)** is the principal development management policy for this proposed development. It reads as follows (bullet points have been replaced by letters for ease of reference):

'To meet the identified need for Gypsies, Travellers and Travelling Showpeople pitches within the District, the Council will make appropriate provision through the identification of sites within the Site Allocations and Delivery DPD. The requirement for transit sites will be addressed through the same DPD.'

In allocating sites, and for the purpose of considering planning applications relating to sites not identified in the relevant DPD, the following criteria will need to be satisfied for sites outside settlement boundaries:

- a) Safe and easy access to major roads and public transport services;*
- b) Easy access to local services including a bus route, shops, schools and health services;*
- c) Located outside areas of high flooding risk;*
- d) Provision for adequate on site facilities for parking, storage, play and residential amenity;*
- e) The possibility of the integrated co-existence between the site and the settled community, including adequate levels of privacy and residential amenity both within the site and with neighbouring occupiers;*
- f) Opportunities for an element of authorised mixed uses;*
- g) The compatibility of the use with the surrounding land use, including potential disturbance from vehicular movements, and on site business activities;*
- h) Will not materially harm the physical and visual character of the area;*
- i) Where applicable have regard for the character and policies affecting the North Wessex Downs AONB.'*

- 3.7 To give clarity on the supporting information expected from development proposals a detailed planning considerations policy is included within the Housing Site Allocations DPD adopted on Tuesday 9 May 2017. Policy TS3 (Detailed Planning Considerations for Travellers Sites) reads as follows (bullet points have been replaced by letters for ease of reference):

'Proposals for development will be expected to comply with policies within the West Berkshire Development Plan and have regard to guidance outlined in the Government's good practice guide on Designing Gypsy and Traveller Sites where appropriate. In addition proposals will:

- a) *Provide an integrated water supply and drainage strategy in advance of development to ensure the provision of adequate and appropriate infrastructure for water supply and waste water, both on and off site. Development will be occupied in line with this strategy. All sites that are not connected to the mains sewerage system will ensure there are no deleterious effects to Special Area of Conservation (SACs) and river and wetland Site of Special Scientific Interest (SSSIs).*
- b) *Incorporate appropriate vehicle access and turning space.*
- c) *Include appropriate landscaping proposals, retaining and incorporating key elements of landscape character into the site design.*
- d) *Be well designed and laid out with shelter and amenity buildings which are appropriately located and constructed of sympathetic materials suited for the purpose.*
- e) *Provide a mix of residential and business use where appropriate.*
- f) *Provide a Flood Risk Assessment in accordance with Policy CS16 of the adopted Core Strategy.*
- g) *Demonstrate that surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS).*
- h) *Include measures to improve accessibility by, and encourage use of, non-car transport modes. These measures should be set out in a Travel Plan for the site.*
- i) *Identify internal walking routes and show how they will be linked to existing routes including the Public Rights of Way network. They will also take advantage of the landscape features of value within the site. Opportunities to improve external routes to services and facilities will be sought.*
- j) *Identify measures to be provided to mitigate the impact of development on the local road network as identified by a site specific Transport Assessment or Transport Statement.*
- k) *Identify appropriate green space/green infrastructure in line with the Council's adopted standards as set out in Policy RL1 of the Local Plan 1991 – 2006 (Saved Policies 2007).*
- l) *Provide necessary infrastructure to meet the needs that arise from the development as a whole, in accordance with both the most up to date Infrastructure Delivery Plan (IDP) and through conformity with the appropriate standards.*
- m) *Provide a Landscape and Visual Impact Assessment (LVIA) in accordance with the Landscape Institute Guidelines for Landscape and Visual impact Assessment 3rd ed. 2013.*
- n) *This will inform the development design and layout of the site and requirements for green infrastructure.*

- o) Provide an extended phase 1 habitat survey together with further detailed surveys arising from that as necessary. Appropriate avoidance and mitigation measures will need to be implemented, to ensure any protected species are not adversely affected.*
- p) Provide appropriate mitigation to offset impact on key species and habitats through appropriate buffering, on-site mitigation and off-site compensation measures.*
- q) Provide a design, layout and siting plan for the development.'*

3.8 According to paragraph 48 of the NPPF, local planning authorities may give weight to relevant policies in emerging plans according to: (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and (c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given). Where emerging policies are dealt with the evidence will explain the level of weight that can be afforded to them.

3.9 For the reasons elaborated through different sections of this proof of evidence, the appeal proposal fails to comply with Policies CS7 and TS3 and their criteria as listed in the first reason for refusal.

3.10 All of the points above are examined under relevant section heading in the rest of the Council's evidence.

4. Pedestrian Access

4.1 Mr Goddard's evidence explores the issues arising in regards to the safety of pedestrian using the Highway network to access the site. It explores how the use of Lawrence's Lane to access the site via the existing access would not be a safe option for pedestrians given the lack of street lighting and overlooking. It further explores how the further plans submitted fail to be in enough detail to overcome the challenging change of heights between the site and Lawrence Lane.

Relevant Policies

- 4.2 Policy CS13 states development that generates a transport impact will be required to:
- a) Reduce the need to travel.
 - b) Improve and promote opportunities for healthy and safe travel.
 - c) Improve travel choice and facilitate sustainable travel particularly within, between and to main urban areas and rural service centres.
 - d) Demonstrate good access to key services and facilities.
 - e) Minimise the impact of all forms of travel on the environment and help tackle climate change.
 - f) Mitigate the impact on the local transport network and the strategic road network.
 - g) Take into account the West Berkshire Freight Route Network (FRN).
 - h) Prepare Transport Assessments/Statements and Travel Plans to support planning proposals in accordance with national guidance.
- 4.3 Paragraph 111 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 4.4 According to Policy TS3, applications will be accompanied by a Travel Plan and a site specific Transport Assessment or Transport Statement. However, the Highway Authority confirms a Travel plan is not necessary for the scale of development. However, there would still be a need to improve accessibility for instance through sustainable travel methods and improve and promote opportunities for healthy and safe travel, demonstrate good access to key services and facilities and minimise the impact of all forms of travel on the environment.

