

**REPORT #2 (ADDENDUM)
AUTHORISATION FOR ENFORCEMENT ACTION**

ENFORCEMENT REF REGISTERED PARISH SITE	SE23/312 (Addendum Report) 12 October 2023 Towersey Emmanuel Ranch (formerly known as Windmill Meadow), Windmill Road, Towersey, OX9 3QQ
ALLEGED BREACH	Without planning permission the undertaking of operations comprising of: (i) earthworks to clear the site of vegetation and create a development platform; (ii) the laying of a hardstanding driveway and parking and manoeuvring areas; (iii) the erection of close-boarded fences and ornamental pillars and gates; (iv) the installation of poles mounted with external lighting and closed-circuit television surveillance equipment; (v) the laying of concrete slabs/bases; (vi) the laying of concrete and brick kerbs; (vii) the construction of brick skirts and steps around mobile homes; (viii) the erection of 3 x buildings; (ix) the installation of 3 x septic tanks; and (x) the depositing of spoil.
OWNER/OCCUPIER	Darren Smith (owner) Milo Lee (owner) Darren Lee (occupier)
AUTHOR	Rob Cramp

1.0 INTRODUCTION

- 1.1 On 5 June 2024 the council issued an enforcement notice in connection with an alleged breach of planning control involving: *“Without planning permission the material change of use of the land from keeping of horses to a mixed use, namely 1) keeping of horses; and 2) the stationing of four caravans for residential use, together with facilitating development including: earthworks to clear and alter the levels of the land to create a development platform; the laying of a hardstanding driveway and parking and manoeuvring areas; the erection of close-boarded fences, ornamental pillars and gates; and the installation of poles mounted with external lighting and closed-circuit television surveillance equipment”*. An appeal against the above enforcement notice was submitted but remains undetermined by the Planning Inspectorate.
- 1.2 Subsequent to the issuing of the notice, however, the owner has continued the development of the land, such that the unauthorised development now well exceeds the scope of the breach of planning control referred to in the notice (as quoted above) and the extent of the site covered by the facilitating development as shown on the plan attached to the notice. There are currently 5 x caravans stationed on the land (not 4 as stated in the notice) and the scope of operations has expanded to include the following additional elements: the laying of additional areas of hardstanding to enlarge the development platform; the laying of concrete slabs/bases; the laying of concrete and brick kerbs; the construction of brick skirts and steps around mobile homes; the erection of 3 buildings; the stationing of 2 other site sheds; the erection of additional lengths of close board fencing; the installation of 3 x septic tanks; and the depositing of spoil.
- 1.3 **Drone Image No.1** below shows the extent of the unauthorised development as it existed at the time that the enforcement notice was issued on 5 June 2024. By contrast **Drone**

Image No.2 below shows the extent of the unauthorised development as it existed on 7 November 2024¹.



Drone Image No.1 – 5 June 2024



Drone Image No.2 – 7 November 2024

- 1.4 Under section 176 of the Town and Country Planning Act 1990 ('the Act') Planning Inspectors have considerable scope to vary the terms of an enforcement notice, if they are satisfied that the variation will not cause injustice to any party. However, given the extent of the changes that have occurred since the original enforcement notice was issued, which includes building operations not previously assessed, it is considered prudent for the council to issue a further enforcement notice capturing the full extent of unauthorised operational development that now exists on the site. However, this report will also revisit the unauthorised material change of use, which was the principle subject of the enforcement notice issued on 5 June 2024, having particular regard to changes to government guidance and planning policy that have occurred since the existing enforcement notice was issued on 5 June 2024. This will include a consideration of the

¹ This deliberate unauthorised development has taken place in contempt of a court order (injunction) for which the owners of the site have since been convicted.

revised National Planning Policy Framework and Planning Policy for Traveller Sites which came into effect on 12 December 2024 and the Emerging Joint Local Plan 2041².

- 1.5 This report should be read as an addendum to the council's earlier enforcement report, dated 21st May 2024, which includes relevant information relating to the context of the site and its surroundings; consultation responses; and the planning history of the site. These matters remain materially unchanged and are not therefore duplicated in this addendum.

