

## **APPEAL BY MR. R. BLACK**

### **PROOF OF EVIDENCE OF BRIAN WOODS**

**regarding appeal against the decision of West Berkshire Council  
to refuse planning permission for the Part retrospective Change  
of use of land for the formation of 5 Gypsy/Traveller pitches  
comprising of 1 mobile home, 1 touring caravan, and 1 utility  
building per pitch**

**on Land South Of Sandhill, Hampstead Norreys Road, Hermitage,  
Thatcham, RG18 9XU**

**April 2025**

|           |                        |
|-----------|------------------------|
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## 1.0 **PERSONAL**

- 1.1 I am Brian Woods. I hold a Bachelor of Arts Degree in Town Planning that I obtained at South Bank University in London. I am also a Member of the Royal Town Planning Institute and have an ONC in Surveying, Cartography and Planning.
- 1.2 I have over 50 years' experience in planning, employed by various local authorities in Surrey, West Sussex and Hampshire, culminating as Head of Development Control at Runnymede Borough Council until 1989. I was subsequently employed as the Planning Manager at Commercial Property Developers, Crest Nicholson Properties, then as an Associate of Planning Consultants, Bryan Jezeph and Partners. I established WS Planning (now trading as WS Planning & Architecture) in 1992, of which I am now the Managing Director.
- 1.3 We act on all sides of planning disputes: for developers, landowners, local planning authorities and local residents.
- 1.4 I have appeared as an expert planning witness at Inquiries and hearings on behalf of local authorities, companies, residents' associations and land owners covering proposals as diverse as B1(a) office developments, industrial developments, housing proposals, A1, A3 and A5 uses, proposals relating to Conservation Areas, developments relating to farms and the use of land and buildings in the countryside and Green Belt.
- 1.5 I have presented papers at seminars relating to Gypsy site provision and handled many appeals relating to Gypsy/Traveller sites. We have carried out studies for Local Planning Authorities relating to both Gypsy/Traveller site provision and showman sites and attended Examinations in Public relating to Gypsy/Traveller matters and presented expert evidence in the High Court.
- 1.6 I can confirm that this evidence which I have prepared and provide for this appeal in this proof of evidence is true and has been prepared and is given in accordance with the RTPI Code of Professional Conduct 2023 and I confirm that the opinions expressed are my true and professional opinions.

## 2.0 INTRODUCTION

2.1 WS Planning & Architecture have been instructed by Mr. R. Black, (“the Appellant”), to progress appeals regarding the decisions of the West Berkshire Council (“the LPA”) to refuse planning permission for the *Part Retrospective Change of land for the formation of 5 Gypsy/Traveller pitches comprising of 1 mobile home, 1 touring caravan, and 1 utility building per pitch on Land South of Sandhill, Hermitage, Thatcham, RG18 9XU.*

2.2 The main issues within this appeal are:

- 1) *The effect of the proposed development on the character and appearance of the area, including the North Wessex Downs National Landscape;*
- 2) *The effect of the proposed development on highway safety, with particular reference to visibility at the site access and pedestrian connectivity;*
- 3) *Whether the proposal would provide an adequate surface water drainage scheme;*
- 4) *The weight to be attached to intentional unauthorised development (IUD);*
- 5) *General other considerations – whether the Council can currently demonstrate a five-year supply of sites/pitches, whether there is an unmet need and any other relevant points flowing from the Planning Policy for Traveller Sites.*
- 6) *Personal circumstances – the availability (or lack) of alternatives sites to meet the accommodation needs of the occupants, health, education and welfare, the ‘best interests of the child’ and the Public Sector Equality Duty.*
- 7) *Whether a temporary permission would be appropriate in the event a full permission is not.*
- 8) *Any Human Rights implications in the event planning permission is not granted.*

2.3 The appeal follows the LPA’s recommendation to the Planning Committee of a Grant of Planning Permission. The LPA provided in their decision notice three reasons for refusal, which were further developed within their statement of case submission.

### **3.0 THE APPEAL SITE, ITS SURROUNDINGS, AND ITS HISTORY**

- 3.1 The appeal site was undeveloped paddock land, situated to the south of the dwelling known as Sandhill. The site is bounded by existing vegetation, and abuts a woodland TPO area situated immediately to the East of the land. An aerial image of the application site is shown below in **Figure 1**.



*Figure 1 Aerial Image of Appeal Site (approximately edged Red)*

- 3.2 Access to the site is to largely remain as existing, which is an existing hard surfaced entranceway onto B4009 in the southwestern corner of the site, adjoining the neighbouring dwellings to the south, however it is to be upgraded and made suitable for the use for which planning permission is sought. This access is situated some 20m from the speed limit change from 30mph to the national speed limit.
- 3.3 The site is located outside the defined settlement boundary of Hermitage, but is closely situated to the boundary of Hermitage. Hermitage is listed a Service Village within the Local Plan Core Strategy. The application site is located within the North Wessex Downs Area of Outstanding Natural Beauty.
- 3.4 The site is not located within an area at risk of flooding from rivers and the sea, or from surface water. In addition, the site is situated within an area of Clay, Silt and Sand bedrock geology as indicated by GES Bedrock Mapping information.

#### **4.0 CONSIDERATION OF THE APPEAL APPLICATION**

- 4.1 The Appeal Application was submitted to the LPA on 04 April 2023, and validated on 06 April 2023 following service of Certificate A. The appeal application was considered against the documents set out within section CD1.0 of the Core Documents Library.
- 4.2 Considerable dialogue was undertaken between WS Planning & Architecture and the LPA. Requests for additional information were accommodated and provided to the LPA. The additional information is set out within section CD1.0 of the Core Documents Library.
- 4.3 When the appeal application was considered by members of the LPA Planning Committee members expressed concern at the untidy nature of the appeal site. This condition was not deliberate on behalf of the appellant because of course the levelling of surface material was prevented by the High Court injunction that the LPA obtained. Subsequently the LPA have agreed to the levelling of material to tidy the appearance of the site. Members of the Planning Committee also raised concern with regard to the vehicular access to the site. A key issue that they failed to consider was that the existing access was *not* the proposed access. The error in considering the wrong access resulted in reason for refusal (reason 3) which the LPA subsequently clarified within their statement of case, and which has been responded to within the appellants further highways note.
- 4.4 On 24 October 2024, the appeal application was refused for the following reasons,
1. **The application site lies in the North Wessex Downs National Landscape. This is specially protected landscape as defined in the NPPF. The development of this site for gypsy and traveller accommodation [5 pitches] will harm the visual character of the area, particularly in relation to the soft transition between the built up area of Hermitage to the south and open countryside to the north. This is considered to be contrary to the advice in policies ADDP5, CS7 and CS19 in the WBCS of 2006 to 2026 and the advice in para 176 of the NPPF of 2023. It is accordingly**



unacceptable. It is also contrary to the advice in policy TS3 in the HSADPD of 2017.

2. The development of this site for 5 gypsy and traveller site pitches has caused increased hardstanding and non permeable material to be placed across the application site, with associated works/ stationing of sanitary units. The local planning authority on behalf of the lead local flood authority is not satisfied with the details and quality of the suds information submitted with the application to date. Accordingly, in taking the precautionary approach, it is considered that the development/ change of use proposed is contrary to the advice in policy CS16 in the WBCS of 2006 to 2026 and the advice in bullet points 1 and 7 in policy TS3 in the HSADPD of 2017.
3. The development proposed presently has an unauthorised vehicle access onto the B4009. The current forward visibility splays in both directions [north and south] are inadequate for the identified traffic speeds along the highway. In addition there is no footway /pedestrian link to the south of the application site linking the accommodation to the village of Hermitage and its facilities. This all leads to potential conditions of road danger and a threat to highways safety, so being contrary to policy CS13 in the WBCS of 2006 to 2026 and the advice in para 110[b] of the NPPF of 2023 and the advice in the PPTS. It is accordingly not acceptable.