- 4.5 The Development Plan Policies identified above are considered to accord with the NPPF as they are consistent with the requirements of the NPPF in respect of new development ensuring development does not have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Therefore, full weight is attributed to those policies.
- 4.6 According to paragraph 110 of the NPPF, in assessing specific applications for development, it should be ensured that: appropriate opportunities to promote sustainable transport modes can be taken up, safe and suitable access to the site can be achieved for all users, the design of transport elements reflects current national guidance, and that any significant impacts from development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree.

Evidence

- 4.7 Mr Goddard's evidence explains that the provision of a pedestrian access is considered a challenging aspect of the development. The existing footways finish at the T Junction to the south of the site. Whilst access to the site can be made by Lawrence's Lane by pedestrians this route does not benefit from lighting during night time, neither would it benefit from any overlooking from neighbouring dwellings. Both of these aspects are required to create a safe pedestrian route for users. If pedestrians feel unsafe using this access they are less likely to choose active methods of travel in favour of using private cars.
- 4.8 The evidence by Mr Goddard explores how site layout plans show the provision of pedestrian access to the site through the south west corner. It is considered that the construction of this access would be extremely challenging with regards to gradient and the presence of trees. There is a lack of detail provided by the appellant to show that the steps could be designed in an inclusive way for all highways users.
- 4.9 It would not be appropriate to impose a condition requiring the provision of the pedestrian access. This is because it is first necessary to establish whether such a facility is even feasible. The design for the steps, their height, tread, details on levels all would need to be provided. The width of the steps, details of railings and landings would also need to be included.

- 4.10 Consideration of the proposed steps would need to be given to impacts such as on trees, ecology and character of the area. The proposed change to this area of the site could negatively impact these other considerations.
- 4.11 The proposal would not address the reason for refusal due to the generation of additional pedestrian traffic on Lawrences Lane which is sub-standard in respect of road width, lighting and security and would result in the increased risk of accidents to road users. The solution offered in the form of the pedestrian access to the south west corner of the site does not give sufficient detail in regards to its impact, its function, and its acceptability in regards to access, safety and construction. The appeal development would therefore have an unacceptable impact on the highways safety of site occupants if the appeal was allowed, in conflict with CS13 and paragraph 111 of the NPPF.

5. Landscape

- 5.1 Mr Flatman's evidence explores the range of landscape and visual aspects and impacts of the appeal proposal in light of the currently prevailing landscape and visual conditions and the relevant policy considerations.

Relevant Policies

- 5.2 According to Policy CS14, new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area, and makes a positive contribution to the quality of life in West Berkshire. Good design relates not only to the appearance of a development, but the way in which it functions. Considerations of design and layout must be informed by the wider context, having regard not just to the immediate area, but to the wider locality. Development shall contribute positively to local distinctiveness and sense of place.
- 5.3 Policy CS19 states that particular regard will be given to (a) the sensitivity of the area to change, (b) ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character, and (c) the conservation and, where appropriate, enhancement of heritage assets and their settings. Landscape Character Assessments are key to the operation of CS19. It further states that proposals for development should be informed by and respond to the distinctive character areas and key characteristics identified in relevant landscape character assessments, features identified in various settlement character studies including the Quality Design SPD, community planning documents which have been adopted by the Council such as Parish Plans and Town and Village Design Statements.
- 5.4 The **West Berkshire Landscape Character Assessment (2019)** (Appendix 2) provides a comprehensive and up to date landscape character assessment for all land outside defined settlement boundaries in West Berkshire and ensures that an understanding of the character of the landscape can be used as a positive tool to manage change by providing a framework for informed decisions to be made.
- 5.5 The West Berkshire Landscape Character Assessment (2019) includes the land within the Cold Ash Woodland and Heathland Mosaic (WH4) character area. The site is situated on the very edge of this character area, with the area extending to Hermitage,

Cold Ash, Henwick, and towards Woolhampton, Beenham, Bradfield Southend, Englefield, up to Sulham. This is an area dominated by an east-west orientated, healthland ridge and characterised by varied topography, from flat plateau area to steeply undulating slopes. It provides a rural setting to the adjacent towns of Thatcham and Newbury and also in containing settlement within the area and contributing to the rural character. Open farmland on lower slopes contributes to a sense of separation between the elevated character area and the towns of Thatcham and Newbury in the valley below. The strong network of public rights of way, the extensive areas of open access land, and the proximity of these to the settlements of Newbury and Thatcham give the character area a high recreational value.

5.6 In terms of detractors from the character area there has been decreasing separation/coalescence between settlements. This has been seen with the expansion of Thatcham and Newbury since the mid-20th Century, and also of villages. Coalescence is evident along the main connecting roads between Newbury and Thatcham, Cold Ash, Ashmore Green, Curridge and Hermitage (located away from the application site). The area has already been subject to suburbanisation, with modern housing being developed, and suburban characteristics being introduced (e.g. pavements and street lighting). Farm buildings and small pasture fields adjacent to settlements have proved vulnerable to development, due to the presence of existing structures. Farm buildings do still contribute to rural character, and form a transition between settlement and countryside that can contribute positively to countryside character. There is pressure on the network of rural lanes, many of which are single track with few passing places. Heavy traffic on narrow lanes has a significant impact on countryside character, and highway improvements could create a more urban character which may be out of context as well as encourage greater usage.

5.6.1 The landscape strategy recommend for the area is recommended by the landscape character assessment. This strategy is to retain a sense of distinction between individual settlements, and avoid extended linear development along roads, which creates a more developed character. More small scale focused development set back from main routes often has less impact on character and can be more readily contained by landscape. Avoiding measures to ease traffic flow that would have an adverse impact on character is also recommended. The potential of designated Quiet Lanes could be explored to discourage use of narrow lanes as 'rat runs' or by overly large vehicles (e.g. adequate signage and lower speed limits).