2.0 POLICY & GUIDANCE

2.1 Emerging Joint Local Plan 2041

Since the enforcement notice was issued on 5 June 2024 the Emerging Joint Local Plan (JLP) being prepared by South Oxfordshire and Vale of White Horse District Councils has reached the Regulation 19 stage. Representations on the draft plan were invited during a consultation period, which started on 1 October and ended on 12 November 2024. In line with paragraph 48 of the National Planning Policy Framework (NPPF), decision-makers may give weight to relevant policies in emerging plans. However, as the examination process has not yet commenced, the weight must be tempered by the potential for any necessary modifications. At this early stage, there is insufficient information regarding which policies are the subject of objections or the extent to which any objections may be resolvable. Therefore, only limited weight can be attributed to the draft policies of the Joint Plan at this stage.

The relevant draft policies in the JLP 2041 are:

- CE6 – Flood risk
- CE8 – Water quality
- CE10 – Pollution sources and receptors
- CE11 – Light pollution and dark skies
- CE12 – Soils and contamination
- SP1 – Spatial strategy
- SP2 – Settlement hierarchy
- HOU10 – Meeting the needs of Gypsies and Traveller
- DE1 – High quality design
- DE2 – Local character and identity
- DE5 – Neighbouring amenity
- DE6 – Outdoor amenity space
- DE7 – Waste collection and recycling
- NH1 – Biodiversity designations
- NH2 – Nature recovery
- NH3 – Trees and hedgerows
- NH6 – Landscape
- NH7 – Tranquility
- IN2 – Sustainable transport and accessibility
- IN5 – Cycles and car parking standards

2.2 Development Plan

The starting point for decision making remains the current adopted Development Plan, including relevant policies contained in the South Oxfordshire Local Plan 2035 and Towersey Neighbourhood Plan as follows:

South Oxfordshire Local Plan 2035 (SOLP):

² The Inspector will then be invited to make only minor amendments to the existing enforcement notice relating to the unauthorised use of the land, by increasing the number of caravans referred to in the alleged breach from 4 to 5 caravans, which can be done without prejudice to any interest.

DES1 - Delivering High Quality Development
DES2 - Enhancing Local Character
DES5 - Outdoor Amenity Space
DES6 - Residential Amenity
DES7 - Efficient Use of Resources
DES8 - Promoting Sustainable Design
ENV1 - Landscape and Countryside
ENV2 - Priority Habitats and Species
ENV3 - Biodiversity
ENV11 - Contamination
ENV12 - Pollution
EP3 - Waste Collection and Recycling
EP4 - Flood Risk
H1 - Delivering New Homes
H14 - Provision for Gypsies, Travellers and Travelling Showpeople
INF4 - Water Resources
STRAT1 - The Overall Strategy
TRANS5 - Consideration of Development Proposals

Towersey Neighbourhood Plan:

TOW1 – Village boundaries

TOW4 – Design

TOW7 - Biodiversity

2.3 **Supplementary Planning Guidance/Documents**

South Oxfordshire and Vale of White Horse Joint Design Guide 2022

South Oxfordshire Landscape Character Assessment (November 2017)

2.4 **National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)**

A revised version of the NPPF came into effect on 12 December 2024 which has been has implications for the assessment of this development.

2.5 **Planning Policy for Traveller Sites (PPTS)**

A revised version of the NPPF came into effect on 12 December 2024 which has been has implications for the assessment of this development.

2.6 **Other Relevant Legislation**

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been considered in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application, the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010. The applicant and his family are Romany Gypsies. The assessment of the current application has been based on an impartial assessment of relevant planning law, policy and guidance, with due consideration also given to the personal circumstance of the applicant including the best interests of any children.

3.0 **PLANNING CONSIDERATIONS**

3.1 The relevant planning considerations are the following:

- Spatial Strategy (Sustainability);
- Provision of Gypsy Traveller Sites;
- Gypsy Traveller Status & Personal Circumstances;
- Countryside and Landscape Impacts;

- Good Design and Respect for Local Distinctiveness;
- Highway Safety and Convenience;
- Amenity Impacts;
- Contamination;
- Biodiversity;
- Drainage; and
- Deliberate Unauthorised Development.