- 4.5 Reason for Refusal 3 has been responded to through the submission of a further Highways Technical Note.
- 4.6 Reason for Refusal 2 relates to technical details, that the LPA considered were unsatisfactory. As set out within the appellants statement of case, it is not intended for a “non-permeable” material to be placed on the land, and retained. The conclusion is clearly contrary to the submitted evidence, namely the Drainage Strategy (CD1.24) which defines the large extent of the land as being Permeable Paving.

## 5.0 RELEVANT PLANNING POLICY

- 5.1 Both the National Planning Policy Framework and the Planning Policy for Traveller Sites were updated in December 2024 after submission of the appeal statement. Accordingly, reference to policies made within the Statement of Case are out of date, and thus it is important to record key differences in the revised

### **National Planning Policy Framework (NPPF December 2024)**

- 5.2 The revised National Planning Policy Framework (NPPF) was published in December 2024 and sets out the Government's most up-to date vision for future growth. The document introduces a presumption in favour of sustainable development.
- 5.3 Paragraph 11 sets out the presumption in favour of sustainable development in more detail and identifies the implications for both plan-making and decision-taking. In terms of plan-making this means **“all plans should promote a sustainable pattern of development”** that meets the development needs of the area. In terms of decision-taking this means **“approving development proposals that accord with an up-to-date development plan without delay”** and **“where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date”**, permission should be granted unless the Framework provides a clear reason for refusing the development proposed.
- 5.4 Paragraph 110 states that **“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.”** This paragraph acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.



5.5 Paragraph 187, under the heading “Conserving and enhancing the natural environment”, of the NPPF sets out that **“Planning policies and decisions should contribute to and enhance the natural and local environment by:**

- a) **protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);**
- b) **recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;**
- c) **maintaining the character of the undeveloped coast, while improving public access to it where appropriate;**
- 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 and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;**
- e) **preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and**
- f) **remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”**

5.6 Paragraph 189 of the NPPF states.

**“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”**

- 5.7 The relevant policies within the NPPF remain largely unaffected, as much of the Plan-making direction is dealt with within the PPTS. However, in conjunction with the PPTS December 2024, the notable changes arise within Para 11(d).

#### **Planning Policy for Traveller Sites (PPTS December 2024)**

- 5.8 The NPPF should be read in conjunction with the Planning Policy for Traveller Sites 2024 (PPTS), and forms a material consideration for development of the type proposed.
- 5.9 From the outset it is important to record the definition of Traveller, as set out at annex 1 of that document. That definition is:

**Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.**

Emphasis is added to the expansion of the definition beyond its 2023 revision. The PPTS now applies to all Gypsy and Traveller households irrespective of whether or not they do travel, ceased to travel, or simply are ethnically Gypsies and Travellers with a preference for residing within a Caravan.

5.10 Paragraph 3 of the PPTS states that **“the Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.”**

5.11 The NPPF, under Paragraph 155, places emphasis on determining sustainable locations of Traveller sites, and directing the decision maker to assess against Paragraph 13 of the PPTS. Paragraph 13 states that LPA’s should ensure that their policies,

**“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:**

- a) **promote peaceful and integrated co-existence between the site and the local community**
- b) **promote, in collaboration with commissioners of health services, access to appropriate health services**
- c) **ensure that children can attend school on a regular basis**
- d) **provide a settled base that reduces both the need for long distance travelling and possible environmental damage caused by unauthorised encampment**
- e) **provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development**
- f) **avoid placing undue pressure on local infrastructure and services**
- g) **do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans**
- h) **reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location**

**thereby omitting many travel to work journeys) can contribute to sustainability.”**

5.12 Paragraph 25 of the PPTS sets out the material considerations that should be taken into account when determining applications for Gypsies and Travellers. These relevant considerations are set out below,

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

5.13 Paragraph 27 sets out further relevant matters to which weight should be attributed to,

- a) effective use of previously developed (brownfield), untidy or derelict land**
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness**
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children**
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community**

- 5.14 Paragraph 27 sets out that if a local planning authority **cannot demonstrate an up-to-date 5 year supply of deliverable sites**, the **provisions in paragraph 11(d) of the National Planning Policy Framework apply**.
- 5.15 This paragraph also states that Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:
- a) **limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise;**
  - b) **specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events);**
  - c) **limiting the maximum number of days for which caravans might be permitted to stay on a transit site.**

#### **West Berkshire Development Plan**

- 5.16 I will not rehearse the policies of the development plan, as these are contained in the Appellants Statement of Case, and also various other documents.
- 5.17 The Local Plan has not changed, and the Local Plan Review remains subject to a main modifications consultation. As agreed with the LPA the review and the policies in the emerging plan hold limited weight.

## **6.0 THE CASE FOR PLANNING PERMISSION**

### **Policy Context**

- 6.1 Policy CS7 sets out the relevant criteria against which new developments should be assessed, and in accordance with the NPPF if no conflict with the development plan is found, then development should be approved in a timely manner.
- 6.2 A key point to note is that Policy CS7 recognises that such developments are likely to arise outside of defined settlement boundaries. It does not require such developments to be within any such boundaries, and the criteria should be considered in the context that sites will be outside of settlement areas, and as such, the same sustainability criteria cannot be applied. The policy should therefore be read as it is written, and that is “easy” access.
- 6.3 I will repeat the submissions made at application stage in respect of compliance with CS7, but, where necessary, will expand:
1. Access to the site is to remain largely as it was existing, and is proposed to be upgraded such that it can provide the necessary visibility splays. It is not considered that the proposal would result in this becoming otherwise unsafe. Indeed, this is supported by the further Highways Note prepared, and was deemed acceptable by the Local Highway Authority.
  2. Whilst the appeal site is not served by any public footpaths directly, a very short distance would be required by future occupants to walk along the highway or the highway verge to reach to reach the public footpath network, which is lit at night. Vehicular movements would be clearly visible by an pedestrians exiting or entering the site.
- In this case whilst the appeal plication site is not immediately adjacent the settlement boundary of Hermitage, but it is close at about 20 metres distance. Intervening built form of two dwellings comprise the separation.



The site itself lies some 1.1km from the Hermitage Post Office which forms a part of the Hermitage Store (a Premier Express retail shop). Such distances are not uncommon for rural areas, and indeed often the same case in more urban locations outside of major settlement centres. These distances are not considered to be an issue for the application site, and this is considered particularly true on account of the site being situated some 270m from Hermitage Primary School.

There are also available public transport options in the immediate vicinity within Hermitage's centre.

3. The appeal site is located wholly within the lowest area at risk of flooding, and is not at risk of surface water flooding.
4. It is submitted that the appeal development as designed makes adequate provision for on site facilities. Parking is set out on the plan, and refuse storage can be agreed within a conditions scheme following the grant of permission. In short, a suitable collection point can be established on the southern boundary of the site, adjoining the access, with individual (day-to-day) storage points on each pitch.
5. The site is well situated to nearby residential development, whilst it is acknowledged to be outside of the defined settlement boundary. When considered on the ground, it is submitted that the site would lie within, or at the very least adjacent to, a village as would be perceived by observers on the ground, and so is not considered to be isolated such that integrated coexistence could not be achieved.

The site is designed appropriately and such that there would be suitable separation between neighbouring land uses. As such, it is submitted that there would be no resultant harm from loss of privacy, and the site is considered to be capable of delivering an integrated co-existence with the settled community.

6. As can be evidenced within the proposal, the site is capable of providing an element of a mixed use, and could accommodate this

within the space provided, but no such mixed use is sought, and it is requested that conditions be imposed restricting the use of the land to residential only, with no commercial use save for the parking of vehicles under 3.5 tonnes.

