

TOWN & COUNTRY PLANNING ACT 1990

SECTIONS 78 & 174

APPELLANT: Mr Darren Smith

LOCATION: Land known as Emmanuel Ranch (formerly known as Windmill Meadow), Windmill Road, Towersey, Oxfordshire, OX9 3QQ.

DEVELOPMENT: Appeal C - Without planning permission the undertaking of operations comprising of: (i) earthworks to clear the site and create a raised 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 entrance 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.

SODC REF: P25/S0597/DA

PINS REF: APP/Q3115/C/25/3361189

HEARING STATEMENT

for

SOUTH OXFORDSHIRE DISTRICT COUNCIL

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1.0 INTRODUCTION

- 1.1 On 9 May 2024 the council refused a part retrospective planning application (P24/S0941/FUL) for the change of use and development of land known as Emmanuel Ranch (formerly known as Windmill Meadow), Windmill Road, Towersey, Oxfordshire, OX9 3QQ, to use as a residential caravan site for 3 gypsy families. The council's decision to refuse this application is already the subject of an appeal to the Planning Inspectorate (Appeal A – reference APP/Q3115/W/24/3346849) which remains pending.
- 1.2 On 5 June 2024 the council issued an enforcement notice in connection with an alleged breach of planning control involving the unauthorised material change of use of the appeal site from the keeping of horses to a mixed use, namely 1) keeping of horses; and 2) the stationing of four caravans for residential use, together with various facilitating operations. This enforcement notice is also the subject of an existing appeal to the Planning inspectorate (Appeal B - reference APP/Q3115/C/24/3346856), which remains pending.
- 1.3 Subsequent to the above, the owner has continued to development the land without planning permission, such that the unauthorised development now well exceeds both the scope and extent of the facilitating development referred to in the enforcement notice (Notice A) issued on 5 June 2004.
- 1.4 In the council's hearing statement submitted in connection with the above existing appeals the council invited the Inspector to exercise their power under Section 176 of the Town and Country Planning Act 1990 ('the Act') by amending the notice to capture any unauthorised development undertaken by the owner subsequent to the date of Notice A issued on 5 June 2025. However, given the extent of the unauthorised development that has now taken place, the council no longer believes that it is reasonable to ask the Inspector to do this.
- 1.5 The council therefore issued a further enforcement notice on 16 January 2024 (Notice B) to capture the full extent of operations undertaken at that date, a copy of this notice can be found at **Appendix 54**¹.

¹ The numbering of the Appendices submitted with this hearing statement will follow on numerically from those already submitted in connection with the earlier hearing statement in connection with Appeals A and B.

- 1.6 This hearing statement sets out the council's case in response to an appeal which has now been submitted against Notice B issued by the council on 16 January 2025 (Appeal C – reference APP/Q3115/C/25/3361189).
- 1.7 Notice B alleges that the following operations have been undertaken without the benefit of planning permission: (i) earthworks to clear the site and create a raised 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 entrance 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 spoil².
- 1.8 In summary, Notice B requires the above unauthorised development to be demolished, dismantle or dug-up as the case may be; the resulting materials removed from the land; and the site reinstated to its former condition.
- 1.9 The planning policy reasons underpinning the need for enforcement action can be summarised as follows:
- The application site is situated in an unsustainable location.
 - The lack of a 5-year supply of gypsy/traveller sites under the South Oxfordshire Local Plan 2035 and the personal circumstances of the applicant and his family are outweighed by other material considerations.
 - The proposed development is harmful to the landscape and the intrinsic character, beauty and tranquillity of the countryside.
 - The proposed development is contrary to principles of good design and respect for local distinctiveness.

² Some of the unauthorised operations captured by Notice B issued on 16 January 2025 are also included in the facilitating development referred to in Notice A issued on 5 June 2024. In order to account for this overlap, the Inspector is invited to amend Notice A pursuant to Section 176 of the Act by either removing all references to facilitating operations, which will then be more specifically addressed by Notice B; or alternatively, incorporating this more comprehensive list of operations into the list of facilitating development in Notice A and then quashing Notice B. This can be done without prejudice to any interest.

- The outdoor lighting mounted on poles is contrary to the amenity of the area, the natural environment and dark sky character of the setting.
- The unauthorised development already undertaken by the applicant and the additional development proposed to be undertaken has and will result in a net loss of biodiversity and likely harm to protected species.
- Insufficient provision has been made for the sustainable drainage of surface and foul water in connection with the unauthorised development.

1.10 Notice B is appealed under grounds (a), (f) and (g).

1.11 Appeals A, B and C have been linked and are to be considered together at a hearing to be held on 28 and 29 May 2025. This hearing statement should therefore be read in conjunction with the hearing statement and related Appendices already submitted in connection with Appeals A and B.

1.12 This hearing statement will also address a number of changes to planning policy and guidance that have occurred since the previous hearing statement was submitted as these relate to all three appeals, including changes relating to:

- National Planning Policy Framework
- Planning Policy on Traveller Sites
- Emerging Joint Local Plan 2041
- Revised Gypsy and Traveller Accommodation Assessment

2.0 THE APPEAL SITE

2.1 The appeal site and its surrounding context is generally as described in section 2 (paragraphs 2.1 to 2.8) of the hearing statement previously submitted in connection with Appeals A and B and is not repeated here.

2.2 The extent to which the appellant has continued to development the site without planning permission subsequent to the issuing of Notice A on 5 June 2024 can be seen from a comparison of the aerial photographs at Figures 1 and 2 below:



Figure 1 – 5 June 2024



Figure 2 – 7 November 2024

2.3 The use and development of the land has changed in the following manner. There are currently 5 x caravans stationed on the land (not 4 as stated in Notice A)³ and the scope of operations has also 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.

³ The Inspector is invited to amend Notice A pursuant to Section 176 of Act 1990 by increasing the number of caravans referred to in the description of the alleged breach from 4 to 5 caravans. This can be done without prejudice to any interest.

3.0 RELEVANT PLANNING HISTORY

- 3.1 The relevant planning history of the site is generally as described in section 3 (paragraphs 3.1 – 3.43) of the hearing statement previously submitted in connection with Appeals A and B and is not repeated here. The following additional events have occurred since then.
- 3.2 On 11 November 2024 the owners of the site were convicted of contempt of court and each given sentences of 6 months, (suspended for 18 months) in connection with their failure to comply with the High Court injunction issued on 6 December 2023 (see **Appendix 31**). The injunction had prohibited the owners from bringing onto the land any caravan and/or mobile home without the written permission of the council. The injunction had further prohibited the defendants from carrying out any works on the land in breach of planning control. At **Appendix 55** is a copy of the High Court judgment dated of 11 November 2024, which speaks to the deliberate manner in which the appellant has undertaken this unauthorised development.
- 3.3 Given the extent to which the scope and extent of the unauthorised development has continued to grow on the site, subsequent to the issuing of Notice A on 5 June 2024, the council issued a further the enforcement notice (Notice B) on 16 January 2025. This notice captures the full extent of unauthorised operations undertaken on the site in connection with the unauthorised use of the site a gypsy and traveller site. A copy of Notice B dated 16 January 2025 is held at **Appendix 54**. A copy of the officer's delegated report justifying enforcement action is held at **Appendix 56**. Copies of Site visit notes and photographs from a site visit undertaken by council officers on 21 November 2024 are held at **Appendix 57**.

4.0 POLICY CONTEXT

National Planning Policy Framework (NPPF)

4.1 The National Planning Policy Framework (NPPF) sets out the Government's national planning policies for England. Subsequent to the submission of the previous hearing statement in connection with Appeals A and B, a revised version of the NPPF came into effect on 12 December 2024. The following paragraphs are of relevance to the Inspector's consideration of all three appeals:

- Paragraph 2 - Determined in accordance with development plan
- Paragraph 4 – NPPF should be read in conjunction with PPTS
- Paragraph 8 - Objectives of sustainable development
- Paragraph 10-11 - Presumption in favour of sustainable development
- Paragraph 39 - Decision making
- Paragraph 48 - Determining applications
- Paragraph 49 - Giving weight to policies in emerging plans
- Paragraph 60 - Effective enforcement
- Paragraph 83 - Location of rural housing
- Paragraph 84 - Avoiding isolated development in the countryside
- Paragraph 90 - Support for a network of settlements
- Paragraph 131, 135 - Achieving well-designed places
- Paragraph 187 - Intrinsic value of countryside and landscape
- Paragraphs 192-195 - Biodiversity
- Paragraph 196 - Contamination.

4.2 Paragraph 2 makes clear that *“Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account...and is a material consideration in planning decisions.”* This guidance remains unchanged from the previous NPPF.

- 4.3 Paragraph 4 states that *“The Framework should be read in conjunction with the Government’s planning policy for traveller sites...”*. This guidance remains unchanged from the previous NPPF.
- 4.4 Paragraph 8 identifies three overarching and interdependent objectives that need to be pursued in a mutually supportive way in order to achieve sustainability – these are economic, social and environmental objectives. This guidance remains unchanged from the previous NPPF.
- 4.5 Paragraph 10 makes clear that in order for sustainable development to be pursued in a positive way, at the heart of the NPPF is a **presumption in favour of sustainable development** which is set out at Paragraph 11. This makes clear that decisions should be taken in line with an up-to-date development plan. According to Paragraph 11(d)(ii) where policies which are most important for determining the application are out-of-date planning permission should be granted unless *“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...”*. The following words have now been added in the recently revised NPPF: *“...having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”*.
- 4.6 Paragraph 39 states that *“Local planning authorities should approach decisions on proposed development in a positive and creative way... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”* This guidance remains materially unchanged from the previous NPPF.
- 4.7 Paragraph 48 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. This guidance remains materially unchanged from the previous NPPF.