5.7 The North Wessex Downs AONB Position Statement of Setting (Appendix 9) gives examples of adverse impacts on the setting of the AONB to include (amongst others):

- loss of tranquillity through the introduction or increase of lighting, noise, or traffic movement or other environmental impact like dust, vibration, spatial associations and historic relationships;
- loss of biodiversity, particularly if of habitats or species of importance to the AONB;
- loss or harm to heritage assets and natural landscape, particularly if these are contiguous with the AONB;
- change of use of land where of a significant enough scale to cause harm to landscape character; and
- development individually or cumulatively giving rise to significantly increased traffic flows to and from the AONB, resulting in loss of tranquillity and erosion of the character of rural roads and lanes.

5.8 Adverse effects may not only be visual, a development that is noisy may well affect the tranquillity of the North Wessex Downs AONB even if not visible from the AONB.

5.9 The Development Plan Policies identified above are considered to accord with the NPPF as they are consistent with the requirements of the NPPF in respect of conserving and enhancing the character and appearance of the area and, design, as demonstrated in the evidence provided by Mr Flatman. Therefore, full weight is attributed to those policies.

5.10 Paragraph 130 of the NPPF advises that planning decisions should ensure that developments will: (a) function well and add to the overall quality of the area over the lifetime of the development; (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and (c) are sympathetic to local character and history including the surrounding built environment and landscape setting.

5.11 Paragraph 174 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by (a) protecting and enhancing valued landscapes and (b) recognising the intrinsic character and beauty of the countryside.

5.12 The PPTS requires Local Planning Authorities to protect local amenity and environment (paragraph 10) and ensure that traveller sites are sustainable economically, socially and environmentally (paragraph 13). The PPTS also advises that when considering applications, weight should be attached to 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 (paragraph 26). Para 25 advises 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.”

Evidence

5.13 Mr Flatman’s evidence explores the range of landscape and visual aspects and impacts of the appeal proposal in light of the currently prevailing landscape and visual and visual conditions and relevant policy considerations

5.14 The evidence covers the character, setting and appearance of the rural Site and considers the landscape and visual issues associated with the proposed permanent development, together with a review of the effects of the proposals on the character of the landscape and the changes in visual amenity. In this regard the evidence supports the landscape fifth Reason for Refusal.

5.15 The Site lies within landscape character area WH4: Cold Ash Woodland and Heathland Mosaic as identified within the West Berkshire Landscape Character Assessment (LCA) (LUC, August 2019).

5.16 The Appeal Site is located in open countryside (albeit close to the settlement edge) immediately beside Lawrences Lane, a peaceful and tranquil, rural lane recently closed to through traffic as a result of an Active Travel plan implemented by West Berkshire Council.

5.17 The settlement to the south/west comprises the modern edge of Thatcham, which is well softened by a mature backdrop of trees, woodland (including Little Copse) and vegetation patterns, meaning there is a transition from urban to rural character, which occurs on the junction of Lawrences Lane, just north of Acorn Drive.

- 5.18 Prior to development, the Appeal Site was quite clearly an area of open countryside that was characterised by a partially grassland parcel containing a barn, with boundaries of native trees and hedges, and a backdrop of woodland on rising ground. These characteristics, together with the lack of development (sparse) and the quiet rural lane are typical of and contiguous with the rural area and form the representative features of the LCA. In the wider landscape, there is a continuing strong sense of cohesion, where the field patterns are irregular and several blocks of woodland cloth the slopes leading up to the AONB and ridge, with similar features that mirror those of the lower slopes.
- 5.19 Views along the lane prior to development in March 2021 show that the Appeal Site formed part of the rural character of the lane, with a series of open or glimpsed views either side of the lane, from where the viewer could appreciate a rural context (see photos MF Appendix A Figure 4). As such, it can be seen that the Appeal Site formed a key component in those views of the rural character of the area beyond the settlement, indeed it was not an untidy or derelict site. It is also clear that from aerial photographs, it is evident that the Appeal Site was undeveloped (aside from a barn) in 2020 and in the near 20 years leading up to the incursion in March 2021.
- 5.20 The proposed development will cause irreversible and permanent harm to the local character of the area, the character of Lawrences Lane and to views from a number of receptors, as set out above. Accordingly, it fails to accord with the Council's policy CS7: Gypsies, Travellers and Travelling Showpeople, since there is material harm to the physical and visual character of the area. Furthermore, the harmful development fails to respect or enhance the character and appearance of the area, as required by CS14 and it does not contribute positively to local distinctiveness or sense of place. As such the Council's requirement through policy CS19 is that of the landscape character of the District is conserved and enhanced; however it is clear that the proposed development does not conserve or enhance character.

6. Amenity

Relevant Policies

- 6.1 According to Policy CS14, new development must demonstrate high quality and sustainable design that makes a positive contribution to the quality of life in West Berkshire. Paragraph 127 of the NPPF states planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 Saved Policies (2007), requires proposals for noise sensitive developments to have regard to existing sources of noise.

- 6.2 Consequently, all development should be designed in a way to avoid any unacceptable harm to neighbouring living conditions. Applications will typically be assessed in terms of any significant loss of light, overlooking of neighbouring buildings or land, and whether the proposal would result in any undue sense of enclosure, overbearing impact, or harmful loss of outlook to neighbouring properties.
- 6.3 Environmental impacts such as noise, disturbance, fumes and odours can also be relevant considerations. According to Policy OVS.6, the Council will require appropriate measures to be taken in the location, design, layout and operation of development proposals in order to minimise any adverse impact as a result of noise generated. Special consideration is required where noisy development is proposed in or near Sites of Special Scientific Interest or which would harm the quiet enjoyment of Areas of Outstanding Natural Beauty.
- 6.4 Specific to traveller sites, Policy CS7 also seeks to provide adequate levels of privacy and residential amenity both within the site and with neighbouring occupiers; and to consider the compatibility of the use with the surrounding land use, including potential disturbance from vehicular movements, and on site business activities.
- 6.5 The Development Plan Policies identified above are considered to accord with the NPPF as they are consistent with the requirements of the NPPF in respect of new development

ensuring safe and healthy living conditions, as demonstrated in the following paragraph. Therefore, full weight is attributed to those policies.

- 6.6 The NPPF states that new development should be appropriate for its location, taking into account the effects on health and living conditions (Paragraphs 8, 119, 130 and 185).

