

Planning

Proof of Evidence

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

Witness for the Council: Alice Attwood BSc, MSc, MRTPI

Subject of Evidence: Planning Balance

Appeal: APP/W0340/W/24/3356688

Site: Land South Of Sandhill,
Hampstead Norreys Road
Hermitage
Thatcham
RG18 9XU

Proposal: Part retrospective. Change of use of land for the formation of 5 Gypsy/Traveller pitches comprising of 1 mobile home, 1 touring caravan, and 1 utility building per pitch

Date: April 2025

Council Reference: 23/00815/FUL



West Berkshire
C O U N C I L

Proof of Evidence

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1. Summary

- 1.1 In section 2 of my proof of evidence I cover introductory matters. I summarise the background to the appeal, and my involvement. I also list the other expert witnesses giving evidence on behalf of the Council, and the reasons for refusal addressed by each one : harm to protected landscape, drainage, and highways.
- 1.2 I then introduce the emerging local plan, relevant changes in national policy, and the enforcement appeal relating to the same development.
- 1.3 In section 3, I provide a summary of my assessment of the proposal against the National Planning Policy on Traveller Sites (PPTS) and the relevant policies of the local plan.
- 1.4 In section 4, I address in more detail the evidence of the Council's witnesses relating to the reasons for refusal, and explain my view that the proposal does not accord with the development plan taken as a whole. In section 5 I address other material considerations including the personal circumstances of the appellants, and intentional unauthorised development. I also consider the effect of Human Rights and Equalities provisions.
- 1.5 1.5 In section 6 I address the planning balance. While the accommodation provided on the appeal site does carry weight in the planning balance, this is moderate, and insufficient to outweigh, in particular, the significant harm to landscape character which is fully set out in the proof of evidence of Liz Allen, and highway safety concerns.

2. Introduction

Qualifications and Experience

- 2.1 My name is Alice Attwood. I have a BSc in Geography and MSc in Spatial Planning and Development. I am a chartered member of the Royal Town Planning Institute (RTPI). I have worked for West Berkshire Council for 6 years as a Senior Planning Officer. I have 9 years of experience working in the planning sector.
- 2.2 I came on board at the appeal stage and was not involved at the application stage. I undertook site visits on 27.02.2025 and 08.04.2025. I am familiar with the appeal site, the surrounding area, the appeal proposals, the relevant planning policies and material considerations.
- 2.3 I confirm that the evidence which I have prepared and provided for this appeal is true to the best of my knowledge and belief and it has been prepared and is given in accordance with the guidance of the RTPI, my professional institution. I confirm that the opinions expressed are my true and professional opinions.

Purpose and Scope of Evidence

- 2.4 This proof of evidence has been prepared in relation to the Appeal (APP/W0340/W/24/3356688) against refusal of planning permission for : 'Part retrospective. Change of use of land for the formation of 5 Gypsy/Traveller pitches comprising of 1 mobile home, 1 touring caravan, and 1 utility building per pitch'.
- 2.5 My planning evidence refers to West Berkshire Council both as the "Council" and the "Local Planning Authority (LPA)". It should be read alongside the proofs of evidence presented by the other expert witnesses for West Berkshire Council.
- 2.6 The LPA statement of case outlines background to the site, site history, overview of relevant policies and outlines the LPA case in general. The LPA statement of case (CD4.1) should be read in conjunction with this Proof of Evidence.
- 2.7 This Proof of Evidence will cover the principle of development, personal circumstances intentional unauthorised development (IUD) and the planning balance. The Inspector's

Post Case Management Conference (CMC) (CD7.5) note identified 8 main issues. I will specifically address issues 4, 6, 7, and 8 within this Proof.

2.8 The table below outlines the other topic on which proof of evidence has been prepared by the LPA.

Matter	Proof of Evidence by	Post CMC Main Issues covered	Refusal Reasons
Landscape	Liz Allen	1	1
Highways	Chris Carr	2	3
Drainage	Paul Bacchus	3	2
Planning Policy, Need and Supply.	Cheryl Willett	5	-

Table 1: List of proof of evidence topics and how they relate to the main issues, refusal reasons and who has prepared them for the LPA.

2.9 The matters in Table 1 will not be covered in detail in this proof but I will address how these matters interact with the planning balance.

2.10 A Statement of Common Ground has been prepared and is with the appellant at the time of writing this proof. It is expected that the SoCG will be agreed by the start of the inquiry.

Reasons for Refusal

2.11 The application was refused for the following reasons:

1. *The application site lies in the North Wessex Downs National Landscape. This is specially protected landscape as defined in the NPPF. The development of this site for gypsy and traveller accommodation [5 pitches] will harm the visual character of the area, particularly in relation to the soft transition between the built up area of Hermitage to the south and open countryside to the north. This is considered to be contrary to the advice in policies ADDP5, CS7 and CS19 in the WBCS of 2006 to 2026 and the*

advice in para 176 of the NPPF of 2023. It is accordingly unacceptable. It is also contrary to the advice in policy TS3 in the HSADPD of 2017.