- 4.8 Paragraph 49 states that *“Local planning authorities may give weight to relevant policies in emerging plans according to:*
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

This guidance remains materially unchanged from the previous NPPF. At paragraph 4.20 below is a list of relevant draft policies from the Emerging Joint Local Plan 2041 together with the appropriate weight that should be given to each policy after applying the above criteria.

- 4.9 Paragraph 60 highlights that *“Effective enforcement is important to maintain public confidence in the planning system”*. This guidance remains materially unchanged from the previous NPPF.
- 4.10 Paragraph 83 relates to ‘rural housing’ and makes clear that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 84 states that planning decisions should avoid the development of isolated homes in the countryside unless certain exceptional circumstances apply, such in the case of an essential rural worker. This guidance remains materially unchanged from the previous NPPF.
- 4.11 Paragraph 90 requires local planning authorities to define a network of town centres and settlements in which new development for mixed purposes (housing, commercial, leisure and other uses) can be encouraged to grow in order to build a strong and sustainable economy. This guidance remains materially unchanged from the previous NPPF.
- 4.12 Paragraph 131 recognises that good design is a key aspect of sustainable development, which creates better places in which to live and work and helps make development acceptable to communities. In this regard paragraph 135

makes clear that decisions should ensure that developments, inter alia, “*add to the overall quality of the area; are visually attractive; are sympathetic to local character, including the landscape setting; maintain a strong sense of place; and create attractive, welcoming and distinctive places to live, work and visit*”. This guidance remains materially unchanged from the previous NPPF.

- 4.13 Paragraph 187 states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and minimising impacts on and providing net gains for biodiversity, among other things. This guidance remains materially unchanged from the previous NPPF.
- 4.14 Paragraphs 192-195 outlines the approach that local planning authorities should apply in order to protect and enhance biodiversity and secure measurable net gains for biodiversity. If significant harm to biodiversity resulting from development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This guidance remains materially unchanged from the previous NPPF.
- 4.15 Paragraph 196 states that planning decisions should ensure that a site is suitable for its proposed use taking account of the ground conditions, including any risk arising from contamination. This guidance remains materially unchanged from the previous NPPF.

Planning Policy for Traveller Sites (PPTS)

- 4.16 The PPTS sets out the governments planning policy for traveller sites and should be read in conjunction with the NPPF. A revised version of the PPTS came into effect on 12 December 2024 which has implications for all three appeals before the Inspector. The relevant paragraphs are:
- Paragraph 3 - Overarching aim
 - Paragraph 13 - Sustainability
 - Paragraph 23 - Determined in accordance with the development plan.
 - Paragraph 24 - Presumption in favour of sustainable development

- Paragraph 25 - Relevant consideration
- Paragraph 26 - Limit new development in open countryside
- Paragraph 27 - matters to be weighted in planning decisions
- Paragraph 28 - if an up-to-date 5 year supply of deliverable sites cannot be demonstrated, the provisions of paragraph 11(d) in the NPPF will apply.
- Annex 1 (Glossary) - definition of “gypsies and travellers”.

4.17 Paragraph 3 states that is the Government’s overarching aim 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. According to Paragraph 4, it is the Government’s aim, among other things, to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure, whilst having due regard to the protection of local amenity and the local environment. This guidance remains materially unchanged from the previous PPTS.

4.18 Paragraph 13 states that local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. This guidance remains materially unchanged from the previous PPTS.

4.19 Paragraph 23 reminds the decision maker that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. This guidance remains materially unchanged from the previous PPTS.

4.20 In addition, paragraph 24 states that: *“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.”* This guidance remains materially unchanged from the previous PPTS.

4.21 Paragraph 25 sets out a number of relevant issues that must be considered in planning decisions, as follows:

- 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*

This guidance remains materially unchanged from the previous PPTS.

- 4.22 Paragraph 26 is specific to open countryside and states: *“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. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”*

This guidance remains materially unchanged from the previous PPTS.

- 4.23 Paragraph 27 states that when considering applications, local planning authorities should attach weight to the following matters:
- a) *effective use of previously developed (brownfield), untidy or derelict land;*
 - b) *sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;*
 - c) *promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;*
 - d) *not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.*

This guidance remains materially unchanged from the previous PPTS.

- 4.24 Paragraph 28 provides 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 NPPF will apply⁴. According to this paragraph of the NPPF planning permission should be granted unless “*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 and providing affordable homes, individually or in combination*”.

- 4.25 Annex 1 (Glossary) defines “gypsies and travellers” for the purposes of the PPTS as: “*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural addition 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*”. Although this definition has changed from the previous version of the PPTS the changes do not alter the council’s view that the appellant and his family comply with the definition of gypsies and travellers.

South Oxfordshire Local Plan 2035

- 4.26 The South Oxfordshire Local Plan 2035 was adopted on 10 December 2020. The following planning policies are relevant to a consideration of the current appeal, copies of which can be found at **Appendix 47**:

- STRAT1 - The Overall strategy
- DES1 - Delivering High Quality Development
- DES2 - Enhancing Local Character
- DES5 - Outdoor Amenity Space
- DES6 - Residential Amenity
- DES8 – Promoting Sustainable Design
- ENV1 - Landscape and Countryside
- ENV2 - Priority Habitats and Species
- ENV3 - Biodiversity

⁴ This represents a material amendment to previous guidance which held that the failure to demonstrate a 5-years supply represented “a significant material consideration”.

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

TRANS5 - Consideration of Development Proposals

Appendix 7 – Settlement Hierarchy

- 4.27 The thrust of government guidance regarding sustainable development is carried through in the overall strategy of the local plan at policy STRAT1. This strategy seeks to ensure that the majority of new development is focused on the existing hierarch of settlements, where there is better access to services and public transport links. The appeal site does not fall within the built-limits of any settlement and is therefore in the countryside. The strategy seeks to protect and enhance the countryside, by ensuring that outside of the towns and villages any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment.
- 4.28 Policy DES1 requires all new development to be of a high quality design that, among other things, enhances biodiversity and respects the local context, working with and complementing the scale, height, density, grain, massing, type, and details of the surrounding area.
- 4.29 Policy DES2 requires new development to reflect the positive features that make up the character of the local area and should both physically and visually enhance and complement the surroundings. All proposals for new development should be informed by a contextual analysis that demonstrates how the design:
- i) has been informed by and responds positively to the site and its surroundings; and
 - ii) reinforces place-identity by enhancing local character.

- 4.30 Policy DES5 requires a private outdoor garden or amenity space to be provided for all new dwellings. This should be provided as an integral part of the design and not as an afterthought. These spaces should not be compromised by parking or garages.
- 4.31 Policy DES6 requires that development proposals should not result in significant adverse impacts on the amenity of neighbouring uses, by reason of the following factors:
- (i) loss of privacy, daylight or sunlight;
 - (ii) dominance or visual intrusion;
 - (iii) noise or vibration;
 - (iv) smell, dust, heat, odour, gases or other emissions;
 - (v) pollution, contamination or the use of / or storage of hazardous substances; and
 - (vi) external lighting.
- 4.32 Policy DES8 seeks to promote sustainability by ensuring that all new developments seek to minimise the carbon and energy impacts of their design and improve resilience to the effects of climate change.
- 4.33 Policy ENV1 seeks to protect the district's landscape, countryside and rural areas from harmful development. Development will only be permitted where it protects and, where possible enhances, features that contribute to the nature and quality of the landscapes. Development which supports economic growth in rural areas will be supported provided it conserves and enhances the landscape, countryside and rural areas.
- 4.34 Policy ENV2 states that development likely to result in, either directly or indirectly, the loss or deterioration or harm of priority species, will only be permitted if:
- (i) the need for, and benefits of the development in the proposed location outweighs the adverse effect on the interests;
 - (ii) it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the interests; and

- (iii) measures will be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate or as a last resort, compensate for the adverse effects resulting from development.
- 4.35 Policy ENV3 states that Development that will conserve, restore and enhance biodiversity in the district will be supported. All development should provide a net gain in biodiversity where possible. As a minimum, there should be no net loss of biodiversity. All proposals should be supported by evidence to demonstrate a biodiversity net gain using a recognised biodiversity accounting metric Planning permission will only be granted if impacts on biodiversity can be avoided, mitigated or, as a last resort, compensated fully.
- 4.36 Policy ENV11 states that development proposals should be appropriate to their location and should be designed to ensure that the occupiers of a new development will not be subject to the effects of pollution. Development on contaminated land will not be permitted unless the contamination is effectively treated by the developer to prevent any harm to human health and the natural environment.
- 4.37 Policy ENV12 seeks to protect the amenity of the natural environment and neighbouring uses from any significant adverse impacts from new development, by reasons of such things as noise or vibration; artificial light, or various polluting emissions.
- 4.38 Policy EP3 requires development proposals for residential use to ensure that adequate facilities are provided for the sorting, storage and collection of waste and recycling.
- 4.39 Policy EP4 provides, amongst other things, that all developments incorporate a sustainable drainage strategy to ensure that runoff rates are attenuated to greenfield run-off rates; and enhance water quality and biodiversity.
- 4.40 Policy H1 states that proposals for new residential caravan and mobile home sites to accommodate people who do not meet the planning definition for Gypsies will be considered in accordance with this policy. Such development

will generally be permitted on allocated site. On unallocated sites, however, planning permission will only be permitted where:

- i) it is for affordable housing on a rural exception site or entry level housing scheme; or
- ii) it is for specialist housing for older people in locations with good access to public transport and local facilities; or
- iii) it is development within the existing built up areas of towns and larger villages as defined in the settlement hierarchy (shown in Appendix 7); provided an important open space of public, environmental, historical or ecological value is not lost, nor an important public view harmed; or
- iv) it is infilling, and brownfield sites within smaller and other villages as defined in the settlement hierarchy; or
- v) it is brought forward through a community right to build order; or
- vi) there are other specific exceptions/circumstances defined in a Neighbourhood Development Plan and/or Neighbourhood Development Orders; or
- vii) it would bring redundant or disused buildings into residential use and would enhance its immediate surroundings; or
- viii) the design is outstanding or innovative and of exceptional quality and would significantly enhance its immediate setting.