Evidence

- 6.7 The application site would generate traffic movements from the proposed 7 pitches. Each of these pitches has a mobile home positioned on it and each has an area for a touring caravan. The neighbouring dwellings would suffer from noise and disturbance when the mobile homes are positioned on site.
- 6.8 Mobile homes can be replaced as they age. This could create ongoing issue of disturbance to neighbouring dwellings.
- 6.9 Furthermore, the touring caravans would frequently utilise the quiet rural lane. This is likely to occur given the travelling lifestyle of future occupants. The regular movements of caravans on Lawrence's Lane would have a noticeable impact on neighbouring amenity. Furthermore the entrance and exit of domestic vehicle and work vehicles would further exacerbate noise and disturbance. As seen on site there are many work related vehicles which could cause daily disturbance.
- 6.10 The impact would be felt by the prospective future occupants of the site itself. The mobile homes are sited right on the boundary very close to Lawrence Lane. All traffic entering the site would have to pass each pitch on the site.
- 6.11 Neighbouring dwellings such as 42, 41, 40 and 39 Southend are adjacent to Lawrence Lane. Their rear gardens back onto Lawrence's Lane and the dwellings are approximately 22 metres in distance from Lawrence Lane. These dwellings would feel the noticeably increase in movement along Lawrence Lane.
- 6.12 The Appellants note that the self-service livery yard use could generate more traffic than the proposed site. Referring back to previous applications on site the supporting documentation outline that

“The building is currently a redundant barn used previously as a self-service livery stable and is simply constructed.”

- 6.13 The Council notes that the barn is shown as retained within the blue line of the site. However, it does not fall within the red line of the appeal site.
- 6.14 As an extant permission it is conceivable that the use could be brought back. The previous stable might have a few vehicle movements a day to tend to horses in the morning and evening and possible movement to events at the weekend. In comparison the appeal proposal would likely have residents regularly coming and going from site for work, school and day to day errands. In addition to the regular movements of vehicles associated with a traveller lifestyle. The vehicle movements would be far in excess of the extant use. If the stable use was brought back into use and the appeal was allowed there would be a noticeably detrimental increase in vehicle movements along Lawrence’s Lane.
- 6.15 It is therefore conceivable that the neighbours of Lawrence Lane could suffer disturbance from both the stable use on site and from the use subject to this appeal.
- 6.16 There is considered to be an adverse effect on neighbouring amenity in this respect. The increase in movements along Lawrence Lane of traffic associated with this proposed development has already caused disturbance to neighbouring amenity. This is evidenced in the letters of objection sent to the council.
- 6.17 It is clear that the proposal of 7 Traveller pitches with their associated domestic and commercial vehicles is going to increase the movements. This would increase noise and disturbance along what was a quiet rural lane. This would be to a level that has unacceptable impacts on the neighbouring amenity.
- 6.18 As demonstrated by the Councils evidence above. The movements of caravans (either towed or carried) along Lawrence’s Lane is likely to have a noticeable impact on neighbouring amenity.
- 6.19 This is true particularly in places where it is necessary to navigate the more narrow and winding sections of the road. From a perspective of safeguarding neighbouring residential amenity, there is considered to be an adverse effect on neighbouring amenity. Therefore the appeal proposal runs contrary to Development plan policies CS7

and CS14 of the West Berkshire Core Strategy 2006-2026. Policy OVS.6 of the Local Plan (Saved Policies) as well as the NPPF.

7. Drainage

- 7.1 Mr Bacchus' evidence explores the effect of the proposed development on surface water and the proposed drainage solutions proposed. Due to the submission of further drainage information on the 04/11/2022 it has been agreed by the Inspector that the Council's proof of evidence shall be submitted by 22/11/2022. Therefore the Council may update this element of the planning proof once Mr Bacchus' proof of evidence is completed.

Relevant Policies

- 7.2 Policy CS16 states that on all development sites, surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS) in accordance with best practice and the proposed national standards and to provide attenuation to greenfield run-off rates and volumes, for all new development and re-development and provide other benefits where possible such as water quality, biodiversity and amenity. The Council has adopted a Sustainable Drainage SPD which supports this policy, and provides examples of measures that can be incorporated into even minor developments.
- 7.3 The Development Plan Policies identified above are considered to accord with the NPPF as they are consistent with the requirements of the NPPF in respect of new development ensuring suitable drainage methods are used in developments, as demonstrated in the following paragraph. Therefore, full weight is attributed to those policies.
- 7.4 Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

7.5 Due to the submission of further drainage information on the 04/11/2022 it has been agreed by the Inspector that the Council's proof of evidence shall be submitted by 22/11/2022. Therefore the Council may update this element of the planning proof once Mr Bacchus' proof of evidence is completed.

8. Green Infrastructure

Relevant Policies

- 8.1 Green infrastructure (GI) is the network of multi-functional green space, both new and existing, both rural and urban, which supports the natural and ecological processes, and is integral to the health and quality of life of sustainable communities. For the purposes of the Core Strategy, green infrastructure is defined as including (amongst others): natural and semi-natural green spaces (including woodlands, urban forestry, scrub, grassland; and green corridors (including rights of way).
- 8.2 According to Policy CS18, the district's green infrastructure will be protected and enhanced. New developments will make provision for high quality and multifunctional open spaces of an appropriate size and will also provide links to the existing green infrastructure network. Developments resulting in the loss of green infrastructure or harm to its use or enjoyment by the public will not be permitted. Where exceptionally it is agreed that an area of green infrastructure can be lost a new one of equal or greater size and standard will be required to be provided in an accessible location close by.
- 8.3 The multi-functional nature of Green Infrastructure in the District is important for many reasons. It contributes significantly to the quality of life for residents, workers and visitors, in terms of both visual amenity and for sport and recreation purposes. Green Infrastructure creates a sense of place allowing for greater appreciation of valuable landscapes and cultural heritage. It increases access to the countryside, and supports healthy living. In addition Green Infrastructure plays an important role in flood management and sustainable design, makes a positive impact to combating climate change, and provides opportunities for sustainable transport and the production of local food, for example within public allotments. It contributes significantly to the conservation and enhancement of biodiversity by creating an ecological network allowing for the movement of wildlife along corridors, and facilitating the colonisation of new areas.
- 8.4 The Development Plan Policies identified above are considered to accord with the NPPF as they are consistent with the requirements of the NPPF in respect of green infrastructure and preserving its function and quality. Therefore, full weight is attributed to those policies.