Spatial Strategy (Sustainability)

- 3.2 This matter was dealt with in paragraphs 6.2 – 6.16 of the original report, where it was concluded that the unauthorised development was contrary to the spatial strategy of the development plan and principles of sustainability. Specifically, the development was found to be contrary to policies STRAT1, DES8 and TRANS5 of the adopted local plan; and policy TOW1 of the adopted neighbourhood plan³.
- 3.3 There is nothing in the revised NPPF and/or PPTS that would cause the council to alter its previous assessment. The three overarching objectives of sustainable development remain unchanged in the revised NPPF, as does the presumption in favour of sustainable development. This site remains in an isolated location within the meaning of paragraph 84 of the revised NPPF. Furthermore paragraph 24 of the revised PPTS still maintains that applications should be assessed and determined in accordance with the presumption in favour of sustainable development; and paragraph 26 still maintains 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.
- 3.4 The construction of additional building and engineering operations undertaken by the owners subsequent to the date of the existing enforcement notice only adds weight to the council's objection that the unauthorised development is contrary to policies STRAT1, DES8 and TRANS5 of the adopted local plan; policy TOW1 of the adopted neighbourhood plan; and government guidance contained in the NPPF and PPTS relating to the inappropriate location and unsustainable design of the unauthorised development

Provision of Gypsy Traveller Sites

- 3.5 This matter was dealt with in paragraphs 6.17 – 6.24 of the original report, where it was concluded that the unauthorised development was contrary to policy H14 of the adopted local plan relating to the appropriate location and development of gypsy and traveller sites, notwithstanding the lack of a five-year supply of deliverable gypsy and traveller sites under the local plan⁴.
- 3.6 Subsequent to issuing the original enforcement notice on 5 June 2024 the PPTS has been revised to state at Paragraph 28 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."*
- 3.7 Paragraph 11(d) of the NPPF states that decisions-takers should grant permission for development *"where... policies which are most important for determining the application are out-of-date, ... unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for*

³ Draft policies SP1, SP2, HOU10, IN2, and IN5 of the Emerging Joint Local Plan 2041 in so far as these relate to spatial strategy and principles of sustainability remain consistent with the same conclusion.

⁴ Draft policies HOU10 of the Emerging Joint Local Plan 2041 remains consistent with the same conclusion. The emerging local plan is also looking to address the lack of a 5-year supply.

refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places.”

- 3.8 In the circumstances of the present case it is the council’s view that the adverse impacts of the development would still significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. This includes policies directing development to sustainable locations, making effective use of land, securing well-designed places, protecting the intrinsic value and beauty of the countryside, protecting biodiversity, ensuring highway safety and addressing contamination and water quality issues.
- 3.9 The construction of additional building and engineering operations undertaken by the owners subsequent to the date of the existing enforcement notice only adds weight to the council’s objection that the unauthorised development is contrary to policy H14 of the adopted local plan; and government guidance contained in the NPPF and PPTS relating to the appropriate location and development of gypsy and traveller sites.

Gypsy Traveller Status and Personal Circumstance

- 3.10 This matter was dealt with in paragraphs 6.25 – 6.28 of the original report, where it was concluded that the limited information concerning the personal circumstances of the owners and their families did not outweigh the planning harm arising from the unauthorised development.
- 3.11 Only limited additional information regarding the personal circumstances of occupiers of the site has been submitted subsequent to the issuing of the original enforcement notice. This additional information, submitted in support of the current appeal, confirms that the occupiers of the site include 7 x adults and 5 x children. The appellant also refers to serious health issues requiring specialist health care; efforts to register the children in school; and the provision of private tuition in the meantime. However, no corroborating evidence has been submitted in support of these further claims to which the council can attach much weight when considering the best interests of the children (i.e. doctor’s certificate, confirmation from the school of registration, evidence of private tuition, etc.). Conversely, the appellant’s failure to address onsite contamination issues and the undesirable highway conditions outside the site weigh against the best interests of the children.
- 3.12 There is nothing in the updated NPPF and/or PPTS that would cause the council to alter its assessment of the personal circumstances of the appellant and his family (including the best interests of children) or change the weight given to personal circumstances in the planning balance. Therefore, it remains the council’s view that the personal circumstances of the occupiers of the site, to extent that these are known, do not outweigh the planning harm arising from the unauthorised development.