2. *The development of this site for 5 gypsy and traveller site pitches has caused increased hardstanding and non permeable material to be placed across the application site, with associated works/ stationing of sanitary units. The local planning authority on behalf of the lead local flood authority is not satisfied with the details and quality of the suds information submitted with the application to date. Accordingly, in taking the precautionary approach, it is considered that the development/ change of use proposed is contrary to the advice in policy CS16 in the WBCS of 2006 to 2026 and the advice in bullet points 1 and 7 in policy TS3 in the HSADPD of 2017.*

- 3 *The development proposed presently has an unauthorised vehicle access onto the B4009. The current forward visibility splays in both directions [north and south] are inadequate for the identified traffic speeds along the highway. In addition there is no footway /pedestrian link to the south of the application site linking the accommodation to the village of Hermitage and its facilities. This all leads to potential conditions of road danger and a threat to highways safety, so being contrary to policy CS13 in the WBCS of 2006 to 2026 and the advice in para 110[b] of the NPPF of 2023 and the advice in the PPTS. It is accordingly not acceptable.*

Emerging Local Plan

- 2.12 The Local Plan Review (LPR) was submitted for independent examination on 31st March 2023. Hearing sessions on the LPR were held in May, June and October 2024. Consultations on the proposed Main Modifications to the LPR closed on 31st January 2025.

- 2.13 The LPR sets out the Council's vision, objectives and spatial planning strategy for West Berkshire up to 2039. It sets out strategic policies, non-strategic site allocations and development management policies.

- 2.14 The Main Modifications consultation was held from 6th December 2024 to 31st January 2025. The LP Inspector has requested a copy of the representations, a summary of representations, and a response to the main issues by the end of February. This has been submitted, and the Inspector is preparing their final report at the time of writing this proof. If they recommend the Plan is sound, the Council can then proceed to adoption. This needs to be considered and agreed by Members and would need to go to a Full Council meeting, and this may potentially be on 15th May, the week before the inquiry is due to start.

- 2.15 The LPA have prepared a table which compares the existing and emerging policies relevant to this appeal. This Table can be found in Appendix (A) / (CD9.2)
- 2.16 The emerging plan is in an advanced stage of preparation, and this means the policies should be given greater weight in line with paragraph 49 a of the NPPF. As set out above, based on the outcomes of the hearing sessions and the additional work undertaken the request of the Inspector, the Council prepared a number of Proposed Main Modifications to the LPR. We consulted on the Proposed Main Modifications between Friday 6 December 2024 and 11.59pm on Friday 31 January 2025. The representations did not raise any issues which would prevent the Council from proceeding in accordance with the Proposed Main Modifications consulted on between 6 December 2024 to 31 January 2025.
- 2.17 The LPA consider there are no unresolved objections. Thus, in line with paragraph 49 b) of the NPPF greater weight can be given to the emerging policies. In section 5 and 6 of this report will explain how the emerging policies are consistent with the NPPF. LPA considers the emerging policies have a high degree of consistency with the NPPF. Thus, in line with paragraph 49 c) of the NPPF greater weight should be given to the emerging policies.

NPPF and PPTS December 2024

- 2.18 The NPPF has been updated since the committee's decision. In refusal reason 1 para 176 of the NPPF is quoted; this is now 187 a) of the NPPF December 2024. Refusal reason 3 refers to para 110 b) of the NPPF of 2023, which is now para 116 of the NPPF December 2024. The PPTS was also updated in December 2024, introducing the 'tilted balance' if the Council cannot demonstrate a 5 year supply of sites. This is addressed further below.

Enforcement appeal

- 2.19 There is an enforcement appeal number APP/W0340/C/25/3363100, proceeding under ground (g) only. That appeal is not linked to this current appeal and is going to be dealt with via written representations.

3. Policy framework

National Planning Policy on Traveller Sites (PPTS)

- 3.1 I will first address national policy on traveller sites, updated in December 2024 (CD8.2). The Government's aims are listed at paragraph 4. Of particular relevance to the appeal are the following aims :

f) that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective;

i) to reduce tensions between settled and traveller communities in plan-making and planning decisions;

j) to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure; and

k) for local planning authorities to have due regard to the protection of local amenity and local environment.”

- 3.2 Paragraph 24 of the PPTS advises that the following issues should be addressed, with other relevant matters, when assessing applications. I give my view on each of the issues below :

- 3.3 **a) the existing level of local provision and need for sites;** As the Council's need and supply evidence demonstrates (Cheryl Willett's proof of evidence) (CD9.3) there is no pitch shortfall in the 5 years up to 2026 which means the LPA is meeting its current need. However, there is a residual need of 17 pitches over the period to 2038. Therefore, there is an identified need for the future pitches which attracts moderate positive weight in the planning balance.

b) the availability (or lack) of alternative accommodation for the applicants; as set out in more detail below, the appellant's evidence is that there is no alternative site they could go to. However there is no detailed evidence on what other areas the appellants have considered.

c) other personal circumstances of the applicant : the appellant's personal circumstances are acknowledged and given weight but for the reasons explained below I do not consider them to outweigh the disbenefits of the development.

d) that the locally specific criteria; in this proof of evidence I assess the application against the relevant policies of the local plan and emerging local plan.

e) local connections not determinative; I address this issue below.