4.41 Policy H14 of the local plan identifies a requirement for 10 pitches to be provided on allocation sites identified in Part 1 of the policy over the period of the plan. Of those required pitches 8 remain to be delivered. However, the council is currently unable to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of required pitches and therefore has a zero years' supply of pitches. Part 2 of policy H14 also provides a criteria-based policy for determining proposals that come forward on unallocated sites. These additional proposals will be permitted where it is demonstrated that the following criteria have been met:

- (i) the capacity of the site can be justified to meet needs for further Gypsy, Traveller and Travelling Showpeople sites, or extensions to existing sites;
- (ii) the site is not located within the Oxford Green Belt unless very special circumstances are demonstrated;

- (iii) the proposal will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate visual impacts on its surroundings;
- (iv) there are no adverse impacts on the significance of heritage assets;
- (v) the site has safe and satisfactory vehicular and pedestrian access to the surrounding principal highway network. The site will be large enough to enable vehicle movements, parking and servicing to take place, having regard to the number of pitches/plots on site;
- (vi) the site can be provided with safe electricity, drinking water, sewage treatment and waste disposal facilities; and
- (vii) no significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where other forms of housing would not be suitable.

4.42 Policy INF4 requires all new development to be served and supported by appropriate onsite and off-site infrastructure and services.

4.43 Policy TRANS5 of the local plan requires proposals for all types of development to: provide for a safe and convenient access for all users to the highway network; provide safe and convenient routes for cyclists and pedestrians; provide for covered, secure and safe cycle parking; be designed to facilitate access to public transport; be served by an adequate road network without creating traffic hazards; and provide for loading, unloading, circulation and turning space in accordance with Oxfordshire County Council parking standards.

Emerging Joint Local Plan 2041

4.44 The Council has prepared a Joint Local Plan for South Oxfordshire and Vale of White Horse District Councils, which, once adopted, will replace the existing local plans. The Joint Local Plan was submitted to the Secretary of State on Monday 9 December 2024 for independent examination. In line with paragraph 49 of the National Planning Policy Framework (NPPF), decision-makers may give weight to relevant policies in emerging plans depending on several factors: the stage of preparation, the extent of unresolved objections,

and the degree of consistency with the NPPF. The starting point for decision taking remains with the policies in the current adopted plan. The Joint Local Plan is at an advanced stage of preparation and carries some weight. Where unresolved objections have been received on policies, limited weight should be applied, but where there are no unresolved objections, moderate weight can be applied. Full weight should only be applied, where relevant, following the outcome of the independent examination and adoption of the Joint Local Plan.

- 4.45 Copies of the relevant draft policies from the Emerging Joint Local Plan can be found at **Appendix 58**. These policies are listed below, together with the relative weight that should be given to each policy according to the criteria outlined at Paragraph 49 of the NPPF:

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

- 4.46 Draft policy CE6 seeks to minimise both the risk and impact of flooding by ensuring that development does not increase the risk of flooding elsewhere; and taking opportunities provided by development to reduce the cause of flooding. Draft policy CE8 seeks to protect and enhance water quality through the use of green infrastructure, including sustainable drainage systems (SuDS). Where development may have an adverse impact on water quality, evidence must be provided that identifies potential impacts and suitable mitigation.

- 4.47 Draft Policy CE10 provides that development proposals should not have an adverse impact on the amenity of neighbouring uses by reason of noise, vibration , smell, dust, odour, artificial light and other polluting emissions.
- 4.48 Draft policy CE11 states that all proposals should be designed to minimise light pollution.
- 4.49 Draft policy CE12 states that where land is known or suspected of being contaminated, and application will require at least a Phase 1 Contaminated Land Preliminary Risk Assessment prepared in accordance with the council's 'latest guidance'.
- 4.50 Draft policy SP1 outlines the spatial strategy for the emerging plan. Amongst other things it states that *"Development in the countryside, including areas outside of existing built-up areas, will not be appropriate unless specifically supported by other relevant policies as set out in the development plan or national policy, for example...rural exceptions and rural workers' dwellings"*.
- 4.51 Draft policy SP2 provides a hierarchy of settlements where development is encouraged to varying degrees. The nearby settlement of Towersey does not fall into any of the tiers of settlement identified in the settlement hierarchy and therefore falls within the countryside as do lands falling outside the settlement. Development in the countryside will not be appropriate unless specifically supported by other relevant policies as set out in the development plan of national policy.
- 4.52 Draft policy HOU10 seek to address an identified need for traveller pitches during the planning period to 2041, as identified in the council's latest GTAA, which has now been published and submitted for examination in support of the Joint Local Plan. A 'Planning Policy Update on Gypsies and Travellers' from the council's policy team is contained at **Appendix 59**. In summary:
- The council is currently unable to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites.
 - The GTAA identifies the need for pitches resulting from four variant scenarios of between 48 and 68 pitches, of which 33 or 34 pitches are needed in the first five years.

- 4.53 Draft policy HOU10 currently proposes to supply pitches to meet the need identified in the GTAA through a combination of the following:
- a) implementation of extant planning permissions;
 - b) extending or intensifying existing authorised sites where possible to meet the needs of existing residents and their families;
 - c) the regularisation of unauthorised sites with temporary permission, where there would be no unacceptable harm; and
 - d) the required provision of 6 to 10 pitches on various housing allocations site identified in the plan.
- 4.54 Proposals for traveller sites will be permitted where:
- a) The proposed development is in an appropriate location adjacent to settlement where there is a range of services and facilities, especially health and educational facilities;
 - b) There will be no adverse impact on the amenity of future occupiers of existing neighbouring uses;
 - c) The scale and type of development is appropriate to the location, considering character, local services and facilities;
 - d) The site can be provided with safe electricity, drinking water, sewage treatment and waste disposal facilities
 - e) Nearby existing outdoor amenity space, including child-friendly space to play can be safely accessed and where this is not possible provision can be made on site;
 - f) Arrangements are put in place to ensure the proper management of the site to seek to ensure community cohesion between the settled and traveller community;
 - g) There is clear demarcation of the site boundaries using appropriate boundary treatments and landscaping which is characteristic of the local context.
- 4.55 Draft Policy DE1 requires all new development to achieve high quality design that, among other things: responds positively to the site and its surroundings; reinforces local identity; is landscape led, by retaining and strengthening the site's landscape features and character; retains and enhances biodiversity;

avoids the use of artificial grass; uses planting to help development integrate into the landscape.

- 4.56 Draft Policy DE2 states that all new development must be designed to reflect the positive features that make up the character and identity of the local area and should both physically and visually enhance and complement the surroundings.
- 4.57 Draft Policy DE5 states that development proposals must demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses, when considering both individual and cumulative impacts, in relation to the following factors: loss of privacy, daylight or sunlight; dominance or visual intrusion; noise or vibration; smell, dust, heat, odour, gases or other emissions; pollution, contamination external lighting.
- 4.58 Draft policy DE6 requires the provision of a high quality, usable private outdoor garden or outdoor amenity space, or alternatively a shared outdoor amenity area for all new dwellings. Proposals for new development should demonstrate that the size, location and character of gardens and outdoor amenity spaces have been considered as an integral part of the design and not as an afterthought. These spaces should not be compromised by parking areas or garages.
- 4.59 Draft Policy DE7 requires development proposals for residential use to provided adequate facilities for the sorting, storage and collection of recycling and waste.
- 4.60 Draft policy NH1 provides that development likely to result directly or indirectly in the loss, deterioration or harm of priority species will only be permitted if:
- a) the need for and benefits of the development in the proposed location outweigh the adverse effect on the interests;
 - b) the applicant effectively demonstrates that the development could not reasonably be located on an alternative site that would result in less or no harm to the interests;

- c) the applicant effectively demonstrates that there is no alternative design that would result in less or no harm to the interests; and
 - d) measures will be provided (and secured through planning conditions or legal agreements) that would avoid, mitigate or, as a last resort, compensate for the adverse effects resulting from development.
- 4.61 Draft Policy NH2 seeks to achieve a biodiversity net gains on a development site where possible. Where the full biodiversity net gain requirement cannot be delivered on site, a sequential approach must be used to direct the creation and enhancement of habitats off site:
- 4.62 Draft Policy NH3 states that development should make every effort to retain, protect and enhance existing trees, woodlands and hedgerows. Where retention is not possible, and a proposal seeks their removal; compensatory planting should provide a net gain in canopy cover.
- 4.63 Draft Policy NH6 seeks to protect the landscapes, countryside and rural areas of the district from harmful development. Proposals should be accompanied by a Landscape and Visual Impact Assessment or a Landscape and Visual Appraisal which is proportionate to the level of landscape sensitivity and scale of development. Development will only be permitted where it protects and, where possible, enhances the features and functions that contribute to the nature and quality of the landscape.
- 4.64 Draft Policy NH7 requires development proposals to conserve and enhance tranquillity.
- 4.65 Draft Policy IN2 states that new development must be served and supported by appropriate and adequate on-site and off-site infrastructure and services.
- 4.66 Draft Policy IN5 requires new development to provide cycle and car parking in accordance with Oxfordshire County Council's adopted parking standards.