7. The wider area is predominantly residential, and becomes progressively more rural further to the north, beyond the M4. Therefore, the use of the land for residential purposes by Gypsies and Travellers is not considered to cause issue with surrounding land uses. This can of course be conditioned to secure restriction on the use of the land for commercial purposes, as has already been suggested.
8. The appeal site is very well screened from the road frontage, and it is proposed that this be supplemented by native planting to ensure views into the site remain heavily filtered throughout the year. Whilst it is not the intention, nor the purpose of planning policy to make Traveller sites “out of view” and “out of mind” it is appreciated that the application site is quite elongated such that views could be perceived by passers by for a prolonged period of time. As such, given the NL location, the application proposes to mitigate these views, and filter them through soft landscaping.

Situated to the east of the site is Hermitage village hall and children’s nursery, which also accommodates a recreation ground. Whilst views into the site from here are severely impacted by the intervening vegetation, some glimpsed views can be achieved, and would likely be of the tops of mobile homes. This is also true of pedestrians who may seek to walk the path of the dismantled rail line immediately to the east. As such, further reinforcement of the planting on the eastern boundary is also proposed.

The southern boundary of the site abuts the dwelling known as Torcove, which is a single storey bungalow style dwelling. The boundary of this property is a low level wall topped with evergreen

hedge planting. The property has no windows in its roof, and therefore would not be able to achieve elevated views into the site. However, a landscaping proposal could assist in reinforcing this boundary, and could secure the provision of hedge planting within the site itself such that the screening would be secured in perpetuity.

On the northern side of the site, is situated the dwelling known as Sandhill. This property is two storeys, and could provide elevated views into the site. However, the buffer area between the property and the boundary of the site is some 40m which is interspersed with existing, substantial vegetation. As with to the south, to secure the application site and reduce long lasting visual harm, a landscaping scheme could be provided for the norther boundary which would see some enhancement and supplementation of the aged trees which are seen within the locality, and would help filter potential views into the site from the property.

The visual impact of the development is considered to be limited subject to the imposition of a suitably worded condition requiring retention and enhancement of the boundary soft landscaping, whilst longer range views into the site that would allow full view of the development are simply not achievable, by virtue of the existing and substantial surrounding vegetation much of which, located to the east, is protected by a Woodland TPO.

There may be doubt as to the effectiveness of any landscaping scheme providing meaningful impacts in the short term, and this is a matter I do not agree with. I attach at **Appendix 1** a series of images relating to a site in Tewkesbury. That site was originally dismissed, but the appellant retained ownership, and sought to try again. He landscaped the frontage, seeking to address the concerns of the Inspector, and this resulted in a decent level vegetation being established within a five year period.

9. The site has been sensitively designed such that it would not affect the North Wessex Downs AONB or its setting.

- 6.4 I acknowledge that Landscape considerations are a main issue within this appeal, and therefore, whilst I take this view, the position of the appellant is that adopted by Mr. Petrow, and I will return to this later.

**Main Issue 1 – The effect of the proposed development on the character and appearance of the area, including the North Wessex Downs National Landscape**

- 6.5 This will be a pivotal issue for the Inspector to determine, and as set out the position the appellant adopts acknowledges the criticisms made by the LPA. Mr. Petrow has prepared an LVIA of his own, which is intended to supersede that submitted by Mr. Draffin.

- 6.6 The appellant relies upon the LVIA and Proof of Mr. Petrow, within which it is said,

*11.3 It is judged that the landscape effects overall are **Moderate Adverse**; but are contained within a small and discrete area. the development proposals do not align with the landscape management guidelines recommended in the West Berkshire Landscape Character Assessment with some of the site converted from grassland to hardstanding and built form, although this land use change may be reversible. Areas of hard standing have been reduced to a minimum.*

*11.4 If the proposed mobile homes and touring caravans follow the Landscape Strategy detailed in Section 10 of this report, they may be visually well contained. The landscape proposals seek to connect the various natural elements within the site to the surrounding area and the adjacent Furze Hill Local Wildlife Site.*

*11.5 The visual assessment has established that the site is currently well contained from adjacent character areas by native vegetation.*

- 6.7 As such, it is acknowledged that, at face value, the development does not conserve and enhance the National Landscape.

- 6.8 However, the site itself, does not provide any strong contribution to the designation. This is because the existing site does not display any of the important attributes that can be identified and attached to a National Landscape. It was at odds with the prevailing surrounds, effectively being an open field set between two houses, all of which is set adjoining Hermitage, and dominated by the M4's presence. I do not consider from a planners perspective that the site did represent a "rural transition" to open countryside. Undoubtedly, this would likely be the case for any development north of the M4, where it does transition to distinctly open and undeveloped countryside.
- 6.9 However, between Hermitage and this area, there is the abrupt presence of the M4.
- 6.10 As such, whilst I can appreciate the revisited position of the LPA, the PPTS does not preclude caravan sites within such designated areas as a National Landscape, and I do align with the original views of the LPA, as advanced in their officer report, that whilst there is some harm, the proposal causes only modest harm to the character and appearance, and indeed the NL, of the area given the scale of the development in comparison to surrounding development, its proximity of the M4 motorway to the north, and the localised extent of this harm to only the site and its immediate surroundings.
- 6.11 I will also note that the LPA may rely upon impact to existing vegetation, as local residents refer, and would note that as identified in the Tree Survey, the majority of trees along the western boundary (Trees 1-12) are Ash Trees, which are highly susceptible to ash die back. Through the application of conditions, and a landscape maintenance strategy, there would be a degree of enhancement capable of being achieved, as those trees are not secured in perpetuity at present, and were they to succumb to disease, it would result in a distinctly harmful impact to the character of the area, notably the lane itself, being left largely exposed on its eastern side. Mr. Petrow's own scheme takes this into account, and appreciates that there is a degree of enhancement that can be gained through replacing trees along this boundary with more resilient species.

- 6.12 In terms of any argument that any landscaping would take time to establish, most commonly argued as a ten year period, I would note that, as I have already referenced, landscaping can provide meaningful impacts in the short term. I attached at *Appendix 1* a series of images relating to a site in Tewkesbury. As I stated, that site was originally dismissed, but the appellant retained ownership, and sought to try again. He landscaped the frontage, seeking to address the concerns of the Inspector, and this resulted in a decent level vegetation being established within a five year period, and that is clearly evidenced. The same could be achieved on this site, and even sooner were “instant hedgerows” relied upon. This would secure, in perpetuity, a maintained and vegetated boundary to the east of the B4009 for the duration of the development and possibly beyond. The same, simply cannot be said at present, given the highly vulnerable species of trees along this boundary.
- 6.13 Whilst Paragraph 189 sets out that “great weight” should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes, it does not automatically follow that “great weight” must in every case be afforded to any such harm.
- 6.14 Indeed, this approach has been adopted and acknowledged by several planning Inspector’s, most notably for myself within a case in the South Downs National Park (APP/Y9507/W/21/3285377 attached at **Appendix 2**) where the Inspector concluded that,

**“22. It this point I would conclude the use of the site for a gypsy family is contrary to policies SD4, 5 and 6 and paragraph 182 of the NPPF. However, due to the specific circumstances of the site outlined above the amount of harm is not great. The site is not contrary to the local plan in terms of its sustainable location and although the GTAA is somewhat out of date and there is a considerable need for pitches in East Hampshire outside of the NP, I am not convinced this would have significant repercussions for the number of pitches within the NP sufficient to conclude there has been a failure of policy. Nevertheless,**



**while there is this uncertainty over numbers it is equally difficult to conclude the site is contrary to SD33. However, because of the landscape harm the site is not suitable as a Gypsy site.”**  
(Emphasis added)

6.15 In this case, the Inspector considered the particular circumstances of the site, being on the edge of ribbon development, and situated on a truncated triangle where it could be described as “rounding off” neighbouring development. The Inspector identified that there was harm, but that that harm was capable of being ameliorated to an extent, and also by the context of the location, and he went on to allow the appeal.