3.4 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. 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.

3.5 The appeal site lies close to but outside the settlement boundary of Hermitage. It is open countryside in local policy terms (ADPP1). The site is not allocated in the local plan. I do not consider that the development dominates the nearest settled community, and it is unlikely that it would add undue pressure on local infrastructure.

3.6 PPTS paragraph 27 goes on to list matters to which the Council should attach weight when considering planning applications. Dealing with these in turn:

a) effective use of previously developed (brownfield), untidy or derelict land; The site has not previously been developed, nor was it untidy or derelict. The site was formerly greenfield. This carries weight **against** the proposal.

b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness; The Council's landscape evidence demonstrates that the site's landscaping does not positively enhance the environment or increase its openness, which carries weight **against** the proposal.

c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; the site provides adequate amenity space but otherwise does not promote healthy lifestyles. The proposed pedestrian access to local services is considered unsafe, and it is likely that most journeys will be by private car. This carries weight **against** the proposal.

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; there is close board fencing around part of

the site which is visually harmful but does not create the impression of deliberate isolation. This carries **neutral** weight.

- 3.7 PPTS paragraph 28 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 National Planning Policy Framework apply”*. The Council can demonstrate a 5 year supply, as set out in the evidence of Cheryl Willett (CD9.3). Therefore the ‘tilted balance’ does not apply in this appeal.

West Berkshire Core Strategy 2006-2026

- 3.8 When considering the principle of development, the most important policies are ADPP1, ADPP5 and CS7 of the Core Strategy (CD8.4), and Policy TS3 of the Housing Site Allocations DPD (CD8.5).
- 3.9 The application site lies outside the settlement boundary for Hermitage, in the countryside, where there is a general restriction against new development unless the application comprises one of the exceptions in in the Local Plan. It is accepted that both policy CS7 and TS3 are permissive policies in that if the criteria are met in the policies then applications can be permitted in the rural areas, provided they accord with the development plan as a whole and all material considerations.
- 3.10 The PPTS along with Core Strategy Policy CS7 and TS3 do anticipate Gypsy and Traveller sites outside of settlement boundaries in the countryside. ADPP1 and ADPP 5 provide that development in the open countryside should be limited. Such development is subject to satisfying several criteria, albeit it should be strictly limited. The Emerging Plan is proposing the same approach.

Site location and sustainability

ADPP1

- 3.11 The overarching policy in the Core Strategy is ADPP1 (spatial strategy). This states that in open countryside only “appropriate limited development” will be permitted, focussing on addressing identified needs and maintaining a strong rural economy.
- 3.12 It is accepted that the Council has a policy obligation to meet the needs of travellers via pitch allocations, and this is facilitated through Policy CS7. Gypsy and traveller

development is capable of complying with Policy ADPP1 where the proposal also complies with the Development Plan as a whole, particularly Policy CS7. In this instance, I consider the proposal conflicts with Policy CS7 and the Development Plan as a whole, and therefore the development is not “appropriate” in this location.

3.13 It is not advanced by the appellant that the pitch in question does anything to assist the local economy, and it is concluded that this part of ADPP1 is not met.

3.14 I consider that the proposal does not accord with ADPP1.

ADPP5

3.15 ADPP5 is the spatial strategy for the area covered by the North Wessex Downs National Landscape (NWDNL), formally known as an Area Of Outstanding Natural Beauty (AONB). This policy indicates that development will conserve and enhance the local distinctiveness, sense of place and setting of the AONB whilst preserving the strong sense of remoteness, tranquillity and dark night skies. Development will respond positively to the local context, and respect identified landscape features and components of natural beauty.

3.16 The LPA proof of evidence on landscape matters (Liz Allen) demonstrates the proposal will cause significant and demonstrable harm to the character, appearance and landscape value of NWDNL. The development will not conserve and enhance and thus does not comply with policy ADPP5. The Council’s landscape expert demonstrates the proposed development will materially harm the physical and visual character of the local area and the NWDNL.

3.17 Furthermore, the Council’s landscape expert concludes the first Landscape and Visual Impact (LVIA) submitted by the appellant does not comply with Landscape Institute Guidelines for Landscape and Visual impact Assessment (GLVIA 3). The proposed landscape scheme was inadequate and would not mitigate the harm to the NWDNL. This means that the proposal does not comply with policy TS3 bullet points 3 (landscape proposal) and 13 (LVIA). The appellant has since submitted a further LVIA which was not accepted by the Inspector as it was late evidence.

3.18 I consider that the proposal does not accord with ADPP5.

Policy CS7

3.19 Policy CS7 is the principal policy against which new gypsy and traveller site applications are assessed. Taking these in turn :

3.20 **Safe and easy access to major roads and public transport services.** As explained in the Council's Highways proof of evidence, there are difficulties with the creation of a safe access to the site. This could only be achieved by removing a stretch of hedgerow on the site boundary, which increases the visual and landscape harm from the development. It is not considered that this criterion is met.