Countryside and Landscape Impacts

- 3.13 This matter was dealt with in paragraphs 6.29 – 6.33 of the original report, where it was concluded that the unauthorised development had resulted in the widespread clearance of existing vegetation, including grassland, scrub and hedgerows; the unauthorised earthworks and the laying of areas of hardstanding materials had resulted in a significant alteration to the natural levels of the land as it falls away from the highway and towards the rear boundary; and the unauthorised earthworks had degraded the land and diminishing its ability to support meaningful landscaping. The development was also found to have had an urbanising impact, which sits uncomfortably in the landscape and is contrary to the rural character of the countryside

and the landscape setting of the village. This was contrary to policy ENV1 of the local plan⁵.

- 3.14 Paragraph 187 of the revised NPPF remains consistent with previous government guidance, that planning decisions should protect the intrinsic character and beauty of the countryside. Paragraph 26 of the revised PPTS still maintains that local planning authorities should very strictly limit new traveller site development in open countryside.
- 3.15 The construction of additional building and engineering operations undertaken by the owners subsequent to the date of the existing enforcement notice, have only served to further diminish the landscape and countryside qualities of the site and the surrounding area. This has added weight to the council's objection that the unauthorised development is contrary to policy ENV1 of the adopted local plan; and government guidance contained in the NPPF and PPTS aimed at protecting the intrinsic value of the countryside and the landscape from adverse development.

Good Design and Respect for Local Distinctiveness

- 3.16 This matter was dealt with in paragraphs 6.34 – 6.38 of the original report, where it was concluded that the unauthorised development was contrary to policies DES1, DES2, DES5 and H14 of the local plan; and policy TOW4 of the neighbourhood plan aimed at achieving good design and respect for local distinctiveness⁶.
- 3.17 Paragraph 131 of the revised NPPF still acknowledges good design to be a key aspect of sustainable development, that creates better places in which to live and work and helps to make development acceptable to communities. It also acknowledges that the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve.
- 3.18 The unauthorised development is of a character and appearance that sits uncomfortably in an otherwise open and tranquil rural setting. The use of domestic style close boarded fencing, ornamental entrance gates and pillars, external lighting and CCTV installations and extensive areas of hardstanding already gave the site a distinctly urban appearance that was contrary to the rural character of the site and its surrounding.
- 3.18 The construction of additional building and engineering operations undertaken by the owners subsequent to the date of the existing enforcement notice comprising the laying of additional areas of hardstanding over a wider area of the site; the laying of concrete slabs/bases; the laying of concrete and brick kerbs; the construction of brick skirts and steps around mobile homes; the erection of 3 ancillary residential buildings⁷; the erection of additional lengths of close board fencing; the installation of 3 x septic tanks; and the depositing of spoil, have only exacerbated the harm.
- 3.19 The development is therefore contrary to policies DES1, DES2, DES5 and H14 of the local plan; policy TOW4 of the neighbourhood plan; and government guidance contained in the NPPF and PPTS aimed at achieving good design and respect for local distinctiveness.

Highway Safety and Convenience

⁵ Draft policies NH3 and NH6 of the Emerging Joint Local Plan remain consistent with the same conclusions.

⁶ Draft policies DE1, DE2, DE6 and HOU10 of the Emerging Joint Local Plan 2041 remain consistent with the same conclusions.

⁷ Despite the owner's claims that one of these buildings is for the stabling of horses, the building was found to contain laundry, utility, dayroom and domestic storage facilities. The other two buildings variously contain kitchen, laundry and WC facilities.

- 3.20 This matter was dealt with in paragraphs 6.39 – 6.41 of the original report, where it was concluded that unauthorised development is contrary to policy TRANS5 of the adopted local plan in so far as it fails to “*provide safe and convenient routes for cyclists and pedestrians, both within the development, and including links to rights of way and other off-site walk and cycle routes*”⁸. There is nothing in the updated NPPF and/or PPTS that would cause the council to alter this assessment. Accordingly the council’s objection is maintained.