Neighbourhood Plan

- 4.67 Towersey Neighbourhood Plan was adopted as part of the development plan on 14 December 2023. The following planning policies are relevant to a

consideration of the current appeal, copies of which can be found at **Appendix 48:**

- TOW1 - Village boundaries
- TOW4 - Design
- TOW7 - Biodiversity

4.68 Policy TOW1 states that proposals for development outside the Village Boundary will only be supported where they are considered appropriate rural development as defined by the NPPF, and are consistent with other policies in the development plan including the other policies in this Plan.

4.69 Policy TOW4 states that development proposals should sustain and where practicable enhance the character of the Parish, appropriate to their scale, nature and location.

4.70 Policy TOW7 seeks to maintaining and, where practicable, improving biodiversity assets including, trees, hedgerows and land of biodiversity value, in the design of their layouts and landscaping schemes.

South Oxfordshire Landscape Character Assessment (2017)

4.71 The Site is situated in the 'undulating open vale' of the 'Clay Vale' landscape character area. This is described in the South Oxfordshire District Landscape Character Assessment 2017, relevant extracts of which can be found at **Appendix 49.**

Joint Building Design Guide

4.72 The South Oxfordshire and Vale of White Horse Joint Design Guide is a Supplementary Planning Document adopted in June 2022 and is a material consideration when determining planning applications. Relevant extracts of the Joint Design Guide are held at **Appendix 50.**

4.73 The Joint Design Guide under the heading of 'Place and Setting' emphasises the importance of undertaking a contextual assessment of the site before undertaking development in order to inform good design. This includes

among other things: the landscape character of the area; attractive views; land uses adjacent to the site and how these will be impacted; the settlement structure of the site and surrounding area; and the built character of the area (scale, form and massing).

- 4.74 The Joint Design Guide under the heading of 'Built Form' emphasis respect for local context whilst striving for excellence in architectural quality and sustainability as a key goal. Development should respond positively to the character and local vernacular; be sensitive to its context regarding scale, massing and height; and work with and respond positively to the existing landscape, topography, settlement pattern and plot patterns. Buildings in rural and lower density areas should be integrated into their landscape setting and site contexts in a sensitive manner. Buildings should not be located on exposed sites where the buildings will become a dominant visual feature to the detriment of the existing landscape character.

Chartered Institute of Highways & Transportation - 'Providing for Journeys on Foot'

- 4.75 The established advice for walking is contained within the document 'Providing for Journeys on Foot' published by the Chartered Institute of Highways and Transport (CIHT) in 2000 and 'Planning for Walking' by the CIHT in 2015. Table 3.2 of CIHT2000 (see **Appendix 51**) sets out the acceptable walking distances. The guidelines in Table 3.2 are:

	Town centre (metres)	Communing/School and sightseeing (metres)	Elsewhere (metres)
Desirable	200	500	400
Acceptable	400	1,000	800
Preferred Maximum	800	2,000	1,200

- 4.76 While it may be suggested that the acceptable walking distance guidelines stated in CIHT2000 are dated, that concern is not borne out by the information contained within Table NTS0303d the National Transport Survey

2021 (see **Appendix 52**). This survey shows that between 2002 and 2022 the average walking trip length has remained relatively constant at 0.7 miles (1.12 km). Those national survey results suggest that individuals' attitudes towards walking trip lengths, have not altered appreciably and that there is no particular issue with the currency of the guidance contained in CIHT2000.

- 4.77 In any event, the more recent document 'Planning for Walking' (CIHT2015) (see copy at **Appendix 53**) cross references to CIHT2000 in sections 4 and 6, indicates that, irrespective of the age of its acceptable walking guidelines, they continued to have currency.

5.0 CASE FOR THE COUNCIL

Ground (a) - That planning permission should be granted for what is alleged in the notice.

- 5.1 A ground (a) appeal places a deemed planning application before the Inspector for the matters described in the enforcement notice as constituting the alleged breaches of planning control, which in the case of Notice B, is: *“the undertaking of operations comprising of: (i) earthworks to clear the site and create a raised 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 entrance 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”*.
- 5.2 Although this hearing statement deals primarily with the above-described development in connection with Appeal C, the council will take the opportunity to comment on what impact, if any, recent changes to planning policy and government guidance have had on its previous assessment of the Appeal A and B proposals since the submission of the previous hearing statement.
- 5.3 The planning issues relevant to the assessment of all three appeal matters are as follows:
- 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)

- 5.4 The presumption in favour of sustainable development lies at the very heart of government guidance contained in the NPPF. Paragraph 8 identifies three overarching and interdependent objectives that need to be pursued in a mutually supportive way in order to achieve sustainability – these are economic, social and environmental objectives. Paragraph 86 of the NPPF requires local planning authorities to define a network of town centres and settlements, in which new development for mixed purposes (housing, commercial, leisure and other uses) can be encouraged to grow in order to build a strong and sustainable economy.
- 5.5 Paragraphs 13 of the PPTS emphasises the importance of ensuring that traveller sites are sustainable economically, socially and environmentally; and paragraph 26 states 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”*.
- 5.6 The thrust of this government guidance is carried forward in policy STRAT1 of the adopted local plan, which seeks to focus new development on existing towns and villages that are identified in settlement hierarchy; and protect and enhance the countryside by ensuring that outside of the towns and villages any change relates to very specific needs such as those of the agricultural industry or enhancement of the environment. The settlement hierarchy at Appendix 7 of the adopted local plan does not include the nearby settlement of Towersey within any of the categories of settlement, where new development is encouraged. Towersey therefore forms part of the countryside and the appeal site which falls outside of the settlement must therefore form part of the open countryside. Policy DES8 seeks to promote sustainability by ensuring that all new developments seek to minimise the carbon and energy impacts of their design and improve resilience to the effects of climate change. Policy TRANS5 requires proposals for all types of development to provide, among other things, safe and convenient routes for

cyclists and pedestrians, including links to off-site walking and pedestrian links.

- 5.7 Draft policies SP1, SP2, HOU10, IN2, and IN5 of the Emerging Joint Local Plan 2041 (limited weight), in so far as these refer to matters related to the spatial strategy and/or principles of sustainability remain consistent with the existing adopted policies of the development plan.
- 5.8 Policy TOW1 of the neighbourhood plan provides that proposals for development outside the village boundary will only be supported where they are considered appropriate rural development as defined by the NPPF and are consistent with other policies in the development plan.
- 5.9 In the circumstances of the appeal site is situated in the open countryside. The site is physically separate and remote from the settlement and is therefore in an isolated location within the meaning of paragraph 83 of the NPPF. The unauthorised development does not benefit from any exception under either the NPPF or development plan that would justify its provision in this isolated and unsustainable location in the countryside.
- 5.10 The enforcement site is situated approximately 200m north of the built-up limits of Towersey. The village provides no services other than a public house approximately 800m away and a bus stop approximately 500 metres away, which provides a limited bus service to Thame on Tuesdays and Thursdays only (on a trial basis only). The nearest railway station is at Thame Parkway approximately 8km away. The nearest services are in Thame. These include the nearest food store (2.6 km); school (2.0km); child nursery (2.0km), medical centres (3.0km) and dental surgery (3.5km).
- 5.11 The travel distances to all of the abovementioned facilities would appear to exceed both the desirable and acceptable walking distances outlined in the established advice for walking 'Providing for Journeys on Foot' published by the Chartered Institute of Highway and Transport (see table below). They also either exceed or in some instances sit just within the maximum recommended limits of this guidance.

	Town centre (metres)	Communing/School and sightseeing (metres)	Elsewhere (metres)
Desirable	200	500	400
Acceptable	400	1,000	800
Preferred Maximum	800	2,000	1,200

- 5.12 Windmill Road (immediately adjacent to the enforcement site) and other roads on the route to Thame are unlit and have no separate footpath and are, in places, subject to national speed limit (60mph). These factors combine to discourage both walking and cycling to and from the site and make it unsafe to do so. The site does not therefore have safe and convenient routes for cyclists and pedestrians, including links to off-site walking and pedestrian links. This is a concern that is shared by the Oxfordshire County Council as Highway Authority (see **Appendix 36**).
- 5.13 I acknowledge that the nomadic lifestyle of gypsies and travellers whilst engaged in travelling, involves a higher use of private vehicle and reduced opportunities for using public transport. In the context of the application site, however, where the owners are more settled in order to avail themselves of local services and facilities, the same does not apply. Indeed, the PPTS does not suggest that sustainability, should not apply to gypsy and traveller sites in the same way as other residential land uses. Rather, it endorses the principles of sustainability when assessing the suitability of gypsy and traveller sites and requires local planning authorities to *“very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan”*.
- 5.14 In the circumstances of the present case, the site is not closely linked to nearby settlements through sustainable transport modes (as defined in the NPPF) and the occupiers of the site would be almost completely reliant on the use of private motor vehicle when accessing facilities and services.