- 8.5 Paragraph 154 of the NPPF states that new development should be planned for in ways that avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation including through the planning of green infrastructure; and
- 8.6 Paragraph 175 of the NPPF states the following Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.
- 8.7 Paragraph 186 of the NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
- 8.8 The NPPF glossary defines green infrastructure as follows

*“**Green infrastructure:** A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.”*

Evidence

- 8.9 The appeal site is considered green infrastructure. It is considered that the loss of the green infrastructure is not being replaced by an equal or greater sized one. This is required by the planning policy CS18.
- 8.10 The proposed development has an undue impact on the Green Infrastructure through drainage issues, changes to the character of the area, and ecological impacts. The

supporting text of CS18 notes that the multi-functional nature of Green Infrastructure in the District is important for many reasons.

- 8.11 At the time of writing it is unclear if the proposed development can be adequately managed in regards to drainage. Therefore the existing Green infrastructure site is not protected or enhanced in terms of surface water flooding and drainage.
- 8.12 At the time of writing the compensatory measures for Ecology have not been agreed. Therefore the existing Green infrastructure site is not protected or enhanced in terms of how the site contributes to the conservation and enhancement of biodiversity through the creation of ecological network allowing for the movement of wildlife along corridors, and facilitating the colonisation of new areas.
- 8.13 The green infrastructure is no longer playing a role in flood management. The changes to the site that have occurred already have increased occurrence of run off onto Lawrence Lane as noted by objection letters. The unauthorised works have altered its role so it no longer assists with flood management. The unresolved Drainage issues the Council still has with the proposed development display how the Green Infrastructure natural function in flood management will be reduced and not be protected and enhanced.
- 8.14 Green Infrastructure creates a sense of place allowing for greater appreciation of the district. The appeal proposals are considered to be harmful to the landscape. The harm is explored in the landscape proof of evidence. This is acutely felt as Lawrence Lane is a 'quiet lane' enjoyed by cyclists and walkers during the day. This encourages exercise to the benefit of people's health. The green infrastructure surrounding the lane frames the use of this active route. The appeal site is part of this and plays a role in the use of the quiet lane. The impact the development has on the green infrastructure has a negative effect on its role in terms of both visual amenity and recreation purposes.
- 8.15 The loss of GI also has ecological impacts as set out below.
- 8.16 This GI has been lost without replacement, contrary to Policy CS18. There has also been tree loss associated with the development, as elaborated below. Overall, there is a net loss of green infrastructure as a result of the proposed development contrary to Policy CS18.

9. Ecology

9.1 Mrs Holden's evidence explores how it has not been sufficiently demonstrated that the impact of the development adequately compensates for, and mitigates against, the impacts on ecology, biodiversity, and natural environment. Therefore, the appeal proposal runs contrary to Development Plan Policies CS17 and TS3 as well as the NPPF 174d and 179b.

Relevant Policies

9.2 According to Policy CS17, biodiversity and geodiversity assets across West Berkshire will be conserved and enhanced. This means no loss. Habitats designated or proposed for designation as important for biodiversity or geodiversity at an international or national level or which support protected, rare or endangered species, will be protected and enhanced. The degree of protection given will be appropriate to the status of the site or species in terms of its international or national importance. Policy CS17 states that development which may harm, either directly or indirectly,

- locally designated sites (Local Wildlife Sites and Local Geological Sites), or
- habitats or species of principal importance for the purpose of conserving biodiversity, or
- the integrity or continuity of landscape features of major importance for wild flora and fauna

will only be permitted if there are no reasonable alternatives and there are clear demonstrable social or economic benefits of regional or national importance that outweigh the need to safeguard the site or species and that adequate compensation and mitigation measures are provided when damage to biodiversity/geodiversity interests are unavoidable. Where does the site fit with the above bullet points?

9.3 In order to conserve and enhance the environmental capacity of the District, all new development should maximise opportunities to achieve net gains in biodiversity and geodiversity in accordance with the Berkshire Biodiversity Action Plan and the Berkshire Local Geodiversity Action Plan. Opportunities will be taken to create links between natural habitats and, in particular, strategic opportunities for biodiversity improvement will be actively pursued within the Biodiversity Opportunity Areas identified on the Proposals Map in accordance with the Berkshire Biodiversity Action Plan.

- 9.4 Paragraph 99 of ODPM Circular 06/2005 (Biodiversity and geological conservation) makes clear that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission can be granted, otherwise all relevant material considerations may not have been addressed in making the decision. In this instance it is considered that there is a reasonable likelihood of protected species and other ecology being present and affected by the development.
- 9.5 The Council, and the Inspector, are required under s.40(1) of the Natural Environment and Rural Communities Act 2006, “in exercising [their] functions [to] have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”. Section 40(3) states that “conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat”.
- 9.6 The CIEEM Guidelines for Preliminary Ecological Appraisal (December 2017) explain the appropriate application of PEA in the planning process. A PEA normally comprises a desktop study and a walkover survey. The objectives are to identify the likely ecological constraints associated with a project, any mitigation measures likely to be required, any additional surveys required to inform an Ecological Impact Assessment, and the identification of opportunities to deliver ecological enhancement.
- 9.7 Policy TS 3 Detailed Planning Considerations for Traveller Sites notes that Proposals for development will be expected to comply with policies within the West Berkshire Development Plan and have regard to guidance outlined in the Government’s good practice guide on Designing Gypsy and Traveller Sites where appropriate. In addition proposals will provide the following in relation to ecology;
- Provide an extended phase 1 habitat survey together with further detailed surveys arising from that as necessary. Appropriate avoidance and mitigation measures will need to be implemented, to ensure any protected species are not adversely affected.
 - Provide appropriate mitigation to offset impact on key species and habitats through appropriate buffering, on-site mitigation and off-site compensation measures.
- 9.8 The Development Plan Policies identified above are considered to accord with the NPPF as they are consistent with the requirements of the NPPF in respect of minimising impacts on and providing net gains for biodiversity, promote the conservation,

restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species and other areas of the NPPF. Therefore, full weight is attributed to those policies.