Amenity Impacts

- 3.21 This matter was dealt with in paragraphs 6.42 – 6.44 of the original report, where it was concluded that unauthorised development in its provision of outdoor lighting is contrary to the amenity of the area, the natural environment and the dark sky setting. This is contrary to policies DES6 and ENV12 of the local plan⁹. There is nothing in the updated NPPF and/or PPTS that would cause the council to alter this assessment. Accordingly the council’s objection is maintained.

Contamination

- 3.22 This matter was dealt with in paragraphs 6.45 – 6.52 of the original report, where it was concluded that the potential harm to the health of the occupants of the unauthorised development from existing contaminants on the site had not been adequately addressed by the owner. This is contrary to policy ENV11 of the local plan¹⁰. There is nothing in the updated NPPF and/or PPTS that would cause the council to alter this assessment. Accordingly the council’s objection is maintained.

Biodiversity

- 3.23 This matter was dealt with in paragraphs 6.53 – 6.55 of the original report, where it was concluded that the unauthorised development has result in a net loss of biodiversity and likely harm to protected species contrary to policies ENV2 and ENV3 of the adopted local plan¹¹.
- 3.24 Nothing in the updated NPPF and/or PPTS materially changes the council's position regarding the biodiversity impacts of the development on biodiversity. There is however revised wording in paragraph 187(d) (formerly 180(d)) of the NPPF which suggests that development should provide 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”. Paragraph 193 (formerly 186) of the NPPF otherwise remains materially unaltered.
- 3.25 The construction of additional building and engineering operations covering a wider area of the site, subsequent to the issuing of the existing enforcement notice, has only served to further diminish the amount of area available on site to compensate for the net loss of biodiversity resulting from the unauthorised development. This has added further weight to the council’s objection that the unauthorised development is contrary to policies ENV2 and ENV3 of the adopted local plan.

Drainage

⁸ Draft policy IN2 of the Emerging Joint Local Plan 2041 remains consistent with the same conclusions.

⁹ Draft policy CE10 and CE11 and of the Emerging Joint Local Plan 2041 remains consistent with the same conclusions.

¹⁰ Draft policy CE12 of the Emerging Joint Local Plan 2041 remains consistent with the same conclusions.

¹¹ Draft policy NH1 of the Emerging Joint Local Plan 2041 remains consistent with the same conclusions.

- 3.26 This matter was dealt with in paragraphs 6.56 – 6.58 of the original report, where it was reported that the underlying geology for the area is ‘gault mudstone’, which is recognised as being impermeable in nature. Percolation testing of the site would therefore be required to support of any proposal for surface or foul water drainage reliant on infiltration. Failure to demonstrate an appropriate and feasible method of drainage is contrary to policies EP4 and H14 of the local plan¹². There is nothing in the updated NPPF and/or PPTS that would cause the council to alter this assessment.
- 3.27 The construction of additional hardstanding area and the installation of septic tanks without having first demonstrated the feasibility of infiltration of surface and foul water drainage adds further weight to the council’s objection that the unauthorised development is contrary to policies EP4 and H14 of the adopted plan. Accordingly the council’s objection is maintained.

Deliberate Unauthorised Development

- 3.28 This matter was dealt with in paragraphs 6.59 – 6.60 of the original report, where it was reported that the owner had undertaken the development in defiance of a High Court injunction prohibiting the stationing of caravans and the undertaking development without planning permission.
- 3.29 Subsequent to the issuing of the existing enforcement notice, the owners of the site have continued to deliberately undertake unauthorised development in defiance of an order of the court. Accordingly, on 11 November 2024 the owners of the site were convicted of Contempt of Court and each given suspended sentences of 6 months, (suspended for 18 months). The criminal manner to which the owners have undertaken the deliberate unauthorised development, should add significant weight to the reasons underpinning the council’s decision to enforce against this unauthorised development.