3.21 **Easy access to local services including a bus route, shops, schools and health services.** It is accepted that the site offers easy access to local services by car, however pedestrian access is unsafe due to the narrow footway.

3.22 **Located outside areas of high flood risk.** This criterion is met. The appeal site lies in FZ1.

3.23 **Provision for adequate on site facilities for parking, play, storage and amenity.** This criterion is considered to be met.

3.24 **The possibility of an integrated co-existence with the appellant and the local community:** There is opposition from the local community. This is intentional unauthorised development. It is difficult to anticipate whether the site's proximity to local services would result in an integrated co-existence.

3.25 **Opportunities for an element of authorised mixed uses.** This is not being sought here.

3.26 **The compatibility of the use with the surrounding land uses, including potential disturbance from road movements and business activities.** There is the potential for disturbance from the site in terms of noise and artificial lighting at night. The site is also visible from the public realm, including the Eling Way (an active travel route to the east of the site) and creates a sense of suburbanisation and enclosure. This criterion is not considered to be met.

- 3.27 **Will not materially harm the physical and visual character of the area.** This criterion is not considered to be met and is covered by reason for refusal 1.
- 3.28 **Where applicable have regard for the character and policies affecting the North Wessex Downs AONB.** This criterion is not met and is covered by reason for refusal 1.
- 3.29 I conclude that the appeal proposal does not satisfy each of the relevant criteria in policy CS7 so is not acceptable in terms of this policy.

Policy TS3

- 3.30 Policy TS3 in the Housing Site Allocations DPD sets out the Council's current adopted policy position on the detailed factors to be applied, in considering applications for new gypsy and traveller sites. These will be now taken in turn, with further detail provided below in section 4.
- a) **Provide an integrated water supply and drainage.** At the time of writing, the drainage information provided by the applicant is inadequate as explained in the evidence of Paul Bacchus. If further information is presented, the Council's position will be explained in a rebuttal proof or at the inquiry.
 - b) **Include appropriate vehicle access and turning area.** The Highways Authority is not presently satisfied that safe vehicle access is achievable. See further below.
 - c) **Include appropriate landscape proposals** retaining and incorporating key elements of local character. The Council's landscape evidence assesses this issue. The criterion is not satisfied.
 - d) **Be well designed and laid out** in appropriate materials with shelter and amenity buildings. The development and associated fencing is clearly visible from outside the site and results in the loss of a previous green field, causing real harm to landscape character.
 - e) **Mix of business uses; and flood risk assessment.** These are not relevant here.

- f) **SUDS to be satisfactory.** The LPA proof of evidence on drainage matters (Paul Bacchus) explains that they are not satisfied with the details and quality of the sustainable drainage strategy and Suds information submitted. The proposed development therefore fails to comply with Policy TS3 on bullet points 1 (drainage strategy in advance) and point 7 (Sustainable Drainage Methods). See further below in section 4.
- g) **Accessibility via modes other than the private car.** Pedestrian access to the site is not safe. The local school is accessible by school bus. This criterion is partially met.
- h) **Accessibility to the local PROW network.** An active travel route runs to the east of the site but there is no direct access from the site. There are also public footpaths in the wider area.
- i) **Mitigate impacts of the scheme on the local road network.** This is not required in this case .
- j) **Show how adopted standards for local green space can be met in accord with saved policy RL1.** The Council does not have any concerns in this regard.
- k) **Provide the necessary infrastructure to meet the needs that arise from the scheme.** The Council does not have any concerns in this regard, other than the inadequate information on drainage.
- l) **Provide a LVIA with the application.** The LVIA submitted was inadequate.
- m) **Provide an extended Phase 1 habitat survey.** A preliminary ecological assessment was submitted with the application. It is considered that the ecological impacts can be dealt with by condition.

3.31 I consider that key criteria above are not met, and the proposal therefore is not compliant with Policy TS3.

4. LPA evidence on the Reasons for Refusal

Landscape character, visual amenity and National Landscape

4.1 Mrs Allen's proof of evidence (CD9.6) set out the impacts of the appeal proposal on landscape, character and visual amenity. This evidence concludes that appeal development will result in significant and demonstrable harm to the character, appearance and landscape value of the NWDNL. The appeal site would damage the rural settlement edge character of heritage and will subsequently not conserve or enhance the NWDNL but cause permanent harm. Therefore, the development is contrary to the following policies: -

- West Berkshire Core Strategy (2006-2026) July 2012, Policies: ADPP5, CS7, CS14 and CS19 (CD8.3)
- Housing site allocations DPD (2006-2026) Adopted May 2017 Policy: TS3 (CD 8.5)
- National Planning Policy Framework December 2024 (amended February 2025) - para 7, 8(c), 11, 135 (a, b & c) 187 (a) and 189 (CD8.1)
- Planning Policy for Traveller Sites (PPTS) December 2024 Para 26 and 27 (CD 8.2)

4.2 Full weight should be given to the aforementioned policies. The proposal would result in significant and demonstrable harm to the character, appearance and landscape value of the NWDNL. This harm weights significantly in the planning balance.