6.16 Other decisions include:

- APP/U1430/W/20/3250142 - Land adjoining High Views, Loose Farm Lane, Battle, East Sussex TN33 0TG (**Appendix 3**) – Para’s 9-16,
- APP/X2220/W/23/3319129 - Sherleys Farm, Reach Road, St Margarets-at-Cliffe, CT15 6HY (**Appendix 4**) – Para’s 7-14,
- APP/W0340/W/22/3292939 - Land at Ermin Street, Lambourn Woodlands, RG17 7TR (**Appendix 5**) Para’s 28-41,
- APP/U2235/C/17/3175400 - Land at Stockbury Valley, Stockbury, Kent, ME9 7QN (**Appendix 6**) – Para’s 16-18,

6.17 A similar approach can be adopted in this instance.

**Main Issue 2 - The effect of the proposed development on highway safety, with particular reference to visibility at the site access and pedestrian connectivity**

#### Visibility Splays

6.18 The application (West Berkshire reference: 23/00815/FUL) was originally recommended for approval by West Berkshire, however this was overturned at planning committee with reasons for refusal on highway grounds relating to achievable visibility splays to the north of the site as well as the suitability of the

footway network. The scheme is now subject to appeal, with the council submitting a Statement of Case dated February 2025, in which it states:

*“Although the LHA approved the proposed access arrangements, this was overruled at planning committee. To achieve the required visibility splay to the south of the access, existing vegetation would need to be removed, therefore the condition above was submitted.*

*Similarly, the removal of vegetation to the north of the site access would also be required. However, drawing 2305055-01 does not show the existing speed gateway located to the north of the site access on the eastern verge. This was therefore not identified as a visibility constraint by the LHA.”*

- 6.19 To ensure visibility can be achieved the village gateway sign would need to be relocated outside of the visibility splay to ensure visibility can be achieved and not be obscured. Ultimately, this would be a matter for any Section 278 legal agreement as part of the wider access arrangements to establish an appropriate location for the signage, and is therefore covered by separate legislation.
- 6.20 The submitted highways note provides clear evidence that the splays can be achieved, subject to relocation of the signage.
- 6.21 The appellant relies upon the evidence submitted to date, and that there is no sustained objection from the LHA. Access to the site can be made suitably safe, and this can be secured through condition.

#### Footpath Link

- 6.22 Turning now to the provision of a footpath, 1.5m in width. This could be secured, as evidenced by the submitted plans. With the replacement of the extent of hedgerow within this area, the width of what remains would be sufficient. However, there would be the neighbouring hedgerow which would be impacted, and thus it could not be delivered in its full extent. Nevertheless, as the Inspector would see on site, the adjoining footpaths do not meet the requirements, and I do consider that imposition of the requirement would create an incongruous layout of the footpath as it links to Hermitage.

- 6.23 I appreciate that the footpath width is less than desirable. Indeed, it need not even be provided, given the relatively short distance it would cover, but it was at the request of the LPA during the course of the appeal application that a footpath link was secured.
- 6.24 I do not consider the width of the footpath to be a reason to dismiss the appeal. As set out, one metre is a sufficient width to allow a pram/ pushchair to safely navigate to the south, as well as a wheelchair. Although it will not allow two prams/ pushchairs to pass each other the likelihood of this happening is highly unlikely considering likely levels of pedestrian footfall that would be experienced and generated by the site. It is a matter that, on balance, I consider acceptable, particularly given that there are a multitude of Gypsy and Traveller sites across the country that simply don't have access to pedestrian links.
- 6.25 Indeed, this is a case where the site is immediately adjoining a built up area, and can be connected to the community through means other than private car. This is the type of site which the PPTS encourages to be secured. As such, the footway even at 1 metre in width is a material improvement and improves access for residents thus reducing the reliance on car borne trips, and this is a matter I consider to be neutral in the overall balance.

### **Main Issue 3 – Whether the proposal would provide an adequate surface water drainage scheme**

- 6.26 This issue, with respect to the LPA, is largely a “make-weight” issue. The case of the LPA seems uncertain of itself, given the LPA acknowledge a suitable scheme “may” be achievable, and that “that a drainage strategy broadly in accordance with the submitted plan is likely to be possible”.
- 6.27 The issue they take is merely with the manner in which calculations have been obtained, which then evolved into ground investigations undertaken during winter being required. Clearly a matter that would have been better addressed through deferral of the application from the committee.

- 6.28 Drainage is a technical matter, and one which is extremely rarely incapable of being addressed. It is why a condition requiring details of drainage infrastructure is so often conditioned.
- 6.29 Whilst I appreciate the development is retrospective, that does not mean it is complete. Quite the opposite, given the description of the development being marked as “Part Retrospective”.
- 6.30 The hardstanding surface which has been installed is of a permeable material, and will allow surface water to infiltrate the ground, as opposed to run-off onto the public highway. It is also incomplete, noting it does not align with the proposed layout plan. As such, there is plenty of scope to retrofit the development as may be necessary to secure such provision. This can be readily achieved through a condition.
- 6.31 Furthermore, the appellant does not, nor ever has, object to imposition of such a condition.
- 6.32 From the submission of the LPA’s Statement of Case it is clear that they will not accept the Drainage Strategy being treated as an approved document, in the event the Inspector allows the appeal. Therefore, the solution is simple. Any permission granted has attached a condition requiring the use of the site to cease upon failure to provide a suitable Drainage Strategy, and that that strategy is then implemented in accordance with an approved timetable.
- 6.33 This is a matter which should quite simply be agreed by the LPA. If not agreed, then the Inquiry will risk straying into discussions which will culminate with it being dealt with by condition in any event, and thus wasting time at the event. I appreciate it is a reason for refusal, but it is one that the LPA clearly envisage can be addressed.
- 6.34 As was also advised, the appellant has had further infiltration testing undertaken (by WDE Consulting who have provided sufficiently high level reporting work for other sites within *this* district), and the results of that will be provided.

- 6.35 This appeal does not regard a development which is *major* and therefore it does not follow that Surface Water Drainage needs to be demonstrated as achievable prior to any permission being granted. The approach of the LPA in sustaining this issue has, in all fairness, caused some distinct unreasonable behaviour. In particular, it is the LPA's reliance upon phrasing such as *"permitting the development in its current state includes the potential to incorporate faulty or non-compliant drainage measures on site"* and the need to constantly remind the LPA that they were not determining a scheme implemented in full on the ground, and nor will the Inspector be doing so.
- 6.36 Turning to the interested party comments, namely that of the Parish Council and the HGoR, the planning committee were quite plainly **wrong**. As I have set out, the development for which planning permission is sought does not seek to cover the site in non-permeable surface infrastructure. Members instead chose to presume what was on site was impermeable. Quite simply put, what is on site is not impermeable material. The hardstanding sub-base is permeable in nature, and the surface dressing is not a bonded material.
- 6.37 It is a matter which can be dealt with through condition, and to make the point clear, that matter is provision of a satisfactory drainage strategy. It would require the preparation and submission of a scheme to be approved by the LPA before it is implemented, in accordance with those approved details. Failure to comply with approved details means the LPA can take enforcement action. Failure to discharge those details means the LPA can take enforcement action.
- 6.38 Therefore, I refute the Parish Council's concern at the unenforceability of any condition. The HGoR raise a similar point, and so I will not repeat the response.
- 6.39 The Parish Council also raise issue with the means of foul drainage. As established, this is not a site where connection to mains drainage has been found feasible, and Septic Tanks/PTP's likewise unfeasible on other grounds (intermittent use of biological systems, more likely to fail, and General Binding Rules and drainage fields). As such, a cesspit falls to be the preferred solution, and is clearly a suitable solution.