4.0 ENFORCEMENT ISSUES

- 4.1 Paragraph 59 of the NPPF indicates that “...*Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and the local planning authority should act proportionately in responding to suspected breaches of planning control*”.
- 4.2 In the circumstances of the present case, the unauthorised development is contrary to policies relating to sustainability, the suitable location and development of gypsy traveller sites, the protection of the intrinsic value of the countryside and the character of the landscape, principles of good design and respect for local distinctiveness, loss of biodiversity, the risk of existing contamination on new development, the provision of adequate surface and foul water drainage and the deliberate unauthorised nature of the development to a criminal degree. This development could not be made acceptable by attaching conditions to any planning permission. Therefore, enforcement action is considered necessary, justified and proportionate to the breach.
- 4.3 Article 1 of the First Protocol of the Human Rights Act provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions; and Article 8 provides a right to respect for “private and family life”. These rights are not unqualified however, and a fair balance must be struck between the interests of the owner/occupiers of the site and the general interest of society as a whole.
- 4.4 The council has already issued an enforcement notice to require the unauthorised use of the site to cease. It is the recommendation of this report that the council now issue a further notice to require the related building and engineering operations comprising

¹² Draft policies CE6 and CE8 of the Emerging Joint Local Plan 2041 remains consistent with the same conclusions.

areas of hardstanding; close-boarded fences, pillars and gates; poles mounted with external lighting and closed-circuit television surveillance equipment; concrete slabs/bases; concrete and brick kerbs; brick skirts and steps around mobile homes; 3 buildings; 3 x septic tanks; and depositing of spoil to be demolished, dug up and removed from the site. It will also require the restoration of the land to its former condition by the grading of the land to levels and a fall commensurate with adjoining lands, the spreading of clean topsoil and the sowing of an appropriate meadow seed mix to all areas disturbed by the unauthorised development and the reinstatement of agricultural post and rail fencing to front, side and rear boundaries. The owner/occupier will not be dispossessed of their caravans or other chattels a result of this action. There will be some financial loss associated with the demolition, dismantling, digging up, removal and disposal (as the case may be) of unauthorised operations. However, some of the resulting materials may have some residual value that will offset some of this expense. There will also be some cost and disruption involved in seeking and securing an alternative mobile home site or other alternative accommodation. However, these costs are, in my opinion, proportionate to the planning harm resulting from the unauthorised development.

- 4.5 Provided that sufficient time is given for compliance with the terms of the notice (say 9 months) the above enforcement action would be consistent with the owner's human rights.

5.0 CONCLUSION

- 5.1 The unauthorised development has been undertaken contrary to policies relating to sustainability, the suitable location and development of gypsy traveller sites, the protection of the intrinsic value of the countryside and the character of the landscape, principles of good design and respect for local distinctiveness, loss of biodiversity, the risk of existing contamination on new development, the provision of adequate surface and foul water drainage and the deliberate unauthorised nature of the development. These policy objections are not outweighed in the planning balance by the lack of a 5-year supply of gypsy traveller sites in the local plan or the personal circumstances of the owner and his family, including the best interests of children, to the extent that these have been disclosed by the owner.

- 5.2 It is the recommendation of this report that a second enforcement notice (Notice B) be now issued capturing all of the unauthorised operations undertaken by the owners both prior to and subsequent to the issuing of the original notice (Notice A) on 5 June 2024. The Inspector in the current appeal will then be invited to amend the original Notice A pursuant to Section 176 of the Town and Country Planning Act 1990 by removing all references to facilitating operations, which will now be addressed more specifically in Notice B. Notice A would then deal solely with the material change of use and Notice B would deal solely with operations¹³. Alternatively, the Inspector could amend the original notice A to incorporate the updated list of unauthorised operations now contained in Notice B. In either event, the Inspector would also be invited to amend Notice A by increasing the number of caravans in the description of the breach of planning control from 4 to 5 caravans. These amendments could be done without prejudice to any interest.

6.0 RECOMMENDATION

- 6.1 That the council issue and serve an enforcement notice to require the unauthorised operations comprising: (i) earthworks to clear the site of vegetation and create a development platform, (ii) the laying of a hardstanding driveway and parking and manoeuvring areas, (iii) the erection of close-boarded fences and ornamental pillars and gates, (iv) the installation of poles mounted with external lighting and closed-

¹³ This is also consistent with the decision of the Court of Appeal in the matter of *Secretary of State for Levelling-up, Housing and Communities v Caldwell* [2024] EWCA Civ 467.

circuit television surveillance equipment, (v) the laying of concrete slabs/bases, (vi) the laying of concrete and brick kerbs, (vii) the construction of brick skirts and steps around mobile homes, (viii) the erection of 3 x buildings, (ix) the installation of 3 x septic tanks, and (x) the depositing of spoil, to be demolished, dismantled or dug up, as the case may be and removed from the land; and the land to be reinstated to its condition prior to the breach of planning control occurring, for the following reasons:

1. It appears to the council that the breach of planning control has occurred within the last 10 years.
2. The unauthorised development is situated in an unsustainable location in the open countryside physically separate and remote from the nearest settlement. The develop is therefore contrary to policies STRAT1, DES8 and TRANS5 of the South Oxfordshire Local Plan 2035; policy TOW1 of the Towersey Neighbourhood Plan; and government guidance contained in the National Planning Policy Framework and the Planning Policy for Traveller Sites in so far as these aimed at achieving sustainable development.
3. The lack of a 5-year supply of gypsy/traveller sites under the South Oxfordshire Local Plan 2035 and the personal circumstances of the owners and their families, are outweighed by other material considerations, including the adverse impacts of the development in terms of the character of the landscape; the intrinsic value of the countryside; the character and visual amenity of the surrounding area; the unsustainable location of the site; the net loss of biodiversity; the lack of information regarding sustainable surface and foul water drainage; and the deliberate unauthorised nature of the development. Furthermore, the unauthorised development does not positively enhance the environment and increase its openness. Rather, it has been designed in a manner that encloses the site in a way that gives the impression that the site and its occupants are deliberately isolated from the rest of the community. The proposed development is therefore contrary to policy H14 of the South Oxfordshire Local Plan 2035; and government guidance contained in the Planning Policy for Traveller Sites aimed achieving the suitable and sustainable location of gypsy/traveller sites; and the suitable design and assimilation of gypsy and traveller sites into their surroundings.
4. The unauthorised development has an urban character and appearance that sits uncomfortably in the existing rural landscape and countryside setting. The development is harmful to the landscape and the intrinsic character, beauty and tranquillity of the countryside, contrary to policies ENV1 and H14 of the South Oxfordshire Local Plan 2035; and government guidance contained in the National Planning Policy Framework and the Planning Policy for Traveller Sites in so far as these aim to protect the landscape qualities and intrinsic value of the countryside from adverse development.
5. The scattered nature of the built development on the site, the prominence of pole mounted lighting and surveillance equipment, the domestic character of the close boarded fences and gates that enclose the site, the prominent and ornately decorated pillars at the entrance to the site; and the extent to which the levels of the land have been altered and covered in hardstanding materials, all have an urbanizing impact on the character and appearance of the site that sits uncomfortably in an otherwise open and tranquil rural setting. The development does not physically or visually enhance or complement its surroundings and does not make adequate provision for any outdoor amenity space, including provision for landscaping or a play area for children. The development is therefore contrary

to policies DES1, DES2, DES5 and H14 of the South Oxfordshire Local Plan 2035; policy TOW16 of the Towersey Neighbourhood Plan; and government guidance contained in the National Planning Policy Framework and Planning Policy for Traveller Sites, aimed at achieving good design and respect for local distinctiveness.

6. The outdoor lighting mounted on poles is contrary to the amenity of the area, the natural environment and dark sky character of the setting. This is contrary to policies DES6 and ENV12 of the South Oxfordshire Local Plan 2035
7. The unauthorised development has resulted in a net loss of biodiversity and likely harm to protected species contrary to policies ENV2 and ENV3 of the South Oxfordshire Local Plan 2035; policy TOW7 of the Towersey Neighbourhood Plan; and government guidance contained in the National Planning Policy Framework aimed at protecting biodiversity.
8. Insufficient provision has been made for the sustainable drainage of surface and foul water in connection with the unauthorised development, having particular regard to the impermeable nature of the underlying geology, the natural fall of the land away from the highway and the absence of any water course or public sewer in proximity to the site. The development is therefore contrary to policies EP4 and H14 of the South Oxfordshire Local Plan 2035 and government guidance contained in the National Planning Policy Framework aimed at addressing flood risk and water quality.
9. The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections.

9.3 Detailed wording of the notices to be agreed with the council's Legal and Democratic Service.

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Recommendation made by: Rob Cramp 	Date: 7 January 2025
Agreed by: Emma Turner 	Date: 7 January 2025