- 5.15 The development also fails to achieve a satisfactory balance between the economic, environmental and social objectives necessary to achieve sustainable development.
- 5.16 Economically, the owner has failed to make a case in support of the development other than to suggest that the site will provide a home base from which the applicant and his two grown sons will travel for work.
- 5.17 Environmentally, the development is harmful to the character of the landscape and intrinsic value of the countryside; contrary to principles of good design and respect for local distinctiveness, which is a key element of sustainability; contrary to the amenity of the area; results in a net loss of biodiversity; fails to adequately address onsite contamination issues; and fails to mitigate and adapt to climate change by minimising the need to use private motor vehicles to access local services.
- 5.18 Socially, the personal circumstances of the owner and his family, to the limited extent that these has been disclosed, do not , in my opinion, outweigh the development's failure to achieve these other economic and environmental objectives.
- 5.19 This matter was dealt with in paragraphs 5.10 – 5.24 of the hearing statement previously submitted in connection with Appeals A and B, where it was concluded that the unauthorised development was contrary to the spatial strategy of the development plan and principles of sustainability.
- 5.20 There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter its previous assessment. If anything, the construction of additional building and engineering operations undertaken by the owners subsequent to the date of the first enforcement notice only adds weight to the council's objection that the unauthorised development is contrary to policies STRAT1, DES8 and TRANS5 of the local plan; policy TOW1 of the neighbourhood plan; and government guidance contained in the NPPF and the PPTS aimed at achieving sustainable development. It is now also contrary to policies SP1, SP2, HOU10, IN2, and IN5 of the Emerging Joint Local Plan 2041 in so far as these refer to the spatial strategy or issues of sustainability.

Provision of Gypsy Traveller Sites

- 5.21 Paragraph 26 of the PPTS states 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. In the circumstances of the present case the site is situated in the open countryside and away from the settlement and well exceeds the area, scale and intensity of the extant permission for the barn conversion to a one-bedroom dwelling.
- 5.22 Paragraph 27 of the PPTS identifies various matters that should be considered when determining planning applications for traveller site, including:
- 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.
- 5.23 Prior to the unauthorised development, the appeal site was not brownfield, untidy or derelict land. It has not been landscaped in a way that positively enhances the environment or increases its openness. Given the unresolved contamination issues and the extent to which the land, including its soil profile and vegetation cover, has been degraded by unauthorised earthworks and the laying of hardstanding material, it is not possible, in my opinion to impose conditions to address the above landscape concerns with any certainty that this harm can be addressed.

- 5.24 The site has been enclosed by close boarded fencing, pillars, gates, CCTV and external lighting in a manner that gives the impression that the occupants are deliberately isolating themselves from the rest of the community.
- 5.25 The suitability of sites, not allocated under the local plan to support gypsy and traveller development, fall to be assessed against the criteria contained in Part 2 of the Policy H14 of the adopted local plan, including among other things: *“(iii) the proposal will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate visual impacts on its surroundings;... v) the site has safe and satisfactory vehicular and pedestrian access to the surrounding principal highway network.”*
- 5.26 Draft policy HOU10 of the emerging joint local plan, to which little weight can be given, is generally consistent with policy H14 of the adopted local plan, if not more restrictive in terms of the local criteria against which proposals for traveller sites are assessed, including the following criteria: *“a) the proposed development is in an appropriate location adjacent to settlement where there is a range of services and facilities, especially health and educational facilities...; c) the scale and type of development is appropriate to the location, considering character, local services and facilities...; e) nearby existing outdoor amenity space, including child-friendly space to play can be safely accessed and where this is not possible provision can be made on site...; f) arrangements are put in place to ensure the proper management of the site to seek to ensure community cohesion between the settled and traveller community...; g) there is clear demarcation of the site boundaries using appropriate boundary treatments and landscaping which is characteristic of the local context”.*
- 5.27 In the circumstances of the present case the proposed development does not have safe and satisfactory access to the surrounding principal highway network. The extent to which the land has been cleared of vegetation and the natural levels of the land altered or proposed to be altered by facilitating earthworks and the laying of hardstanding materials, results in material harm to the character and appearance of the landscape and the visual amenity of the surrounding areas. The earthworks have also resulted in a degradation

of the site to the extent that it is doubtful that the altered site could support any meaningful landscape works that might mitigate this harm. The development is not located adjacent to a settlement where there is a range of services and facilities, especially health and educational facilities. The development does not provided adequate child-friendly amenity space either on or adjacent to the site. The development has been designed in a way that is isolate and cut-off from the adjacent settlement in a manner that is not conducive to community cohesion between the settled and traveller community. And boundary treatments and landscaping is not characteristic of the local countryside context.

5.28 Paragraph 28 of the recently revised PPTS, states 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 NPPF will apply. According to this paragraph of the NPPF planning permission should granted in these circumstances, unless *“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 and providing affordable homes, individually or in combination”*.

5.29 In the circumstance of the present case it is acknowledged that the local plan currently has a zero supply of deliverable sites. This is as explained in the consultation response prepared by Ryan Hunt⁵ from the Council’s Policy Team at **Appendix 40** and the subsequent Planning Policy Update on Gypsies and Travellers at **Appendix 59**. In my opinion, however, the lack of a 5-year supply of sites is outweighed by the adverse impacts of the development as a whole, when assessed against the policies of the NPPF, specifically the adverse impacts of the development in terms of:

- the character of the landscape;
- the intrinsic value of the countryside;

⁵ Mr Hunt can make himself available at the Hearing, if required, to answer any questions regarding the need and supply of gypsy /traveller site and the progress being made on the preparation of a new Gypsy Traveller Accommodation Assessment (GTAA) and Emerging Joint Local Plan 2041.

- the character and visual amenity of the surrounding area;
- the unsustainable location of the site;
- the net loss of biodiversity;
- the failure to adequately address contamination risks;
- the failure to adequately address surface and foul water drainage impacts; and
- the deliberate unauthorised nature of the development already undertaken.

5.30 This matter was dealt with in paragraphs 5.25 – 5.33 of the hearing statement previously submitted in connection with Appeals A and B, 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 plan.

5.31 There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter its previous assessment. If anything, the construction of additional building and engineering operations undertaken by the owners subsequent to the date of the first enforcement notice only adds weight to the council's objection that the unauthorised development is contrary to policy H14 of the local plan and government guidance contained in the PPTS relating to the appropriate location and development of gypsy and traveller sites. The development is now also contrary to policy HOU10 of the emerging joint local plan in so far as it also addresses the above issues.

Gypsy Traveller Status and Personal Circumstance

5.32 On numerous occasions during the course of the council's enforcement investigation the owner repeatedly denied that he and his family were gypsy travellers (see various site visit notes and records of telephone calls at **Appendices 29 and 30**). An admission to the contrary was first offered to the council by his previous planning agent in a telephone conversation on 2 November 2023, though no information was ever submitted in support of this claim.

- 5.33 This matter was raised by the council in its letter to the applicant dated 12 April 2024 (**Appendix 44**), to which no response was received. Again, this matter has not been addressed in the information submitted in support of the current appeals.
- 5.34 The planning application provided only limited information regarding the personal circumstances of the proposed occupiers of the site. According to the information submitted with the application, the site is proposed to be occupied by the owner, his two grown sons and their respective families. The applicant claimed that this is in order to provide a permanent home base from which they can travel for the purpose of making their livings.
- 5.35 Only limited additional information was submitted in support of Appeals A and B, confirming 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 private tuition. 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.); and no additional information has been submitted in support of the current Appeal C. 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 and their safety.
- 5.36 This matter was dealt with in paragraphs 5.34 – 5.37 of the hearing statement previously submitted in connection with Appeals A and B, 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. There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter its previous assessment.

Countryside and Landscape Impacts

- 5.37 Paragraph 187 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic

character and beauty of the countryside. The thrust of this guidance is carried forward in policy ENV1 of the local plan, which states that the districts landscape, countryside and rural areas will be protected against harmful development. Policy H14 of the local plan states, among other things, that proposals for gypsy and traveller sites: “*will not have an unacceptable impact on the character and appearance of the landscape...*” Policies NH3 and NH6 of the emerging joint local plan, which can only be give limited weights, remain consistent with the these adopted policies.

5.38 Paragraphs 26 of the PPTS states that local planning authorities should “*very strictly limit new traveller site development in open countryside.*” Paragraph 27 states, among other things, that when considering applications, local planning authorities should attach weight to sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.

5.39 The site is also situated in the ‘undulating open vale’ of the ‘Clay Vale’ Landscape Character Area as identified in the South Oxfordshire Landscape Character Assessment (SOLA). This landscape is described as:

- Low-lying, undulating or gently rolling land form.
- Large-scale farmland, mostly under intensive arable cultivation.
- Typically large fields, with rectilinear pattern of field boundaries.
- Weak structure of tightly clipped or gappy hedgerows, with few hedgerow trees.
- Open, denuded and exposed character, with high intervisibility.
- Distinctive elevated and expansive character on higher ground, with dominant sky and long views.
- Predominantly rural character but some localised intrusion of main roads (including M40/A40), overhead power lines and built development.

5.40 The recommended strategy for the management of this landscape includes, among other things:

- Strengthening the hedgerow network with hedgerow trees such as oak and ash.

- Minimising the visual impact of intrusive land uses at the fringes of towns, villages and farms with the judicious planting of tree and shrub species characteristic of the area.
- Maintaining the nucleated pattern of settlements, and promoting the use of building materials to maintain vernacular style and a scale of development and that are appropriate to the Clay Vale.
- Maintaining local distinctiveness by controlling the quality of built development taking into account its scale, setting and use of local building materials.
- Protect the sparsely settled character of the landscape and the integrity and vernacular character of the established villages.