4.3 Emerging policies SP2 North Wessex Downs AONB, SP7 Design Quality, SP8 Landscape Character, DM15 Trees, Woodland and Hedgerows and DM20 Gypsies, Travellers and Travelling Showpeople (CD8.9) are relevant and carried moderate weight in the planning balance. The proposed development would not accord with the aforementioned emerging policies. Conflict with emerging policies only carries moderate weight in the planning balance as the plan is in the late stage but is not yet adopted.

Drainage

- 4.4 Mr Bacchus' proof of evidence (CD9.10) set out whether the proposal would provide an adequate surface water drainage scheme (issue 3 from Post CMC note) and covers refusal reason 2.
- 4.5 The LPA Drainage Evidence does not dispute that a drainage strategy broadly in accordance with the submitted plan is likely to be possible, the submitted information contains too many errors and fundamental issues to substantiate this. The consequences of permitting the development in its current state includes the potential to incorporate faulty or non-compliant drainage measures on site. Whilst the use of infiltrating permeable paving throughout the site is unlikely to increase flood risk to the surrounding area (including the B4009 which is a WBC highway), it may not be sufficient to drain the site to a satisfactory standard in accordance with S7-S19 of the non-statutory technical standards for sustainable drainage systems for SuDS (DEFRA, 2015) and does not conform with best practice as required by CS16 of WBC's Core Strategy.
- 4.6 These issues cannot be resolved by condition because the calculations unpinning the drainage strategy were insufficient and there is a risk substantial amendment may need to be made to the design of the scheme. There is a risk these could be fundamental and should be assessed before a decision is issued. The NPPG Paragraph: 006 Reference ID: 21a-006-20140306 indicates that conditions that unnecessarily affect the impact on the proper implementation of the planning permission should not be used.
- 4.7 There is currently insufficient information with regards to data on which the appellants drainage strategy is based. Therefore, the proposal is contrary to the following policies:
- West Berkshire Core Strategy (2006-2026) July 2012, Policies: Policy CS16 (CD8.3)
 - Housing site allocations DPD (2006-2026) Adopted May 2017 Policy TS3 on bullet points 1 (drainage strategy in advance) and point 7 (Sustainable Drainage Methods). (CD 8.5)
 - National Planning Policy Framework December 2024 (amended February 2025) - para 7, 8(c), 11, 164(a) and 182 (CD8.1).

- 4.8 Full weight should be given to the aforementioned policies. The conflict found with policies CS16 and TS3 should be given significant weight in the planning balance against the appeal proposal.

Highways

- 4.9 Mr Carr's proof of evidence (CD9.11) sets out the LPA's case on refusal reason 3. His proof of evidence also addresses the effect of the proposed development on highway safety, with particular reference to visibility at the site access and pedestrian connectivity (issue 2 from Post CMC note).
- 4.10 This evidence demonstrates that the proposed access is unsafe. The lack of an adequate public footway means there will not be safe pedestrian access from the site to local services. Although not cited in reason for refusal 3, it is considered that policies CS7 and TS3 are engaged and should have been cited. The proposed development is not compliant with Policy CS7 bullet point 1 (safe and easy access) and Policy TS3 bullet points 2 (appropriate vehicle access), 9 (route to services) and 10 (impact on local road network).
- 4.11 The LPA Highways evidence is that a condition could be used to secure an updated plan which shows a 1.5m wide footway. This would make the footway comply with inclusive Mobility guidance. Thus, part of the refusal reason 3 relating to no footway /pedestrian link to the south of the application site linking the accommodation to the village of Hermitage and its facilities could be resolved by condition. However, it should be noted that such a condition would likely have an impact on the tree and hedges which line Hampstead Norreys Road which in turn would have an impact on the character, appearance and landscape value of the NWDNL.
- 4.12 The LPA Highways evidence is that there is a significant restriction to visibility to the north of the site access. The existing location of the speed gateway to the north of the site access results in the visibility splay not being achievable. The relocation of the speed gateway would need to be relocated to a location that would need to be agreed with the Local Highways Authority. It would need to be supported by a traffic regulation order to extend the 30 mph limit northwards to any agreed location of the gateway. This has not been agreed, and therefore the refusal reason 3 would still stand.

4.13 For the reasons set in paragraph 5.15 and the Highways proof is evidence the development would be contrary to the following policies: -

- West Berkshire Core Strategy (2006-2026) July 2012, Policies: Policies CS13 and CS7 bullet point 1 (safe and easy access) (CD8.3)
- Housing site allocations DPD (2006-2026) Adopted May 2017 Policy TS3 bullet points 2 (appropriate vehicle access), 9 (route to services) and 10 (impact on local road network) (CD 8.5)
- National Planning Policy Framework December 2024 (amended February 2025) - para 7, 8(b), 11, 116 (CD8.1).