- 9.9 The planning policies look to paragraphs 174-182 of the National Planning Policy Framework (2021), in particular paragraph 174 (d), *'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'*; as well as paragraph 179 (b), *'promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity'*; and finally 180 (a) *'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;* (d), *'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'.*

Evidence

- 9.10 Mrs Holder establishes in her evidence that the retrospective Ecological Impact Assessment (EclA) does not capture the baseline protected species on site and there are no compensatory measures for dormice, hedgehogs, great crested newts, or invertebrates provided. In addition, the Preliminary Ecological Appraisal (PEA) with EclA Report does not address the operational impacts on the select protected species deemed suited to the site. The EclA details compensatory and mitigation measures for select habitats and species however it lacks sufficient information on implementation and security. Where it is agreed that some of these compensatory measures should and could be located onsite, others, in particular for protected species, should be located offsite so that anthropogenic disturbances do not affect the ecological and environmental functionality and maturation of these offsite compensatory habitats.
- 9.11 The BNG (Biodiversity Net Gain) report should have addressed the passing point proposals to understand the impacts on the hedgerow and any identified habitat once this is surveyed by the appellants' ecologist. As queried in the statement of case there are also some discrepancies between the Southwest corner of the site with an area of

scrub/other broadleaf woodland loss but not captured in the BNG Report and calculations.

- 9.12 Mrs Holden's evidence clearly and helpfully sets out the further information required to progress the ecology and biodiversity matter in this appeal. She states that if appellant's team can update the PEA with EclA and BNG reports with: the queried items as well as the passing point; and provide details on the necessary compensation and mitigation measures with implementation and security, then, as long the necessary compensation and mitigation measures are satisfactory, and can be adequately secured by planning obligation and condition, the reason for refusal may be overcome.
- 9.13 As established in Mrs Holden's proof of evidence the details provided to date have not adequately supplied the required information to inform a decision. It is not considered that the impacts highlighted in the PEA with EclA provide enough detail including sufficient assurances that they have identified adequate locations to deliver the necessary compensation and mitigation measures. It has not been sufficiently demonstrated that the impact of the development adequately compensates for, and mitigates against, the impacts on ecology, biodiversity, and natural environment. Therefore, the appeal proposal runs contrary to Development Plan Policies CS17 and TS3 as well as the NPPF 174d and 179b.
- 9.14 As established in Mrs Holden's proof of evidence the details provided to date have not adequately supplied the required information to inform a decision. It is not considered that the impacts highlighted in the PEA with EclA provide enough detail including sufficient assurances that they have identified adequate locations to deliver the necessary compensation and mitigation measures.
- 9.15 The offsite mitigation cannot be secured by planning condition. It would need to be provided as a unilateral undertaking for the council to review and advise the inspector upon its acceptability.
- 9.16 It has not been sufficiently demonstrated that the impact of the development adequately compensates for, and mitigates against, the impacts on ecology, biodiversity, and natural environment. Therefore, the appeal proposal runs contrary to Development Plan Policies CS17 and TS3 as well as the NPPF 174d and 179b.

10. Material considerations

10.1 In addition to the material considerations identified above (NPPF and PPTS policies) the following additional material considerations are considered to be relevant in the determination of the appeal.

5 year Supply

10.2 The latest evidence from the 2021 GTAA identifies a long-term shortfall in Gypsy and Traveller pitches. The overall need is for 30 additional pitches of which 20 is PPTS need over the period 2021/22 to 2037/38. Once a range of potential supply options are considered, the shortfall is 20 of which 10 is PPTS need. For the five year period 2021/22 to 2025/26, there is no shortfall in the 5 year PPTS need.

10.3 The Council has identified a 5 year supply of pitches

10.4 The appellant site at Land at Lawrences Lane, Thatcham was not included in the 2021 GTAA. However, the GTAA modelling of short-term need includes an allowance for 9.7 households moving into West Berkshire based on past trends in migration. Therefore, it can be reasonably assumed that the residential pitches proposed at the Lawrences Lane site has been accounted for in the GTAA.

10.5 It is important to note that the PPTS is silent on the weight to be given to a lack of 5 year deliverable sites in respect of a permanent permission. Therefore, in the assessment for a permanent permission no weight is attributed to this as a material consideration.

Alternative Sites

10.6 It is reasonable to conclude that there is limited availability of alternative authorised sites in West Berkshire. The GTAA outlines that there are two vacant transit pitches at Paices Hill (New Stocks Farm), though there are restrictions on the occupiers of such pitches, including a restriction on the length of stay to 3 months. No details have been submitted by the appellant to demonstrate that sites outside of the District are available, or indeed that other plots of land were investigated within the District.

Personal Circumstances

10.7 It is agreed that personal circumstances, in this instance, could be a material consideration in the determination of the appeal. The appellant's statement of case notes that

"The Article 8 rights of the site residents are in play and should be given weight in the decision. This includes the requirement to take the best interests of the children as a primary consideration. Finally, as the site residents are all Romany Gypsies, the Public Sector Equality Duty is relevant in this case."

10.8 But the appellant's statement of case does not provide any further explanation or expansion as what these interest rights are in detail or how they should be considered.

10.9 In response to this the Council has asked the appellant to supply further information to support the assertions made in the statement of case. The appellant has responded that the Council already holds information in regards to personal circumstance in the form of evidence in relation to the related injunction case. Whilst the council acknowledge this the evidence the council holds at the time of writing is over a year old. This evidence has not been submitted to the inquiry for all the parties to review. The appellant has confirmed that to the best of their knowledge nothing has changed in regards to personal circumstances. The Council is concerned by this response given personal circumstances change regularly such as ages and health factors.

10.10 The planning application was not accompanied by any details on personal circumstances. The planning agent was invited to provide details of any personal circumstances they wished to be taken into account in the determination of the application, but no response was received at the time of writing the committee report. The planning committee were presented with information acquired through separate enforcement proceedings, principally the evidence provided to the High Court by the applicants.