- 6.40 The PC remark that there is no evidence to suggest that such a system would require the *“removal of a huge quantity of earth and installation of supporting underground structures for the tank”*. Whilst that may be true, the tanks would be submerged beneath the earth and effectively “imperceptible”. The PC also remark that there *“is no plan for regular emptying of the tank to ensure there is no overflow into the site or onto the road and the neighbouring bungalow”*. Whilst that may be correct on a very brief overview, the drainage strategy does set out that a standard size system provides approximately 45 days of storage before it requires emptying. It also notes that the systems are recommended to be installed with a high level alarm to promptly alert users to empty the tank. The PC’s concerns can be readily addressed through a scheme of maintenance for the system, which would be akin to the manufacturers guidance but can set out quite clearly that the systems will be emptied no later than every 45 days, and fitted with a high level alarm, to ensure no overflow.
- 6.41 As indicated by the appellant at the CMC, they have undertaken further infiltration testing. The results of this are attached at **Appendix 7**. The drainage strategy before the Inspector was prepared on the basis of the original report, which indicated a worst-case infiltration rate of  $1.05 \times 10^{-5}$  m/s. The recent BRE365 testing by WDE has confirmed the feasibility of infiltration, and in fact demonstrates improved soakage characteristics, with adopted infiltration values ranging from  $1.26 \times 10^{-5}$  to  $2.24 \times 10^{-5}$  m/s.
- 6.42 The appellants drainage engineer considers the outcome positive, and that the new data supports the continued use of infiltration-led solutions. As such, I do not consider there is any justification to suggest that Surface Water Drainage simply cannot be dealt with by way of a planning condition. The evidence before the Inspector will be clear, and clearly demonstrates that a simple revision to the strategy itself, to account for the new figures, would result in the scheme being found satisfactory.



## **Main Issue 4 – The weight to be attached to intentional unauthorised development (IUD)**

- 6.43 As established in the Statement of Common Ground, the parties agree that IUD has occurred, and that it is a material consideration in the determination of this appeal. As agreed, the parties consider limited weight be afforded to this matter.

## **Main Issue 5 – Need, Supply, Failure of Policy, and Alternative Sites**

### Need & Supply

- 6.44 A useful decision to refer to is the recent determination of 23/00815/FUL (attached at **Appendix 8**) regarding Land at Lawrences Lane, Thatcham. This application relates to provision of 7 pitches, and provides a clearer picture of the Need matters within the District.

### “Local need and supply

According to the PPTS, the local planning authority should consider the existing level of local provision and need for sites. The Council has a legal duty to plan for adequate accommodation for the Gypsy and Traveller community.

The Council has a Gypsy and Traveller Accommodation Assessment (GTAA) carried out in 2019 and updated in 2021. The definition of “gypsy and traveller” has been updated in the meantime, however the assessment already assessed the overall need as is now required under the new definition. As part of the Local Plan examination the Inspector asked the Council to delete references to ‘cultural’ and ‘PPTS’ need, as was previously set out in the GTAA and in proposed Policy DM20, as the ‘PPTS’ need was calculated under a previous definition of Gypsies and Travellers.

The table below presents the overall residual need across the period 2021 to 2038, after the supply at the time of the 2021 GTAA was taken into account. The sites listed are planned or have gained permission since the GTAA was written, leaving a need of 18 pitches.

|   |    |
|---|----|
| Additional permanent pitches required 1 April 2021 to 31 March 2038 | 30 |
|---|----|

|   |    |
|---|----|
| Additional permanent pitches provided 1 April 2021 to 31 March 2023 |    |
| • New Stocks Farm, Paices Hill, Aldermaston                         | 8  |
| • Four Houses Corner, Padworth                                      | 1  |
| • Ermin Street, Lambourn Woodlands                                  | 1  |
| • Washwater Stables, Enborne Row, Wash Water                        | 2  |
| Total pitches provided 2021-2023                                    | 12 |
| Permanent pitches required 1 April 2023 to 31 March 2038            | 18 |

**Note that the one pitch at Four Houses Corner is in addition to the 16 pitches already accounted for in the supply of Gypsy and Traveller sites.**

**The table above does not identify the 5 year period (2021-2026) or the period between 2026 and 2038. Under the previous definition of the PPTS the Council could show they had a 5 year supply of pitches. This was supported in the Inspector's decision for the planning appeals for Four Acres, Ermin Street, Lambourn Woodlands and for Lawrences Lane, Thatcham. However, the change to the PPTS definition means that the Council needs to meet all of its need (previously labelled as 'cultural' need), and the implication is that the Council have a shortfall of sites to meet the 5 year need. Due to the permitted and planned supply of pitches (the list of sites identified in the table above) the shortfall is 1 pitch.**

**Taking into account the need for 1 pitch in the short term, the outstanding requirement is 17 pitches up to 2038. There are no new sites identified in the Local Plan Review, aside from the site at Paices Hill, Aldermaston which has been carried forward from the Housing Sites Allocation Development Plan Document. In seeking to meet this need a Gypsy and Traveller Accommodation Development Plan Document is proposed. A call for sites has not yielded a high response rate, as only 1 site was promoted (1 pitch).**

**The addition of five pitches would be of benefit in meeting the local identified need.**

**Consistent with the PPTS, the contribution this site may make to meeting the local identified need for gypsy and traveller pitches within the district is a significant factor weighing in favour of the proposal, particularly where there is a small (one pitch) shortfall in the five year supply.”**

- 6.45 Demonstrating a 5-year supply is an important requirement for the LPA, as set out in the PPTS. Whilst it is no longer a requirement for housing, the requirement is extant within the PPTS for Traveller sites. In this regard, the LPA would be three pitches short of meeting its overall requirement in the short term. The proposed additional pitches could therefore aid in meeting the overall requirement.
- 6.46 I am certain that the LPA will rely upon the recent decision reached in respect of Brimpton Common (APP/W0340/W/24/3346878). Whilst that decision, as far as I am aware, has not been challenged, I do not agree with the Inspectors conclusions.
- 6.47 The LPA refer to supply from “Paices Hill, Four Houses Corner and Ermin Street, Lambourn”. Paices Hill is not a “new” site. It was a transit site, and a permanent site also, and is now an expanded permanent site. Four Houses Corner was a mothballed public site which fell into significant disrepair. All this permission does is restore what pitches the site provided, and should seek to rehouse occupants who were displaced as a consequence. Ermin Street is not a site which counts towards supply, as it is restricted by personal occupancy. There is also Enborne Row which is a new permission, and the site granted at Newtown Road.
- 6.48 The LPA have also experienced a number of new applications, arising from displaced households and in-migration. There are 10 pitches we are aware of, not including the appeal site.
- 6.49 On 30 September 2022 the LPA approved planning permission for the 8 transit pitches at Paices Hill being changed to permanent pitches. On 10 January 2025 the application to discharge conditions 5, 6, and 10 of that planning permission were submitted, and remain pending consideration at the time of preparing my

proof of evidence. For completeness, I attach the Decision Notice and Plans related to 22/00120/FUL at **Appendix 9**.

- 6.50 Having regard to Paices Hill, the pitches present there were transit pitches, but the future needs of these households does not appear to appear to have been accounted for in the GTAA itself. If the temporary pitches were indeed occupied by households intended to occupy permanently, those households would present a need, as well as the further two households to occupy the additional pitches. The simple point is that the GTAA presumes no “future need” from those pitches.
- 6.51 On 03 April 2024 the LPA approved planning permission for the redevelopment of Four Houses Corner, under reference 23/01552/REG3. As of 29 January 2025, Conditions 3, 15, 17, 20, 21, and 23 have been discharged. Conditions 4, 9, and 17 are pre-occupation, and remain required to be discharged, but additionally condition 22 would need to be addressed should the development of the site not have commenced yet, as that would bring engage the need to review the approved ecological reports. I attach a copy of the decision notice and approved plans at **Appendix 10**.
- 6.52 Page 17 of the 2021 GTAA makes reference to Four Houses Corner. Those households have been decanted off of the site, and are understood to be residing in Bricks and Mortar accommodation until such a time when the site reopens. The households who did occupy are understood to be returning, and being given priority to return to the site, as such the needs of those households is not unmet, subject to the site actually being delivered. However, it is the failure of the GTAA to record any need from those households, made worse by the fact that the LPA clearly are aware of them and where they reside so could have considered their needs. The site was vacated in 2018, and the subsequent years. The 2019 GTAA records some data on the occupants, and makes the important note at Para 6.6 (Bullet 4) that an issue raised by stakeholders was that *“Families are outgrowing the current two sites - Four Houses Corner and Paices Hill. As the families expand they need more space for additional trailers”*.
- 6.53 The approach taken by the LPA is for the occupants to be re-surveyed when the site opens to assess long-term needs from children and young people who will be

living on the site. Effectively saying it can be a problem for the future. There are two issues with this. Firstly, it delays the identification of their needs, which should be planned for *now*. Secondly, it means that any needs of the households who did occupy the site are completely unknown. Those households could have generated need, through children, which simply wasn't identified as is not being met.