4.14 Full weight should be given to the aforementioned policies. Existing location of the speed gateway to the north of the site access results in the visibility splay not being achievable and a traffic regulation order has not been sort or agreed. This means the proposed development cannot demonstrate it can achieve safe access. Therefore, the proposal is not compliant with CS7 bullet point 1 (safe and easy access) and CS13 or Policy TS3 bullet points 2 (appropriate vehicle access), 9 (route to services) and 10 (impact on local road network). This harm weights significantly in the planning balance.

4.15 Emerging policy SP23 Transport would replace CS13 Transport. Significant restriction to visibility to the north of the site access means the proposal does comply with SP23. Conflict with emerging policy SP23 is significantly harmful but only carries moderate weight in the planning balance as the plan is in the late stage but is not yet adopted.

4.16 Policy CS7 and TS3 would be replaced be DM20. The proposal would not comply with emerging policy DM20 Gypsies, Travellers and Travelling Showpeople point 3 (safe access) and 4 (adverse effect of character of road). Conflict with emerging policy DM20 is a material consideration but only carries moderate weight in the planning balance as the plan is in the late stage but is not yet adopted.

5. Other considerations in the planning balance

5.1 The following considerations are material.

Local Need and Supply

- 5.2 Cheryl Willett's proof of evidence (CD9.3) assesses whether the Council can currently demonstrate a five-year supply of sites/pitches, whether there is an unmet need and any other relevant points flowing from the Planning Policy for Traveller Sites. (Issue 5 from post CMC note).
- 5.3 There is no shortfall in the 5 years up to 2026. Thus the LPA current have a 5 year supply. However, it is recognised there is a residual need for a further 17 pitches in the period up to 2038, taking into account existing and planned supply. There is no short term need, up to 2026. The Council accepts that the assessed need is a minimum need. A new GTAA will be undertaken following the repopulation of Four Houses Corner. The Council aims to meet its need, going forward, through a new Local Plan, and by way of assessing planning applications through a criteria-based policy in the Local Plan Review.
- 5.4 The supply of 5 pitches therefore carries moderate positive weight in the planning balance.

Personal circumstances

- 5.5 It is a matter of common ground that the occupiers of the site are covered by the definition of Gypsies and Travellers as set out in planning policy for traveller sites December 2024 Annex 1 point 1.
- 5.6 The appellant has now submitted a formal statement with regards to personal circumstances (CD5.1), although this was not submitted with the appeal at the start.
- 5.7 I have reviewed this statement and found that none of the children on site currently attend local schools or nurse, but some are home school or attend school out of district. Some occupiers are registered at local health services, but many others are registered outside of district. It is accepted there is an intention to move to use local services if planning permission is granted but this carries little weight at this time. The health and educational needs set out in the statement do not demonstrate it is essential for the occupants to be on this site at this time and this carries more weight.
- 5.8 The statement outlines that the occupiers of the site do not know of any alternative site they could go to. If the appeal was dismissed, it is not disputed that the appellants may

live a roadside existence, at least temporarily if they remain in the area. One plot of occupiers suggests they could unlawfully double up on other plots. The statement indicates that finding any alternative plot of land in the district or nearby would be difficult.

- 5.9 I consider that an alternative site could be found but acknowledge it would be difficult for the occupiers to find one in the short term. It may be possible in the long term or in a different area. Therefore, I give this moderate positive weight in the planning balance.
- 5.10 In conclusion, the statement of personal circumstances does not indicate that it is imperative for the occupants to live on this particular site or in the area, but I acknowledge it would be difficult for the occupiers to find an alternative site in the area. Their personal circumstances carry moderate weight in the planning balance.
- 5.11 As such I consider that the personal circumstances do not carry sufficient weight to override policy conflict and to outweigh the significant harm caused by the proposal. Thus, the weight to be given to the current occupiers' personal circumstances is moderate and not overriding.

Human Rights

- 5.12 This section addresses main issue 8 from the Inspector's post CMC Note. It is accepted that the site occupants are entitled to their traditional way of life, have protected characteristics for the purposes of the Public Sector Equality Duty, and their rights under Article 8 of the EHCA are also engaged.
- 5.13 Further, Article 3(1) of the United Nations Conventions on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
- 5.14 The best interest of the children on the site are of primary importance but are not overriding. Providing a settled base for the children to access educational is important. Consideration is also given to the proposal would allow families to reside together and avoid a roadside existence. This weighs positively in the planning balance, and I give it significant weight. However, it does not outweigh the harm attributed to the conflict with development plan policies.

- 5.15 Article 8 of the European Convention on Human Rights, enshrined in UK law through the Human Rights Act 1998, provides that everyone has the right to respect for his private and family life, his home and correspondence. It is engaged in this appeal. In this regard there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary, amongst other things, for the protection of the rights and freedoms of others. However, this is a qualified right and interference may be justified in the public interest if it is for a legitimate purpose.
- 5.16 The proposed development would be contrary to the development plan and does not comply with national policy. On the other hand, the development would contribute positively to meeting the overall need for gypsy and traveller accommodation and the accommodation and other needs of the current occupants.
- 5.17 It is considered that the protection of the public interest cannot be achieved in this case by means other than the refusal of planning permission. This is proportionate and necessary in the circumstances.
- 5.18 As such, the known personal circumstances are not considered to carry sufficient weight to override the policy considerations of the proposal, together with the demonstrable harm that is caused by the development.