10.11 The submitted court evidence states that a 3 year old child occupying the site is ill with febrile seizures. The evidence further states that:

"it is important for our son [name] to have a regular GP and we are awaiting a referral to hospital for further investigations into [name]'s febrile seizures. I am hoping we get to

stay, as it's a long process getting hospital appointments and we have not been in one place long enough to nail down a hospital appointment before now."

10.12 A letter is exhibited confirming that this family has registered with the local GP practice (Thatcham Medical Practice). This letter from the surgery also states:

"I do have full access to his notes, and I can confirm that [name] suffers from febrile convulsions. He has had three or four in total and his last one was on 6 July 2021 when he was seen in a hospital in Poole. Obviously, mum is concerned about his healthcare and is worried that she may have to move again. As (sic) some stage it is recommended that [name] is reviewed by a GP so I would just like to state that I think it is important that [name] and the family have access to a registered GP at all times."

10.13A school attendance report has also been provided in evidence to show that another child attends Thatcham Park School. An intended occupant for another plot has stated in evidence that they are asthmatic. They also state the following:

"I am awaiting an appointment for an assessment of ADHD for my son [name] aged 6 and to be able to arrange this we need an address where we can be contacted."

10.14Another intended occupant on the same pitch has made the following statement in evidence:

"My 2 boys are attending Thatcham Park Primary School and if we were not able to stay living on plot 2 this would affect their education very much... My wife and kids are all registered at the local surgery, Thatcham medical practice. My wife suffers with anxiety, asthma and an underactive thyroid. If we were not able to stay living here we would not have a permanent Doctor, this would be very hard as she takes regular medication."

10.15Another intended occupant made the following statement in court evidence:

"Since the last hearing on the 27 September me and my family have endured great hindrance to normal family life and extra pressure on work. This is due to not wanting to take to the roadside again and therefore we have been relying on being able to station our caravans, which are our home and I stress our only home, at friends and family's properties for a few nights at a time so as not to cause them to breach any plot licence regulations themselves.... I therefore have recently had to reside as far afield

as Cambridgeshire, Surrey, Dorset, Kent and a few other places.... As stated in previous witness statements from myself I feel due to recent changes due to Covid 19 and Brexit along with the potential new laws restricting Romani Gypsy living on sides of roads etc that life as a Romani Gypsy means it is becoming almost impossible to live roadside.... Further I would like to make it clear to the court my wife Chantelle Gumble the 5th defendant and our three daughters and myself all moved on to the land at Lawrences Lane on Friday 13th August 2021 with our two caravans which are my families only home and resided there until the 27th August 2021....”

10.16 The Council is satisfied that the intended occupants of the site qualify as gypsies and travellers under the above definition.

10.17 Firstly it should be noted that those with known medical conditions only occupy two of the proposed pitches. Whilst a number of the intended occupants may have certain health needs, no detailed information has been provided to demonstrate why it is imperative for them to live on this particular site.

10.18 It is accepted that the education of the children on the site is important, as is a stable home. However, no substantive evidence has been put forward to identify why the intended occupants must live at the application site to attend this particular school.

10.19 As such, the known personal circumstances at the time of writing are not considered to carry sufficient weight to override the policy considerations of the proposal, together with the demonstrable harm that is caused by the development.

10.20 Therefore, in the absence of information regarding the Appellant's personal circumstances, the weight given to this material consideration is limited.

10.21 With specific reference to the requirement to consider the best interests of the children, any submission of personal circumstances by the appellants will be weighed against the High Court case of Stevens against (1) DCLG and (2) Guildford Borough Council (10/04/13), confirms that “planning decisions will often engage Article 8....although a primary consideration, the best interests of the child are not determinative of the planning issue”. (para 69).

10.22 The assessment of Human Rights must also rightly, include an assessment on the best interests of the affected children, as a primary consideration under Article 8; that is those interests must be given as much weight as any other material consideration.

10.23 Decision-makers need to consider whether children's best interests are relevant to any planning issue under consideration. In doing so, it similarly advises they will want to ensure their approach is proportionate. They need to consider the case before them, and need to be mindful that the best interests of a particular child will not always outweigh other considerations including those that impact negatively on the environment or the wider community.

Previously Developed Land

10.24 According to paragraph 26 of the PPTS, when considering applications, local planning authorities should attach weight to the effective use of previously developed (brownfield), untidy or derelict land. This is consistent with the wider national and local policy. The NPPF glossary defines PDL as follows:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

10.25 The existing lawful use of the building on site is livery, and there is an existing stable building within the centre of the field within the blue line area of the location plan.

10.26 It is considered that the red line site of the appeal fell outside of the curtilage of this existing use. The Council has considered the definition of “curtilage” for the purposes of this evidence. Ariel photographs would confirm that that the area in the red line of the appeal proposal has never been developed.

10.27 This area of land is recognised that the former character and impact of the site was closely akin to prevailing agricultural land uses. Prior to the unauthorised development taking place it is not considered that the land was untidy or derelict. It was in fact the Appeal Site was quite clearly in the open countryside that was characterised by a partially grassland parcel containing a barn, with boundaries of native trees and hedges,

and a backdrop of woodland on rising ground. These characteristics, together with the lack of development (sparse) and the quiet rural lane are typical of and contiguous with the rural area

10.28 As such, having carefully considered where the red line of the appeal site is (as chosen by the applicant when applying for planning permission) and the lawful definition of curtilage, it is considered that the red line itself is not PDL and is in fact open countryside. Therefore no weight should be given to the use of PDL and weight is attracted against the development for proposing built form on a greenfield site.

Intentional Unauthorised Development

10.29 It is clear from the planning history of the site that works facilitated the unauthorised use of the site. This planning application was submitted at 16:29 on Friday 13th August 2021 via the Planning Portal. The development commenced that evening. It is clear from the timings that occupation of the site was deliberate, and an attempt to carry out the development and occupy the site before coming to the attention of the Local Planning Authority.