- 6.54 Another issue with the GTAA, and the approach of the LPA to not produce a further update in the four years that have passed, is the reliance of that document on 2011 Census data. The 2021 Census data is now relied upon in any newly published GTAA, and what that data indicates is that the number of households in West Berkshire has significantly increased, having been recorded as 63 households within the 2011 Census, to 190 households identifying as Gypsies or Irish Traveller in the 2021 Census.
- 6.55 Additionally, the Caravan Counts are of assistance in demonstrating the marked increase in numbers within the District. I attach these at **Appendix 11**. What the count shows is a reduction in caravan numbers around the time when FHC closed, and a gradual increase in numbers to date.
- 6.56 There simply isn't a present supply, and the emerging plan does not take into account the unassessed need that the LPA clearly know about. I am aware of a number of refusals and other unauthorised sites, and none of those persons could rely upon Paices Hill. The LPA are pressing ahead with their emerging Plan without dealing with a genuine and real need for Gypsies and Travellers, instead kicking the can down the road for a further Gypsy and Traveller DPD. Even the LDS envisages a need for a GTAA refresh but does not look for that to be available for the Local Plan Inspector.
- 6.57 I consider that there is a clear and immediate need within the District, and this is evidence by the recent application data:
- 24/01999 – Pending determination for 1 Pitch at Enborne Row,
  - 24/00594 – Refused application for 2 pitches at Brimpton Common,
  - 23/02984 – Dismissed appeal for 1 pitch at Brimpton Common,

- 23/01425 – Refused application for 4 additional pitches at Bath Road, Beenham,
- 23/00779 – Refused application for 1 Pitch north of the M4, Hermitage,
- 22/01659 – Refused application for 1 Pitch at Bath Road, Woolhampton,

Indeed, at the Brimpton Common Inquiry, after several requests prior, the LPA eventually advised that the number of unauthorised encampments within the District in January 2024 was 17. I am aware from at least two of the sites listed above, that the pitches for which planning permission was sought was consequential to household growth (children getting married and requiring own pitch, or children reaching age where they require own space). The applicants in those respective cases did not proceed with any appeal.

6.58 Furthermore, there is clearly a sub-regional need. At the Brimpton Common Inquiry the witness for the LPA (West Berks) accepted that adjacent authorities had responded to the consultation on the emerging plan explaining their own difficulties with meeting the accommodation needs of Gypsies and Travellers. I consider this to be clear acknowledge of a sub-regional need, even if the LPA do not explicitly accept it as such. To be clear, this sub-regional need is evidence by:

- *Wiltshire*: - rely upon a GTAA report dated June 2024. The report identifies 188 Pitches for Gypsy and Traveller households that met the 2023 PPTS planning definition, up to 38 pitches for undetermined Gypsy and Traveller households that may meet the planning definition, 73 pitches for Gypsy and Traveller households who did not meet the planning definition. Suffice to say, a significant unmet need.
- *Vale of White Horse*: - rely upon a joint GTAA dated 2024. The report identifies that there is a need for 40 additional Gypsy and Traveller pitches over the period 2023/24 to 2041/42, of which 17 are needed in the first five years and 23 over the period to 2041/42. Therefore, a notable unmet need.
- *South Oxfordshire*: - rely upon a joint GTAA dated 2024. The report identifies that there is a need for 68 additional Gypsy and Traveller pitches in South Oxfordshire over the period 2023/24 to 2041/42 (Table ES3). Of this need, 34



pitches are needed in the first five years and 34 over the period to 2041/42. Suffice to say, a significant unmet need.

- *Wokingham*: - Acknowledge that there is a lack of a five year supply, as evidenced in the recent conclusions of Inspector King within APP/X0360/C/22/3311592 which was issued on 07 January 2025. The new GTAA identifies a total pitch need between 2022/23 to 2039/40 of 86 pitches. Suffice to say, a significant unmet need.
- *Basingstoke & Deane*: - rely upon an out-of-date assessment (2017). Their 2024 AMR identifies that the council can demonstrate six deliverable pitches up until 2029. The current need for seven pitches can therefore not be met. Whilst a low scale of need, it is important to note that the GTAA assessment which identifies that Need is out of date.
- *Test Valley*: - rely upon a 2021 GTAA, but are understood to be updating their needs assessment. The 2021 GTAA identifies 44 pitches in Test Valley over the GTAA period to 2040 for Gypsy and Traveller households that met the planning definition, 3 pitches for undetermined Gypsy and Traveller households that may meet the planning definition, and no pitches for Gypsy and Traveller households who did not meet the planning definition. Suffice to say, a significant unmet need.

6.59 Additionally, within the Brimpton Common Inquiry, the waiting list numbers were eventually made a core document, which I attach at **Appendix 12**.

6.60 Having regard to the above, it is considered that the LPA have an unmet need, and cannot demonstrate a 5-year supply of deliverable pitches. Therefore, these are both matters which must be afforded weight individually. These are matters which are afforded weight in the balance.

#### Failure of Policy

6.61 Turning to failure of policy, Section 8 of the Housing Act 1985 is a statutory requirement and requires Local Authorities to assess and address the needs of people residing in and resorting to their District. It includes the duty to consider the needs of people with respect to the need for caravans.

- 6.62 Paragraph 62 of the NPPF requires that the size type and tenure of traveller's accommodation must be assessed and the need reflected in appropriate planning policies. Footnote 25 to paragraph 61 sets out that for those travellers meeting the definition set out in the PPTS there needs should be assessed in accordance with that document (PPTS). The needs for those not covered by the PPTS should be met by the NPPF both in terms of assessment and delivery. It does not affect how the needs for "both groups" (those travellers who meet the definition and those that don't) are required to be assessed under local Plan Policies.
- 6.63 LPA's must make provision, and must do so through a plan-led method. The LPA have failed to make appropriate provision for such cultural need, having a shortfall of pitches, and no allocations policy, or criteria-based policy to provide for such needs. The LPA may dispute these conclusions, but they are facts, and they were material considerations in favour of the Ermin St decision which they did not challenge.
- 6.64 This is a failure under the Public Sector Equality Duty Act, and a matter which must be afforded substantial weight.

#### Likely Location of New Sites

- 6.65 The majority of the District is located within the AONB, some 74%, and as such it is inevitable that sites will come forward within the designation area. Given the area of the district within the AONB, a mere countryside location should not prevent development for Gypsy and Traveller sites, as this will direct developments to the sensitive, protected, national landscape area, as the appeal site is.
- 6.66 A large proportion of the district is within the Countryside, outside of the settlement boundary limits. It is inevitable that sites for Gypsies and Travellers will be located as such given the increasing costs of land on the edge of settlements which is more often than not reserved to develop housing for the settled population, and rarely affordable by single Gypsy/Traveller families.
- 6.67 I submit that weight should be attributed to the likely location of sites which would be brought forward within the district to meet the unmet need.