Intentional unauthorised development (IUD)

- 5.19 The Written Ministerial Statement (WMS) (CD8.43) explains that IUD is a material consideration that is to be weighed in the determination of planning appeals. The relevant point is the lack of opportunity to appropriately limit or mitigate the harm that has been caused, where the development of land has been undertaken in advance of obtaining planning permission.
- 5.20 It is agreed in the statement of common ground that IUD had taken place. From the submitted objections the Council recognises that IUD has caused distress to the local residents, which has had an impact on community cohesion. The IUD has caused harm as set out in the remainder of this proof and is given weight, albeit limited weight, in the planning balance.

Noise and contamination

- 5.21 It is understood that the Acoustic assessment (CD1.22) was undertaken, which concluded that the occupants of the site during nighttime hours will suffer noise levels above the recommended maximum thresholds due to the M4. A condition will be required to secure acoustic barriers expected to reduce noise local to the homes to below the upper guideline level given in BS8233:2014.
- 5.22 Details would need to be agreed via a condition but the assessment finds that specification of the acoustic barrier is that the height should be sufficient to obscure line-of-sight to traffic using the M4 from a standing position within any of the mobile homes (estimated to be approximately 2.3m assuming a 0.5m undercroft); the barrier should be imperforate with no gaps or breaks and be constructed of a material that is at least 10kg/m².
- 5.23 The Environmental Health Officer raises further concerns that even with acoustic barriers the windows will need to be shut the majority of the time to ensure acceptable noise level and as a result additional ventilation would be required. Therefore, a condition requiring the units comply with BS3632:2015 would be required to make sure the occupiers were protected from noise pollution. It should be noted that this condition would likely mitigate the impact of noise pollution, and this is why is not formed a reason for refusal. However, it needs to be noted the mitigation measure for noise would likely cause further harm to the landscape character of the site. This has been covered by Liz Allen's proof of evidence.
- 5.24 The development in this location will cause some harm to the occupiers of the site due to unacceptable noise levels from the M4. However, the mitigation secured by conditions will neutralise this harm with regards to noise effecting occupiers of the site. Therefore, noise impacts carry neutral weight in the planning balance.
- 5.25 The Environment Health Officer recommended a condition with regards to unforeseen land contamination. It is considered that this will address any potential issue of contamination and thus this matter is neutral in the planning balance.

Ecology

- 5.26 A Preliminary Ecology Appraisal (PEA) (CD1.23) was submitted and review by the LPA Ecologist. There were no protected species found on site during the survey, but the area

would be used by foraging bats. East of the site is Furze Hill Local Wildlife site. It is considered that conditions would be required mitigate the harm the development would cause to ecology assets. Thus, conditions with regards to ecology mitigation will be required so the proposal can be considered compliant with policy CS17 and point 14 of policy TS3. With these conditions in place the proposed development would have a neutral impact on ecology assets, and therefore neutral weight is given to this matter in the planning balance.

Neighbouring amenity

- 5.27 The pitches are set at a reasonable distance apart to give occupiers a sufficient level of amenity.
- 5.28 The proposal is sufficient distance away from neighbouring properties so as not to give rise to amenity issues, such as overlooking, over shadowing or loss of natural light.
- 5.29 Therefore, it is considered the proposal will have a neutral impact on neighbouring amenity. It is considered that neutral weight is given to this matter in the planning balance.
- 5.30 It is noted that there have been objections with regards to loss of a private view and impact of property prices. These matters are private interests and therefore do not carry weight in the planning balance.

Community cohesion

- 5.31 Policy CS7 provides that sites should facilitate an integrated co-existence between the site and the settled community.
- 5.32 A number of objections have been received with regards to proposed development at both application and appeal stages. It is clear that the IUD has caused issues with regards to community cohesion. However, I acknowledge that this tension may dissipate over time.
- 5.33 The PPTS advises that traveller sites in rural areas should respect the scale of, and should not dominate, the nearest settled community and that they should avoid placing undue pressure on local infrastructure.

- 5.34 The cumulative effect of gypsy development would not be such as to dominate the service village of Hermitage in terms of population size or placing undue pressure on services.
- 5.35 The proposal would not have an unduly harmful effect on the settled community of Hermitage and that it would in this respect accord with the policies in the PPTS. This matter would be neutral in the planning balance.

Fear of crime

- 5.36 For fear of crime to be material consideration there will need to be some reasonable evidential basis for that fear. The precise weight to be afforded to such fears will be dependent on the quality of the evidence, unless there is strong evidence linking the land with criminal activity and past behaviour of the occupiers (rather than unsupported evidence about characteristics of the occupiers), fear of crime would not be considered a determinative factor in this appeal.
- 5.37 The LPA has received objections which allude to the perception that the development would lead to an increase in crime, but there is no evidence of criminal activity linked to the appeal site. Thus, fear of crime would not be considered a material consideration in this appeal.