5.41 This matter was dealt with in paragraphs 5.38 – 5.42 of the hearing statement previously submitted in connection with Appeals A and B, where it was concluded that the proposed developments worked contrary to the above policies and landscape management strategies. In this regard the facilitating development has resulted in the widespread clearance of existing vegetation, including grassland, scrub and hedgerows. Unauthorised earthworks and the laying of extensive areas of hardstanding materials, have resulted in a significant alteration to the natural levels of the land as it falls away from the highway and towards the rear boundary. This impact will only increase if the proposal put forward under Appeal A succeeds. The unauthorised earthworks have also degraded the land and diminishing its ability to support meaningful landscaping. The caravans themselves are clearly of a non-vernacular character and together with the related vehicles and residential paraphernalia are contrary to the rural character of the site and its surroundings. The development (both as constructed and proposed) has and will have an urbanising impact, which sits uncomfortably in the landscape and is contrary to the rural character of the countryside and contrary to the landscape setting of the village.

5.42 There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter the above assessment. If anything, the construction of additional building and engineering operations undertaken by the owners subsequent to the date of the first enforcement notice only

adds weight to the council's objection that the unauthorised development is contrary to policy ENV1 of the 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. The development is now also contrary to policies NH3 and NH6 of the emerging joint local plan in relation to the above issues.

Good Design and Respect for Local Distinctiveness

- 5.43 Paragraph 131 of the NPPF recognises good design as a key element in achieving sustainable development. Paragraph 27 of the PPTS states that when considering applications, local planning authorities should attach weight to promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children. Policy DES1 of the local plan states that all new developments must be of a high-quality design that uses land efficiently while respecting the existing landscape character. Policy DES2 requires all new development to be designed to reflect the positive features that make up the character of the local area and both physically and visually enhance and complement the surroundings. Policy DES5 requires proposals for new development to demonstrate that the size, location and character of gardens and outdoor amenity spaces have been considered as an integral part of the design and not as an afterthought and not compromised by parking areas. Policy H14 states that new proposals for gypsy and traveller sites should be sensitivity designed to mitigate visual impacts on their surroundings. Policy TOW4 of the neighbourhood plan similarly states that development proposals should sustain and where practicable enhance the character of the Parish, appropriate to their scale, nature and location.
- 5.44 Draft policies DE1, DE2, DE6 and HOU10 of the emerging joint local plan in so far as they deal with matters of design are consistent with the above adopted policies of the development plan.
- 5.45 This matter was dealt with in paragraphs 5.43 – 5.47 of the hearing statement previously submitted in connection with Appeals A and B, where it was concluded that the development, both as constructed and proposed, was of a character and appearance that sits uncomfortably in an otherwise open and

tranquil rural setting. The multiple caravans, by their very nature, do not respect the local distinctiveness of the area, being of a standardised, modern, utilitarian and non-vernacular design. This development does not physically or visually enhance or complement its surroundings.

- 5.46 The operational development, include buildings, hardstandings, close boarded fencing, ornamental entrance gates and pillars, and externally lighting and CCTV installations are also distinctly urban in their character and appearance and are contrary to the distinctiveness of surrounding development.
- 5.47 The development makes no provision for a suitable outdoor amenity space containing adequate landscaping or play areas for children separate and distinct from parking and manoeuvring areas. The unauthorised earthworks and laying of hardstanding areas already undertaken by the owner have diminished the ability of the site to support any meaningful landscaping. As it is the owner's claim that the existing hardstanding has been laid in order to encapsulate contamination and, given the extent to which contaminants may have been spread over the wider site by the unauthorised earthworks undertaken by the appellant, the ability to provide a suitably landscaped play area for children is limited.
- 5.48 There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter the above assessment. If anything, the construction of additional building and engineering operations undertaken by the owners subsequent to the date of the first enforcement notice only adds weight to the council's objection that the unauthorised development is 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. The development is now also contrary to policies DE1, DE2, DE6 and HOU10 of the emerging joint local plan in so far as these address these issues.

Highway Safety and Convenience

- 5.49 Oxfordshire County Council (OCC), as local highway authority has expressed concern at the unsustainable location of the development, which has already been discussed in more detail in paragraph 5.9 – 5.14 above (see also the submission at **Appendix 36**).
- 5.50 OCC otherwise raised no objection to the development, subject to conditions regarding the vision splay dimensions, the retention of parking and manoeuvring areas and the provision of bicycle parking facilities.
- 5.51 This matter was dealt with in paragraphs 5.48 – 5.50 of the hearing statement previously submitted in connection with Appeals A and B. There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to change its assessment that the development is contrary to policy TRANS5 of the 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...”*.

Amenity Impacts

- 5.52 Policy DES6 of the adopted local plan seeks to protect the amenity of neighbouring uses, in relation to such factors as: loss of privacy, visual intrusion, noise and vibration, external lighting and other polluting emissions. Policy ENV12 similarly seeks to protect the natural environment and the amenity of neighbouring users from the impacts of such things as noise and vibration and artificial lights, by ensuring that development proposals are in sustainable locations and are appropriately designed. Policies CE10, CE11, DE5 and NH7 of the emerging joint local plan are consistent with the above adopted policies.
- 5.53 The nearest neighbouring residential property is situated approximately 200m away from the enforcement site. At this distance the development will not have an adverse impact on the amenity of the neighbours with regard to privacy, visual intrusion, noise or vibration. Common to many of the objections received from neighbours, however, was concern regarding the harmful impacts that external lighting is having on the amenity of the area. The impact of the existing unauthorised development on dark skies was also

referred to in the submission received from Campaign to Protect Rural England (see **Appendix 42**).

- 5.54 The applicant was invited to submit an outdoor lighting scheme in support of the planning application (see **Appendix 44**), however, no response to that invitation was received; nor has this matter been adequately addressed in connection with the current appeals.
- 5.55 This matter was dealt with at paragraphs 5.51 - 5.54 of the hearing statement previously submitted in connection with Appeals A and B where it was concluded that, the unauthorised development in its provision of outdoor lighting is contrary to the amenity of the area, the natural environment and the dark sky setting.
- 5.56 There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter its previous assessment. This is contrary to policies DES6 and ENV12 of the local plan. Insufficient information was submitted with the planning application for a proper assessment of the proposed development. The development is now also contrary to policies CE10, CE11, DE5 and NH7 of the emerging joint local plan in so far as these refer to the harmful impacts of lighting.

Contamination

- 5.57 Policy ENV11 of the local plan seeks to protect the occupiers of new development from the potential of harm to health from contamination resulting from previous land uses. Policy CE12 of the emerging joint local plan, which can be given only limited weight, is consistent with the above adopted policy.
- 5.58 Contrary to the owner's understanding, the impacts of contamination from the former agricultural use of the site have not been resolved in connection with extant planning permission P22/S3712/FUL for the barn/stable conversion.
- 5.59 Although the Phase 2 and Phase 3 contamination investigation and remediation strategy approved by the council in connection with planning permission P22/S3712/FUL identified areas of contamination over the wider

site, these sought only to address the remediation of land within the approved red edged area covered by the above permission.

- 5.60 There was only one location within the area approved by planning permission P22/S3712/FUL where microbial contamination was identified. The report therefore recommended the remediation of that area alone, by the excavation of the Made Ground and its replacement with clean certified fill to a depth of 600mm around a 2 metre radius of this area. Upon completion, these works were then to be validated by a remediation verification report prepared by a qualified Environmental Consultant.
- 5.61 The unauthorised earthworks undertaken by the owner to 1) raise the level of the land, using fill obtained from other areas of the wider site, which were themselves subject to contamination; and 2) lay hardstanding material over the top of this in an alleged effort to encapsulate the contaminants, was not agreed to by the council. These works were not approved by planning permission P22/S3712 and are therefore unauthorised.
- 5.62 The various development proposals currently under appeal have also moved well beyond the red edged area approved by planning application P22/S3721. The remediation of the wider site was not addressed in the conditions of planning permission P22/S371 or the remediation strategy approved by the above planning permission.
- 5.63 Furthermore, the extent to which the owner has now altered the site by unauthorised earthworks that have redistributed soil over entire site, renders previous investigations into site contamination potentially redundant (see consultation response at **Appendix 37**).
- 5.64 This matter was dealt with at paragraphs 5.55 - 5.62 of the hearing statement previously submitted in connection with Appeals A and B where it was concluded that the potential harm to the health of the occupants of the unauthorised development, from existing contaminants on the site has not been adequately addressed by the owner.
- 5.65 There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter its previous assessment the

development is contrary to policy ENV11 of the local plan relating to contaminated plans. The development is now also contrary to Policy CE12 of the emerging joint local plan in reference to this matter.

Biodiversity

- 5.66 Policy ENV2 of the local plan seeks to protect priority species from loss, deterioration or harm arising from development. ENV3 seeks to protect biodiversity by ensuring that new development achieves a net gain in biodiversity where possible. As a minimum there should be no net loss of biodiversity. All proposals should be supported by evidence to demonstrate a biodiversity net gain using a recognised biodiversity accounting metric. Policies NH1, NH2 and NH3 of the emerging joint local plan, which can be given only limited weight, are consistent with the above adopted policies. Policy TOW7 of the neighbourhood plan similarly seeks to maintaining and, where practicable, improving biodiversity assets including, trees, hedgerows and land of biodiversity value, in the design of their layouts and landscaping schemes.
- 5.67 The above development plan policies are consistent with government guidance contained in paragraphs 192-195 of the NPPF. However, in the circumstances of the present case, these policies are not entirely consistent with the mandatory requirement for Biodiversity Net Gain (BNG) introduced by Schedule 7A of the Town and Country Planning Act 1990, which does not apply to retrospective developments. These policies remain relevant to the circumstances of the present case, however, to the extent that they seek to prevent a net loss of biodiversity.
- 5.68 The baseline condition of the site for the assessment of biodiversity impacts of the development is best seen in the aerial photograph from 2020, which shows the condition of the site prior to the unauthorised development commencing. When compared with the drone images of the post development site at **Appendices 6 and 7**, the extent to which both the planning application site and wider enforcement site have been removed of grass, scrub and hedgerows can be clearly seen.