### Availability of Alternative Sites

- 6.68 In *Doncaster MBC v. FSS & Angela Smith [2007]* the Court set out that alternative accommodation has to be **suitable, affordable, available and acceptable** for it to be considered a **realistic alternative**.
- 6.69 *SCDC v. SSCLG and Julie Brown [2008] EWCA Civ 1010* sets out as well that there is no requirement in planning policy, or indeed within any case law, for an applicant to demonstrate that there are no other sites available, or that particular needs could be met from another site.
- 6.70 The LPA, through discussion on the SOCG, have made reference to the Four Houses Corner site. Whilst it may be an available site, that does not render it suitable as an alternative, and it appears evident from the waiting list that it is not an available site in any event.
- 6.71 Turning to the LPA's suggestion that sites in other Districts should be considered also, that would be incorrect, and contrary to the Gypsy/Traveller way of life. LPA's should not adopt such a cavalier approach, as it is effectively saying "these Travellers should be someone else's problem". It is an approach LPA's all too often take, particularly when their Needs assessments are quite dated. Given this, it is inappropriate, and indeed contrary to the PPTS which requires *current* need to be addressed, and *current* need includes households who may in-migrate.

### **Main Issue 6 – Personal Circumstances**

- 6.72 An applicant, irrespective of their ethnic background, may seek permission for a permanent Traveller pitch (in accordance with the planning definition of a Traveller as set out in PPTS), to be conditioned for this use, and that an applicant can provide information about personal circumstances to add into planning balance, if required. A permission should only be conditioned for personal occupancy if that condition is required to make the proposal suitable in planning terms. If it is considered that the proposal is suitable for a Gypsy/Traveller pitch, regardless of personal circumstances, a personal condition is not required. It is not necessary for Personal Circumstances to be considered from the outset, or even for Gypsy

Status to be demonstrated, given that occupation of the site is a matter to be controlled by condition.

- 6.73 The appellant group have notable personal circumstances. There are five households, each with two adults, and 17 children across the plots, with another child on the way. Of those households, at least 6 have progressed medical circumstances relating to physical and mental wellbeing.
- 6.74 One of the occupants has referenced a site that I am familiar with (Carousel Park, Micheldever). That is a site with a long and storied history, now occupied by some 80+ Caravan pitches, and a multitude of families. I agree that that site is quite notably overcrowded, not say unacceptable, but it is certainly at the stage where it likely won't be able to provide anything additional. Furthermore, it is a site that has been subject to appeal proceedings for over 15 years, having been served enforcement notices, that were quashed, and subsequently overturned in the court of appeal, redetermined and quashed again, in part, only for further notices to be served for which planning permission was granted. That permission is now subject to a further appeal consequential to the wording of the conditions imposed. It is not a stable site on which any household could rely as a returning location.
- 6.75 There are, suffice to say, no alternative locations for these occupants. They have settled in quite well at the site, but remain apprehensive of firmly settling until a planning permission is granted. The LPA may reference FHC as an alternative site, but as the Inspector will note, the waiting list is quite notable. I do not consider it will be available, even accounting for turnover, for some time. Furthermore, with regard to its design on paper, I do not consider it an overly attractive site to reside on. To be clear, the matters I identify is that the layout does appear cramped, with the potential for static caravans to be tightly sited adjacent to the Dayroom structures. I also know views of the community about "roundabout's" in the centre of sites, and how these can often be a recipe for nuisance. I say this having visited many sites and know what most in the community desire, but ultimately that would fall to personal preference, and it may be the case that the LPA have had input from the future occupants about the design of the site itself.

6.76 Summing up the personal circumstances, the following matters should be taken into account in the planning balance,

- a) **the personal need for accommodation of the applicant**
- b) **the availability (or lack) of alternative accommodation for the applicant**
- c) **the medical and/or welfare considerations of the applicant**
- d) **the best interests of the child (if relevant)**

6.77 Overall, I consider that the personal circumstance matters should be afforded substantial weight in any balance. Furthermore, the adverse impact on the disabled site residents of having to leave the land means that dismissing the appeal carries disability equality implications which count as a separate material consideration which should also attract significant weight in its own right.

Consequences of the Appeal being dismissed

6.78 It is quite clear that without the appeal site for the families to resort to, they would have no choice but to lead a roadside existence.

6.79 There are no reasonable and available alternatives for the appellant families to resort to, and as such, dismissal of the appeal will result in the families needing to vacate the existing site, and seek alternative ones, given the presence of the Enforcement Notice, and the injunctive action.

6.80 Any alternative site will still require time to be brought forward through the planning applications process, or it would, in essence, be inviting the appellants to undertake true intentional unauthorised development.

6.81 The LPA will also not be in any position to deliver any new sites for some time, given their own reluctance to accept and realise the genuine need for more pitches within their District, and are kicking the can down the road until Four Houses Corner is re-opened and re-occupied.

6.82 Case law is clear that there is a duty on both the LPA and Secretary of State to treat the best interests of the child (including unborn children) as a primary

consideration, and that no other consideration is inherently more important. This was established in the case of *AZ v SSCLG & South Gloucestershire Council [2012]* and *Collins v SSCLG [2013]*. There is also a strong public interest in avoiding roadside encampments and as a result I believe studies have shown that there are race equality implications to contributing to more unauthorized encampments.

### **Main Issue 7 – Temporary Permission**

- 6.83 The considerations set out should be assessed again, and the weight afforded to them reconsidered should a temporary permission come to be considered.
- 6.84 In the appellants view, on the basis that there is a notable shortfall, and significant level of unmet need, the LPA will likely require time to devise a plan led route to address. This will likely take the form of a DPD.
- 6.85 As such, an appropriate timeframe will be necessary, and such would be a 5-year period in the appellants view.

## **7.0 THE PLANNING BALANCE, SUMMARY, AND CONCLUSIONS**

- 7.1 It is acknowledged that the appeal site lies outside of the defined settlement boundary, and within the Countryside. There is some dispute as to whether it is “Open Countryside” but the matter is relatively moot given its proximity to the settlement. This is not a development which could be said to be open countryside away from settlements. Given that the PPTS envisages sites in the countryside, as does the Local Plan policy, I do not consider this has any impact on the overall development. It is therefore neutral in the balance.
- 7.2 I acknowledge that at face value, the appeal development would be seen to not conserve and enhance the National Landscape, and therefore would be contrary to those policies. However, noting Mr. Petrow’s assessment, I do not consider the Inspector is confined to a straitjacket in terms of the weight he must afford to the matter, as the Planning Committee members appeared to believe. Whilst there is, on paper, conflict overall, the site is well confined, and in itself, within a location which is not valued landscape, despite the wider National Landscape designation.
- 7.3 In the appellants view, the visual impact of the site as it stands is quite moderate, well contained and not harmful to the character and appearance of the area, and would not harm the landscape or scenic beauty of the NL. In fact, there is scope within the development to secure a degree of conservation and enhancement, subject to conditions on landscaping, of the NL given the identified Ash Trees on the eastern boundary, and the clear contribution the vegetated boundaries make, given that Ash Trees are at high risk of Ash Dieback disease, and such a landscaping scheme could secure replacement planting which would be of more resilient species. In this respect, whilst there is harm, I do not consider that harm to be of anything more than moderate weight in the balance. In any event, I would add that assessment of the proposal against the policies of the Framework do not give rise to me concluding that the NL location of the site represents a strong reason to refuse the development.
- 7.4 Beyond this harm, I submit that the site is reasonably accessible, and is compliant with Policy CS7 of the Core Strategy insofar as it controls development within the



countryside. As such, I do not consider there to be any other harm arising from the development.