10.30 As described in the Council's Committee report and SOC, this deliberate unauthorised development has caused demonstrable harm in several respects. It has caused the loss of, and ongoing threat to, trees. The proposed revised plans now seek to strengthen boundary treatments but acknowledge that the replanting will take time to establish itself and mature. Where if the works were not intentionally begun there would have been no loss to trees and no ongoing threat. If the site had not first been occupied there would be more mature trees from the beginning of the development.

10.31 The works undertaken on site without permission have resulted in the laying of hardstanding without appropriate drainage or archaeological supervision.

10.32 The unauthorised development causes difficulties in determining the baseline for Ecology on the site. This creates concerns that the mitigation/compensation for ecology may never be fully mitigated as we don't understand clearly what has been lost.

10.33 It has also undermined community cohesion. The committee report for the application notes that 287 letters of objection were submitted to the Council in consideration of this

application. In disregarding the proper procedures it will lead to a very difficult journey to community cohesion if the appeal is granted.

10.34 The intentional unauthorised development that has taken place weighs against granting planning permission.

10.35 The Council considered that the unauthorised works were intentional and as such this material consideration is given significant weight against the appeal.

11.Planning Balance

11.1 For clarity, the following hierarchy of terms is used in this Proof;

- Significant
- Great
- Moderate
- Limited
- None

Benefits of the Proposal

11.2 The appeal proposal is considered to give rise to the following points which weigh in favour of the development in subject to this planning appeal.

11.3 The provision of seven pitches which will provide homes to seven households and contribute to the district's supply of gypsy and traveller pitches. The Council has identified a long term shortfall in pitches. However, the Council has a 5-year supply and is also taking action to address this. This matter is given moderate weight in favour of granting the appeal.

Dis-benefits of the proposal

11.4 The appeal proposal is considered to give rise to the following points which weigh against the development subject to this planning appeal.

11.5 The proposed development does not facilitate safe and suitable access for all. The Highway Authority object on the grounds of pedestrian access, and resultant concerns with highway safety. The use of Lawrence Lane as a pedestrian access route is considered unsafe given the lack of overlooking and lighting. This issue would deter people from using more sustainable methods of travel such as bus services which would be close to the site. Both national and Local Policy encourages the use of sustainable methods of travel. Therefore this conflict is given significant weight.

11.6 The proposed pedestrian access lacks sufficient detail for the local authority to give this proposal no weight in favour of granting the appeal.

11.7 The proposed development will cause irreversible and permanent harm to the local character of the area, the character of Lawrence's Lane and to views from a number of

receptors, as set out above. Accordingly, it fails to accord with the Council's policy CS7: Gypsies, Travellers and Travelling Showpeople, since there is material harm to the physical and visual character of the area. Furthermore, the harmful development fails to respect or enhance the character and appearance of the area, as required by CS14 and it does not contribute positively to local distinctiveness or sense of place. As such the Council's requirement through policy CS19 is that of the landscape character of the District is conserved and enhanced; however it is clear that the proposed development does not conserve or enhance character. The conflict with the development plan in this regard is given significant weight.

11.8 The development would disturb and does disturb local residential amenity through the movement of larger vehicles associated with the development. This issue is great weight.

11.9 The development would have an adverse impact on the provision of Green Infrastructure and does not provide an area of equal or greater size elsewhere as required by policy. Green infrastructure is a multifaceted component of the countryside and therefore this conflict is given great weight.

11.10 It is not considered that the impacts highlighted in the PEA with EclA provide enough detail including sufficient assurances that they have identified adequate locations to deliver the necessary compensation and mitigation measures. It has not been sufficiently demonstrated that the impact of the development adequately compensates for, and mitigates against, the impacts on ecology, biodiversity, and natural environment. This issue is given significant weight.

11.11 The matter of weight in regards to drainage cannot be ascertained due to the outstanding proof of evidence on this matter.

11.12 The intentional unauthorised development weighs against the application. The carrying out of development before seeking planning permission has caused demonstrable harm in terms of undermining social cohesion, impacts on trees, land drainage, ecology and archaeology. Significant weight should be given to this issue.

11.13 The Council has identified a 5 year supply of pitches therefore the layers of harm identified above cannot be outweighed against a local need.

11.14 The Council has done what it can to assess the personal circumstances of the occupants despite the fact that there is no up to date information. It is recognised that a stable settled base is in the interests of those occupants and moderate weight is given to this. It is acknowledged that the best interests of the child is a primary consideration. Significant weight is given to the best interests of the children. The following considerations are considered to have a neutral effect in the planning balance.

11.15 The site is geographically in proximity to local services and amenities of Thatcham.

11.16 Whilst the intentional unauthorised development has undermined social cohesion (this is weighed in the balance separately below), it is considered that there is the possibility of the integrated co-existence between the site and the settled community, including adequate levels of privacy both within the site and with neighbouring occupiers.

11.17 No demonstrable harm to neighbouring amenity in terms of the built form and physical presence of caravans. This has a neutral effect because it is a minimum policy expectation of all development.

11.18 The application site is located in Flood Zone 1 (which has the lowest probability of fluvial flooding) and is not within a critical drainage area. This has a neutral effect because it is a minimum policy expectation of all development.

11.19 There is no evidence of contaminated land.

Conclusion on Planning Balance

11.20 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the application should be determined in accordance with the development plan, unless there are material considerations that indicate otherwise.

11.21 The appeal proposal runs contrary to the Development Plan as a whole. The Council considers that there is significant conflict with the development plan and the benefits to which the benefits of the development do not outweigh.

11.22 Furthermore the policy conflict with the up-to-date development plan attracts substantial weight and indicates that the proposal should be refused unless there are material considerations that would justify a different decision.

11.23 In this case none of the benefits, individually and/or in their totality, outweigh the dis-benefits and/or the extensive policy conflict.

11.24 Giving due regard to the duties under the Human Rights Act (1998) and the Equality Act (2010) which are taken into account in the GTAA 2021, and the best interests of the children, the unacceptable harm identified can only be addressed by the dismissal of the appeal and is necessary and proportionate.

11.25 In conclusion, the Council's evidence demonstrates that the appeal proposal is contrary to Development Plan policy, national policy and there are no material considerations to outweigh this substantial conflict.

11.26 In view of the above the Council respectfully requests that the appeal is dismissed.