Temporary Permission

- 5.38 This section addresses main issue 7 from the post CMC Note. The appellant did not specifically request that a planning permission subject to a time limitation condition be granted. Within the enforcement appeal, the appellants have requested that the time period for compliance with the requirements of the enforcement notice be increased from six to twelve months. The LPA have said they would be amenable to extending the period for compliance with the enforcement notice.
- 5.39 However, I consider that a temporary permission would not be appropriate in this instance given the degree of harm identified with regards to the NWDNL and conflict with development plan policies. It is considered that 12 months is a reasonable timeframe, as it is important not to prolong the significant harm to the protected landscape.

6. Planning Balance

6.1 I have identified the benefits and dis-benefits in respect of the appeal proposal, which carry positive and negative weight respectively in the planning balance.

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

- Significant
- Moderate
- Limited
- None / Neutral

6.3 The benefits and disbenefits of the proposal and the weight given to each matter is summarised in the table below.

Matter	Benefit or disbenefit or neither	Weight Given
Principle	Disbenefit	Significant
Landscape	Disbenefit	Significant
Highways	Disbenefit	Significant
Drainage	Disbenefit	Significant at present (insufficient information)
Personal Circumstance	Benefit	Moderate
Best interests of the children	Benefit	Significant
Intentional unauthorised development	Disbenefit	Limited
Local Need and Supply	Benefit	Moderate
Noise and contamination	Neither	Neutral with mitigation
Ecology	Neither	Neutral with mitigation
Neighbouring amenity	Neither	Neutral with mitigation
Community cohesion	Neither	Neutral
Fear of crime	Neither	Neutral

6.4 Table 2 explains the benefit and disbenefit and the weight given to matter in the planning balance.

Benefits and disbenefits of the proposal

6.5 The personal circumstances of the family and the best interests of the children weigh in favour of the proposal. Providing a settled base for the children to access education is important, as is the benefit of the family living together on a suitable site. It is

acknowledged that in the short term it could be difficult for the occupiers to find an alternative site and living a roadside existence until that time would not be ideal.

- 6.6 However, in the longer term the above objectives could be realised at a site in a different location that complies with planning policies, and the children could attend schools or health services from either alternative site.
- 6.7 The supply of 5 pitches would carry moderate positive weight in the planning balance.
- 6.8 Hence, although these matters carry moderate positive weight, the material considerations collectively do not indicate that a decision should be made other than in accordance with the development plan.
- 6.9 I have given full weight to the policies within the local development plan.
- 6.10 The appeal proposal is contrary to Policies ADPP1, ADPP5 and CS7 of the Core Strategy, and Policy TS3 of the Housing Site Allocations DPD and there is considered not to be sustainable in principle.
- 6.11 The proposed development would cause significant and demonstrable harm to the character, appearance and landscape value of the NWDNL. The appeal site would damage the rural settlement edge character of hermitage and will subsequently not conserve or enhance the NWDNL but cause permanent harm. The proposed development would conflict with development plan Policies ADPP1, ADPP5 and CS7, CS14, CS19 of the Core Strategy, and Policy TS3 of the Housing Site Allocations DPD. This harm and conflict would weight significantly in the planning balance.
- 6.12 Existing location of the speed gateway to the north of the site access results in the visibility splay not being achievable and a traffic regulation order has not been sought or agreed. This means the proposed development cannot demonstrate it can achieve safe access. Therefore, the proposal is not compliant with CS7 bullet point 1 (safe and easy access) and CS13 or Policy TS3 bullet points 2 (appropriate vehicle access), 9 (route to services) and 10 (impact on local road network). This harm weights significantly in the planning balance.

- 6.13 There is insufficient information with regards to drainage. The conflict found with policies CS16 and TS3 should be given significant weight in the planning balance against the appeal proposal.
- 6.14 IUD weighs against the proposal, and has caused harm, it is considered that this should only be given limited weight in the planning balance.
- 6.15 There is conflict with emerging policies SP5 (j) (Responding to Climate Change), SP6 (Flood Risk) and DM20 (Gypsies, Travellers and Travelling Showpeople) points 8 and 9. Conflict with emerging policies is a material consideration, but only carries moderate weight in the planning balance as the plan is in the late stage but is not yet adopted.

Presumption in favour of sustainable development

- 6.16 When the application for planning permission was originally before committee, the LPA could not demonstrate five-year supply of sites. Since then, a permission was granted at land south Abbotswood which meant that LPA can now demonstrate a five-year supply. Therefore, the tilted balance found in Framework paragraph 11d) is not engaged, having regard to PPTS paragraph 28.

Conclusion

- 6.17 In conclusion, the proposed development would not accord with development plan as a whole and is in conflict with the relevant parts of the NPPF, and the PPTS. There is significant harm to a protected landscape. The benefits of the proposal would not outweigh the disbenefits. In my view there are no material considerations outweighing non-accordance with the development plan, and the appeal should be dismissed.
- 6.18 If the LPR is adopted by the time of the Inspector's decision, my view will remain unchanged because the policy priorities and direction, especially with regard to protected landscapes, is essentially the same as in the current plan at the time of writing.