- 5.69 The unauthorised earthworks have resulted in the removal of almost all existing vegetation resulting in a net loss of biodiversity. The unauthorised hardstanding material that has been laid along the access driveway, sits above the surface of the adjacent paddocks by approximately 0.3 – 0.4 metres. This has obstructed the natural drainage and left the land degraded to an extent that will likely inhibit the reestablishment of meaningful landscape. It is unlikely that this net loss can be addressed by any scheme for onsite compensation given the degraded condition of most of the land by the unauthorised works undertaken.
- 5.70 This matter was dealt with at paragraphs 5.63 - 5.67 of the hearing statement previously submitted in connection with Appeals A and B where it was concluded that the net loss of biodiversity resulting from the development is contrary to policy ENV3 of the local plan and policy TOW7 of the neighbourhood plan. Some harm to protected species is also likely to have occurred, however, in the absence of an ecological survey, it is not known what mitigation or compensation would be required to achieve compliance with Policy ENV2 (see consultation response at **Appendix 39**). There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter its previous assessment. The development is now also contrary to policies NH1, NH2 and NH3 of the emerging joint local plan in relation to the same matters.
- 5.71 The appellant was invited to address this issue in connection with his planning application (see **Appendix 44**) but did not respond to that invitation; nor has the matter been adequately addressed in connection with the current appeals.

Drainage

- 5.72 Policy EP4 of the local plan requires all developments to provide a drainage strategy for a sustainable drainage system that ensures that runoff rates are attenuated to greenfield run-off rates. Sustainable drainage systems should also seek to enhance water quality and biodiversity. Policy H14 requires that gypsy and traveller sites should have access to safe sewage treatment and there should be no barriers to development in terms of flooding or poor

drainage. Policies CE6 and CE8 of the emerging joint local plan are consistent with the above adopted policies.

- 5.73 This matter was dealt with at paragraphs 5.68 - 5.71 of the hearing statement previously submitted in connection with Appeals A and B where it was reported that, the council's drainage engineer has advised that the underlying geology for the area is 'gault mudstone', which is recognised as being impermeable in nature. As there does not appear to be any water course or public sewers in the site's proximity, drainage for the site would be reliant on infiltration methods.
- 5.74 Photographs of the post-development site at **Appendix 57** show a considerable amount of standing water on the adjoining agricultural land to the east and down slope from the appeal site.
- 5.75 Percolation testing of the site is therefore required in support of any proposal for surface or foul water drainage reliant on infiltration; or failing this the demonstration of an alternative method of drainage. Failure to demonstrate an appropriate and feasible method of drainage is contrary to policies EP4 and H14 of the local plan (see consultation response at **Appendix 35**). There is nothing in the revised NPPF and PPTS or the emerging joint local plan that would cause the council to alter the above assessment. The development is now also contrary to Policies CE6 and CE8 of the emerging joint local plan.
- 5.76 The appellant was invited to address this issue in connection with his planning application (see **Appendix 44**) but did not respond to that invitation; nor has the matter been adequately addressed in connection with the current appeals.

Deliberate Unauthorised Development

- 5.77 In a letter dated 21 August 2015 the Chief Planning Officer in England issued a statement setting out changes to national planning policy. The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases there is no opportunity to appropriately limit or mitigate the harm that

has already taken place. Such cases can involve local planning authorities having to take expensive and time-consuming enforcement action. For these reasons, the Chief Planner's letter introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals.

- 5.78 This matter was dealt with in paragraphs 5.72 – 5.73 of the hearing statement previously submitted in connection with Appeals A and B, where it was reported that the appellant has undertaken development and a materially change the use of the site, not only without planning permission, but in complete defiance of a High Court injunction. The extent of the appellant's deception and absolute disregard for planning control must, in my opinion, add significant weight to the reasons underpinning the decisions to refuse planning permission and enforce against the unauthorised development.
- 5.79 Since then, the owner/appellant has continued to deliberately undertake unauthorised development in defiance of the above injunction. Accordingly, on 11 November 2024 the owners were convicted of contempt of court and each given sentences of 6 months, suspended for 18 months (see **Appendix 55**). The criminal manner to which the appellant has deliberately undertaken this unauthorised development, should add significant weight to the reasons underpinning the need to refuse and enforce against the unauthorised development.

Planning Balance

- 5.80 Paragraph 28 of the recently revised PPTS, states 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 NPPF will apply. According to this paragraph of the NPPF planning permission should granted in these circumstances, unless *“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 and providing affordable homes, individually or in combination”*.

- 5.81 Great weight should also be given to the best interest of any children living on the site. In this regard the owner has provided only limited information regarding the personal circumstances of his family, including health issues and educational needs related to the children. These claimed personal circumstances, however, have not been corroborated from any independent sources any more than the appellant's claim to gypsy traveller status, which the appellant repeated denied during the council's investigation of this matter. The appellant's failure to adequately address contamination issues relating to the site and to make provision for suitable outdoor amenity and play areas also argues against the best interests of the children; as does the unsuitable traffic and pedestrian conditions in the vicinity of the appeal site.
- 5.82 In my opinion, the lack of a 5- year supply of gypsy and traveller sites together with the personal circumstances of the appellant and his family, do not outweigh the planning harm of the proposed development in relation to the following NPPF policy considerations:
- the harmful impact of the development on the intrinsic value and tranquillity of the countryside, to which I attach significant weight;
 - the unsustainable location of the site, to which I attached significant weight;
 - the net loss of biodiversity resulting from the development to which I attach significant weight;
 - the failure of the development to adequately address principles of good design and respect for local distinctiveness to which I attach moderate weight;
 - the harmful impact of the development on the intrinsic value and tranquillity of the countryside, to which I attach significant weight;
 - the unsustainable location of the site, to which I attached significant weight;
 - the net loss of biodiversity resulting from the development to which I attach significant weight;
 - the failure of the development to adequately address principles of good design and respect for local distinctiveness to which I attach moderate weight;
 - The failure of the development to adequately flooding and water quality

issues to which I attach moderate weight.

- the fact that intentional unauthorised development has taken place, to which I attach significant weight.

Ground (f) - The steps required by the notice exceed what is necessary to remedy the breach of planning control.

5.83 The appellant's ground (f) appeal is in two parts, as follows:

- Firstly - It is the appellant's view that the requirements of the enforcement notice, in so far as they require the digging-up and removal of hardstanding materials from the access driveway, vehicle manoeuvring and parking areas contained within the area edged red on the block plan approved by planning permission P22/S3712/FUL, exceeds what is required to remedy the breach of planning control; and .
- Secondly - The appellant is of the view that the requirement of the notice, in so far as they require the removal of the hardstanding, entrance gates, fencing, or removal of the appellant's two caravans⁶, which were in situ prior to the alleged change of use occurring, are excessive if the purpose of the notice is to reinstate the land to the condition that it was in prior to the material change of use occurring.

5.84 In response to the first claim, it is noted that unauthorised works undertaken by the appellant to lay hardstanding materials on the access driveway, vehicle manoeuvring and parking areas, constituted more than just maintenance and repair of the largely unformed track and manoeuvring areas that existed prior to the breach of planning control occurring. Rather they constitute an engineering operation for which planning permission is required. This is evident from a comparison of the photographs of the pre-existing driveway and manoeuvring area evident in the photographs at **Appendices 15 and 18**, with the photographs of the unauthorised works undertaken by the appellant at **Appendix 29**. The aerial photographs at

⁶ The ground (f) appeal in so far as it relates to the removal of the caravans is more appropriately dealt with in connection with Appeal B relating to the change of use enforcement notice issued on 5 June 2024.

Appendix 5 also show the largely unformed character of the driveway and manoeuvring areas prior to the breach of planning control occurring, which at times are completely covered in grass. Any remnants of the driveway as it previously existed were completely obliterated by the unauthorised earthworks undertaken by the appellant.

- 5.85 Furthermore, the area of unauthorised hardstanding laid down by the appellant well exceeds the areas of hardstanding shown on the location and site plan which was approved by condition 2 of planning permission P22/S3712 as distinct from approved garden areas (see plan at Figure 3 below also at **Appendix 27**).