- 7.5 The access to the site has been demonstrated as being technically safe, subject to the relocation of signage, and provision of the required visibility splays. As such, this matter is neutral in the overall balance.
- 7.6 A suitable footpath link proportionate to the scale of the development, and frequency of use envisaged, can also be provided. As such, this matter is neutral in the overall balance.
- 7.7 Whilst sustained objection to the Surface Water Drainage strategy is noted, it is predicated on a somewhat fanciful worst case scenario, and is largely make weight to provide some other harm against the proposal. The simple fact is that a strategy, even if largely concluded to be outline in its proposals, has been provided. The LPA themselves do not provide any technical evidence in rebuttal to that strategy, merely the assertion that it is not a matter which can be dealt with through condition, and that the strategy provided is insufficient in its detail. This is not, in my view, a valid reason to refuse a development otherwise acceptable. Indeed, the LPA's own drainage officer acknowledges, as the LPA do in their Statement of Case, that a drainage strategy broadly in accordance with the submitted plan is likely to be possible. It is quite simply not the case that such a scheme is impossible to deliver, and therefore the imposition of a condition requiring the details of such a scheme, which demonstrates that 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 would overcome the LPA's objection, rendering this matter otherwise neutral in the balance.
- 7.8 In favour of the appeal development are a multitude of factors. First and foremost is that the provision of more pitches within the District is clearly needed. The LPA simply cannot demonstrate an up to date five year supply given the recognised need for a fresh GTAA which will include new family formations from recent permissions, from those with a right to return to the 4HC site and from those on the waiting list, and contrary to previous decision letters the true position is that the

figures from the 2021 GTAA have known gaps in them derived from the unassessed needs of the decanted 4HC tenants who were not interviewed. This unassessed need amounts to a significant gap in the evidence base, which compromises the robustness of the assessment itself, and leads to the point where the Inspector cannot definitively conclude there is not an unmet need, and that there is a five year supply. As such, I consider that each of these matters would be a material consideration of significant weight. The long overdue need for a fresh GTAA shows that the planning authority cannot presently demonstrate an up to date five year supply of sites.

- 7.9 Were the Inspector to conclude contrary however, it is nonetheless clear from the evidence that the provision of further pitches is still a material benefit. The need identified by the GTAA would be a minimum need to be met, and as such, the provision of additional pitches should in my view carry some moderate positive weight in favour of the development. I would add that the location of the site aligns strongly with the direction provided by the PPTS, given that the site adjoins an existing community, and is by no means isolated from it. Whilst the overall compliance with the PPTS in this regard is largely neutral, I do consider that the provision of sites that do comply is a goal to strive towards. The more such sites are refused, the less likely they would be to come forward, and the more likely sites where there is no scope for community integration are relied upon. As such, this elevates the weight I afford to the provision of pitches, as they are pitches in the right place, as envisaged by the PPTS.
- 7.10 Section 8 of the Housing Act 1985 is a statutory requirement and requires Local Authorities to assess and address the needs of people residing in and resorting to their District. It includes the duty to consider the needs of people with respect to the need for caravans. Paragraph 62 of the NPPF requires that the size type and tenure of traveller's accommodation must be assessed and the need reflected in appropriate planning policies. Footnote 25 to paragraph 61 sets out that for those travellers meeting the definition set out in the PPTS there needs should be assessed in accordance with that document (PPTS). The needs for those not covered by the PPTS should be met by the NPPF both in terms of assessment and delivery. It does not affect how the needs for "both groups" (those travellers

who meet the definition and those that don't) are required to be assessed under local Plan Policies. LPA's must make provision, and must do so through a plan-led method. The LPA have failed to make such provision, and have failed to provide, through the plan-led method, any *new* sites, noting that Paices Hill is not a new site, but a change from Transit to Permanent. As such, this is a failure under the Public Sector Equality Duty Act, and a matter which must be afforded significant weight.

- 7.11 The personal circumstances of the family and the best interests of the children weigh in favour of the proposal. Providing a settled base for the children to access education is important, as is the benefit of the family living together on a suitable site for the reasons explained. Whilst those objectives could be realised at different locations, it is quite plain to see that there are no better locations which are available, and there are no readily available alternative locations. As such, I consider these are matters of substantial weight.
- 7.12 The children are well settled in the local school and there are significant family health issues that would be exacerbated by returning to a roadside existence. The best interests of the children are a primary consideration, as are the family's human rights; the right to a private life and to a home. I acknowledge that interference with these rights is acceptable if it is proportional, but in this case, I do not consider that it would be proportionate to do so.
- 7.13 The LPA are making way on a new Plan, which will still require time. Any new sites within the District will be located outside of any defined settlement boundary, as all the existing sites are, and so it is inevitable that sites will be located in the Countryside. Given the vast swathes of the District constrained by the NL designation, there is the very real prospect that sites within more sensitive areas would need to come forward within the district to meet the unmet need.
- 7.14 As is clear from the evidence, there do not exist any available alternative sites which fall within the definition of realistic alternatives as defined by *Doncaster MBC v. FSS & Angela Smith [2007]*. This lack of alternatives, coupled with the personal needs of the appellant group, their strong local connections to the area, and the best interests of the children, lead me to afford this matter significant weight.

7.15 Furthermore, it is clear that without the appeal site for the families to resort to, they would have no choice but to resort to a roadside existence. A return to the roadside would not be in the best interests of any of the families, and noting the enforcement notice also subject to appeal, in combination with the injunctive proceedings, and the lack of available alternatives there would be no other reprieve for these families, other than just that. Those are the very real consequences of dismissal of the appeal, and a matter I consider weighs heavily in favour of allowing the appeal.

7.16 For the reasons I have set out, I consider that the Inspector will be presented with three options for allowing the appeals,

**Option 1: Permanent Non-Personal Permission** – The Inspector allows the appeal, imposing the standard Gypsy/Traveller occupation condition on any grant of planning permission for the development as has been requested.

**Option 2: Personal Permission** – The Inspector allows the appeal and imposes a condition requiring the cessation of the use and restoration of the land should the site cease to be occupied by those named persons, and their resident dependents, on the basis that their own need for a site and any personal circumstances clearly outweigh any harm which is identified.

**Option 3: Temporary Permission** – The Inspector allows the appeal, having regard to the lack of available alternatives for the group to resort, and the consequences of dismissing the appeals outright, and permits a time-limited planning permission for 5 years, such that the group are enabled to remain on site, without being in breach of planning control, and are allowed sufficient time to secure an alternative base which, through time, will benefit from planning permission before they vacate the appeal site. A matter also in support of a temporary permission would be the scope of any remedial works, and the gains which can be achieved through a restoration scheme, which would be required to be designed such that it leaves the site in a better state than it was prior to the development and

could present an opportunity to enhance the pre-existing biodiversity of the land.

- 7.17 I submit that there will be no plausible reason not to allow the appeal in some form, through the grant of planning permission on either a permanent, personal, or temporary basis.

## **8.0 APPENDICES**

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| <b>Appendix 1</b>  | <b>Hedgerow Growth Imagery – Cold Pool Lane</b>       |
| <b>Appendix 2</b>  | <b>3292440 - Land adjacent to Quin Hay Farm</b>       |
| <b>Appendix 3</b>  | <b>3250142 - Land adjoining High Views</b>            |
| <b>Appendix 4</b>  | <b>3319129 - Sherleys Farm, Reach Road</b>            |
| <b>Appendix 5</b>  | <b>3292939 - Land at Ermin Street, RG17 7TR</b>       |
| <b>Appendix 6</b>  | <b>3175400 - Land at Stockbury Valley, ME9 7QN</b>    |
| <b>Appendix 7</b>  | <b>WDE BRE365 Soakage Testing Letter – 22.04.2025</b> |
| <b>Appendix 8</b>  | <b>3292211 Land at Lawrences Lane, RG18 3LF</b>       |
| <b>Appendix 9</b>  | <b>22/00120/FUL – Decision Notice &amp; Plan</b>      |
| <b>Appendix 10</b> | <b>23/01552/REG3 – Decision Notice &amp; Plan</b>     |
| <b>Appendix 11</b> | <b>Caravan Count document</b>                         |
| <b>Appendix 12</b> | <b>4HC Waiting List Numbers</b>                       |