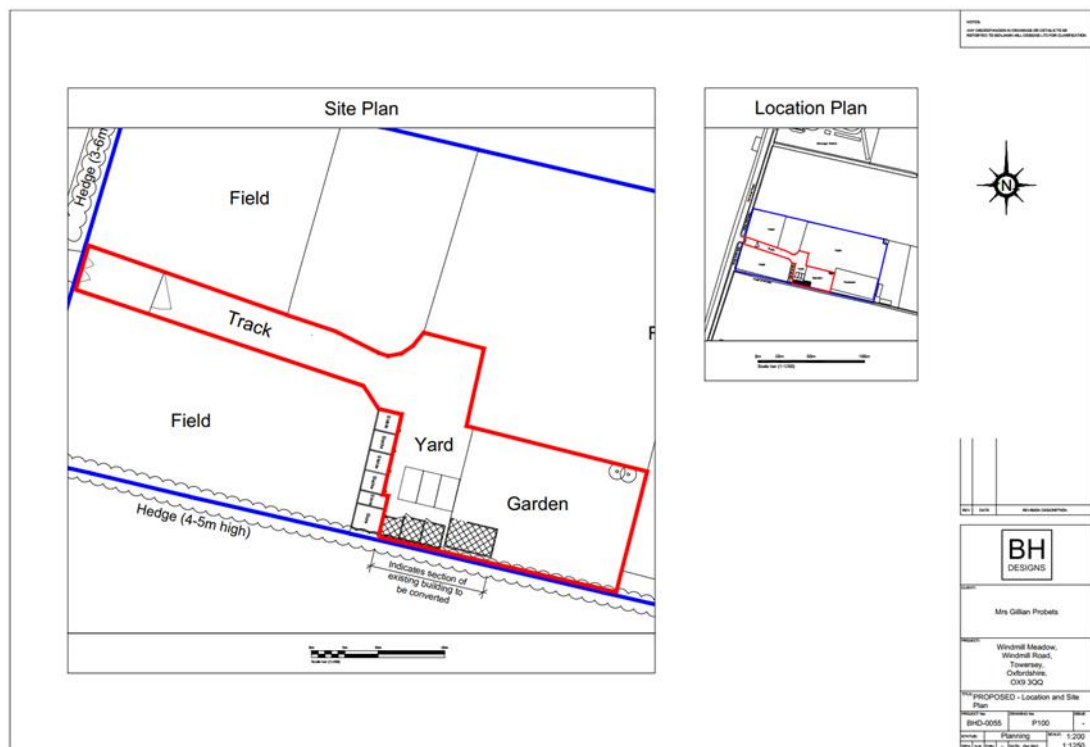


Figure 3 – Approved Plan P22/S3712

- 5.86 Although condition 8 of planning permission P22/S3712 required that: *“Prior to the first occupation of the development hereby approved a turning area and car parking spaces shall be provided within the curtilage of the site so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway”*, this permission required these works to be undertaken in a manner compliant with sustainable drainage (SuDS) principles and in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the

commencement of development. Contrary to condition 8 above, no specification details for the required turning and parking spaces were submitted to and approved by the council prior to the commencement of the unauthorised works by the appellant.

- 5.87 The unauthorised hardstanding laid down by the appellant has also resulted in the raising of the levels of the track 30-40cm above the level of finished level of the adjacent paddocks; and the levels of the development platform, more than 1.0m above the adjacent paddocks in places. This initially resulted in areas of trapped water in the adjacent paddocks, which were to have remain undeveloped on the plans approved by planning permission P22/S3712. These works were therefore contrary to sustainable drainage (SuDS) principles. The unauthorised works are significantly over-engineered and were clearly undertaken with a much more extensive scheme in mind. They are contrary to the rural character of the area. For the reasons stated above, it is unlikely that the council would have approved a specification for the hardstandings as constructed, had it been submitted in accordance with condition 8 in support of that approved scheme. Therefore, the unauthorised hardstanding works have not been undertaken in accordance with planning permission P22/S3712 and do not benefit from that permission.
- 5.88 In requiring all hardstanding driveway, parking and manoeuvring areas to be dug-up and removed from the land, the enforcement notice is therefore reinstating the land to the condition that it was in prior to the breach of planning control occurring, and certainly more so than if the areas of pre-existing driveway and manoeuvring or those shown on the site plan approved by planning permission P22/S3712 were excluded from the requirements of the notice.
- 5.89 If the areas of existing driveway and hardstanding were retained within the areas track and yard shown on the plan at Figure 3 above but removed elsewhere, you would be left with a track and hardstanding that stood proud of the adjacent paddocks by 30-40cm and significant areas of trapped water within those paddocks.

- 5.90 In response to the appellant's second claim, the enforcement notice requires the land to be reinstated to the condition that it was in "prior to the breach of planning control occurring". The breach of planning control alleged in the notice issued on 16 January 2025 refers to a wide range of operations that have clearly been undertaken to facilitate the material change of use of the land to a gypsy traveller site including buildings, caravan bases, steps and brick skirting, hardstandings, fences, gates, pillars, lighting and CCTV poles.
- 5.91 None of these unauthorised operations have been undertaken in a manner benefitting from planning permission P22/S3712 for the barn/stable conversion and the council would suggest that none of these works were undertaken with a view to implementing that permission.
- 5.92 This is borne out by the history of the breach, which has seen the appellant undertake facilitating works covering the entire site, not just the red edged area approved by the above permission. Although the appellant initially refuted any suggestion of his intention to develop the site as a gypsy and traveller site (see file notes at Appendices **29 and 30**) all of the facilitating operations referred to in the enforcement notice are more consistent with the achievement of this outcome than with the implementation of the extant permission (see drone images **Appendices 6 and 7**).
- 5.93 The appellant made a show of agreeing with the council on terms for the stationing of a single caravan on the site for the purpose of implementing the extant permission (P22/S3712) for the barn/stable conversion pursuant to the Class A, Part 5 of the GPDO (see paragraph 6.91 above). He then immediately disregarded that agreement, in defiance of a High Court injunction by bring multiple caravans onto the site for occupation by persons not employed in implementing the approved barn conversion scheme. This included his entire extended family. He has made no effort to implement the extant permission for the barn/stable conversion. Rather he has continued in his aim of developing the land as a caravan site, without regard to planning controls (see drone images at **Appendices 6 and 7**). The available evidence on balance of probability suggests that all of the caravans referred to in the enforcement notice were brought onto the site with a view to achieving that aim. All of the caravans referred to in the enforcement notice therefore

comprise part and parcel of the material change of use alleged in the enforcement and do not precede it in time, as suggested by the appellant.

- 5.94 It is the council's view that the unauthorised operations referred to in the enforcement notice have been undertaken to facilitate the material change of use of the land to a gypsy and traveller site and did not precede it in time.
- 5.95 For all of the reasons stated above the appellant's ground (f) appeal should fail.

Ground (g) – The time given to comply with the notice is too short (Notices A and B).

- 5.96 Notice B stipulates a compliance period of 9 months. The council has already agreed to an extension of time for the cessation of the unauthorised use in connection with Notice A.
- 5.97 The council is mindful that the unauthorised operations referred to in Notice B have been undertaken in defiance of a High Court injunction, however, the council also acknowledges that it may require some additional time to remove elements of unauthorised operational development and reinstate the land to its former condition following the cessation of the unauthorised use.
- 5.98 The Council would therefore invite the Inspector to exercise their power under Section 176 of the Act to extend the compliance period on Notice B only to 15 months in accordance with the appellant's ground (g) claim.

6.0 CONCLUSION

- 6.1 Having regard to the extent to which Notice B issued on 16 January 2025 overlaps with elements of facilitating development referred to in the earlier Notice A issued on 5 June 2024, the Inspector is invited to exercise their power under Section 176 of the Act by either:
- Amending Notice A to remove all reference to all facilitating operations in favour of the more comprehensive list of operations referred to in Notice B; or alternatively
 - Amending Notice A to include the more comprehensive list of operations referred to in Notice B as facilitating development and quash Notice B. This can be done without injustice to the appellant.
- 6.2 The Inspector is also invited to exercise their power under Section 176 of the Act by increasing the number of caravans referred to in the alleged breach of planning control from 'four' to 'five' caravans. This too can be done without prejudice to any interest.
- 6.3 The lack of a 5-year supply of gypsy traveller site and the personal circumstances of the appellant, are outweighed in the planning balance by other material considerations. Specifically, the development is contrary to development planning policies and government guidance related to the spatial strategy (sustainability), the protection of the intrinsic value of the countryside and landscape, principles of good design and respect for local distinctiveness, biodiversity net loss, contamination risk, drainage impacts and the impact of external lighting on character and local amenity. The development has been undertaken as a deliberate breach of planning control, adding further weight to the above reasons underpinning enforcement action. The Inspector is therefore invited to dismiss the ground (a) appeal in connection with Appeal C.
- 6.4 The hardstanding driveway, manoeuvring and parking areas referred to in the enforcement notice do not comply with the plans and conditions of planning permission P22/S3712 for the barn conversion and do not therefore benefit from that permission. In requiring all hardstanding driveway, parking and

manoeuvring areas to be dug-up and removed from the land, the enforcement notice is therefore requiring nothing more than the reinstatement of the land to the condition that it was in prior to the breach of planning control occurring. The appellant's ground (f) appeal in connection with Appeal C, in so far as it relates to the driveway, manoeuvring and parking areas should therefore fail.

- 6.5 All of the caravans referred to in Notice A comprise part and parcel of the alleged material change of use of the land for the stationing of caravans for residential use and do not precede the alleged breach of planning control referred to in Notice B in time. Similarly, the unauthorised operations referred to in Notice B have been undertaken to facilitate the material change of use that is alleged in Notice A and did not precede it in time. Both enforcement notices are two sides of the same coin. The appellant's ground (f) appeal in connection with Appeal C, in so far as it relates to this second claim should also fail.
- 6.6 The Council would invite the Inspector to exercise their power under Section 176 of the Act to extend the compliance period to 15 months in accordance with the appellant's ground (g) claim in connection with Appeal C only.
- 6.7 Subject to the above suggested amendments to the enforcement notice, the council would invite the Inspector to dismiss all grounds of appeal in connection with Appeal C and uphold the enforcement notice.