

Appeal Statement of Case

Local Planning Authority

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

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: February 2025

Council Reference: 23/00815/FUL

Appeal Statement of Case

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Contents

1. INTRODUCTION	4
REASONS FOR REFUSAL	4
PROCEDURAL MATTERS	4
2. APPEAL SITE AND PROPOSAL	5
APPEAL SITE - CONSTRAINTS AND DESIGNATIONS	5
PLANNING HISTORY	5
APPEAL PROPOSAL	6
3. PLANNING POLICY	7
STATUTORY DEVELOPMENT PLAN	7
WEIGHT TO BE GIVEN TO DEVELOPMENT PLAN POLICIES	8
MATERIAL CONSIDERATIONS	8
EMERGING POLICIES	11
4. MAIN ISSUES	13
5. POLICY CONTEXT	13
NATIONAL POLICY	13
LOCAL POLICY	13
NEED AND SUPPLY, ALTERNATIVES, AND THE EMERGING LOCAL PLAN REVIEW	17
6. LOCAL CHARACTER AND THE NORTH WESSEX DOWNS NATIONAL LANDSCAPE	20
RELEVANT POLICIES	20
ASSESSMENT OF APPEAL PROPOSAL	22
7. SUSTAINABLE DRAINAGE	26
ASSESSMENT OF APPEAL PROPOSAL	27
8. HIGHWAY SAFETY	31
RELEVANT POLICIES	31
ASSESSMENT OF APPEAL PROPOSAL	33
SITE ACCESS ARRANGEMENTS	34
FOOTWAY PROVISION	35
CONCLUSION	35
9. PLANNING BALANCE	37

Appendices

A	Landscape Report
B	Drawing 2305055-01
C	Drawing J004472-DD-07-revA
D	Hermitage Neighbourhood Plan 2022-2039
E	C753 The SUDS Manual
F	BRE365 2016
G	DEFRA Non-statutory technical standards for sustainable drainage systems for SuDS

1. Introduction

- 1.1 This Statement of Case has been prepared in respect of an appeal lodged against the refusal of planning permission (Council reference 23/00815/FUL) for the 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.

Reasons for Refusal

- 1.2 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.*

Procedural Matters

- 1.3 The Local Planning Authority indicated in its appeal questionnaire that it would be serving an Enforcement Notice and anticipates it will be appealed.

2. Appeal Site and Proposal

Appeal Site - Constraints and designations

- 2.1 The appeal site is rectangular in shape and lies immediately to the east of the Hampstead Norreys Road which is a classified B road; to the south of Sandhill, a detached dwelling adjacent the M4 to the north; to the west of the old rail line now a footpath know as Eling Way; and to the north of a detached bungalow known as Torcove. Abutting the site to the east is a Local Wildlife Site know as Pinewood Pits and Furze Hill and the Biodiversity Opportunity Area known as Bucklebury Plateau. Furze Hill Local Wildlife Site is designated as a local green space under policy HER7 under the Hermitage Neighbourhood Plan.
- 2.2 The appeal site comprises just under 0.5ha agricultural land and is a greenfield site surrounded by existing mature vegetation. The site lies outside of the defined settlement boundary of Hermitage and lies in the North Wessex Downs National Landscape (NWDNL), formerly the AONB. Hermitage is designated as a Service Village within the District Settlement Hierarchy in Policy ADPP1 of the Core Strategy. Adjoining the east of the site are trees which are subject to Tree Preservation Order 201/21/0475 - A1. The appeal site is within Flood Zone 1 and is not in a critical drainage area. The site is classed as woodland and Heathland Mosaic under West Berkshire Council Landscape Character Assessment (2019).

Planning History

- 2.3 The site has no relevant planning history.
- 2.4 The planning application is retrospective as initial operational development, and the material change of use occurred deliberately without planning permission. The land and development are subject to an injunction from the High Court to prevent further development until such a time as planning permission may be granted. The injunction permits certain named individuals to reside on site in the meantime.
- 2.5 Local Planning Authority indicated in its appeal questionnaire that it would be serving an Enforcement Notice and anticipate it will be appealed in section 3.a. This will be issued shortly.

Appeal Proposal

- 2.6 The appeal pertains to the retrospective change of use of land for the Gypsy/Traveller pitches, and the part retrospective formation of 5 Gypsy/Traveller pitches comprising of 1 mobile home, 1 touring caravan, and 1 utility building per pitch. Associated development including the laying of hardstanding and erection of fencing has already been undertaken but not finished, and pitches have been occupied using temporary caravans/utility buildings. Widening of the vehicular access to the site has also taken place. The site is not currently in its proposed form, with further development (e.g. hardstanding and replacement utility buildings) and landscaping to take place.
- 2.7 There is a High Court Injunction on the site and this means development works were prevented before completion. This means there is only partial construction of five gypsy and traveller pitches, to include a mobile van, 1 mobile home and 1 utility building attached. This makes the proposal part retrospective.

3. Planning Policy

3.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise¹. The development plan is therefore the starting point for decision making. Where a planning application/appeal conflicts with an up-to-date development plan, permission should not usually be granted. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Statutory Development Plan

3.2 The statutory development plan for West Berkshire is currently made up of a number of different documents². Table 3.1 sets out those development plan documents that are relevant to the appeal proposal, together with a list of the relevant policies.

Table 3.1: Statutory Development Plan

Development Plan Document	Relevant Policies
West Berkshire Core Strategy 2006-2026 (WBCS)	ADPP1, ADPP5, CS7, CS13, CS14, CS16, CS17, CS18, CS19
Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD)	TS3 and P1
West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (WBDLP)	OVS.5, OVS.6
Hermitage Neighbourhood Plan 2023-2039	HER2, HER3, HER4, HER5, HER6, HER7, HER9
Minerals and Waste Local Plan (2022 - 2037) West Berkshire Council: October 2022	Policy 9

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

² Full development plan: West Berkshire Core Strategy 2006-2026 (adopted July 2012); Housing Site Allocations DPD 2006-2026 (adopted May 2017); West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (as amended in July 2012 and May 2017); Stratfield Mortimer Neighbourhood Development Plan (adopted June 2017); South East Plan, Natural Resource Management Policy 6 (relating to the Thames Basin Heaths Special Protection Area; Replacement Minerals Local Plan for Berkshire (incorporating alterations adopted in December 1997 and May 2001); Waste Local Plan for Berkshire (adopted December 1998).

Weight to be given to development plan policies

- 3.3 It is a fundamental principle of the planning system that the weight to be afforded to each issue is solely a matter for the decision maker. However, the NPPF provides some guidance on what weight should be given to development plan policies given the status of the NPPF as a material consideration in deciding planning applications/appeals. Paragraphs 231 and 232 state:

“231. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this Framework has made.

232. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Where a local planning authority can demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78) and where the Housing Delivery Test indicates that the delivery of housing is more than 75% of the housing requirement over the previous three years, policies should not be regarded as out-of-date on the basis that the most up to date local housing need figure (calculated using the standard method set out in planning practice guidance) is greater than the housing requirement set out in adopted strategic policies, for a period of five years from the date of the plan’s adoption.”

- 3.4 The weight to be given to the relevant policies is discussed in this statement under the headings relating to each consideration, as appropriate.

Material Considerations

- 3.5 A number of documents are material conditions relevant to this appeal.
- 3.6 The **National Planning Policy Framework (NPPF)** sets out the Government’s planning policies for England and how these should be applied. The NPPF is a material consideration in planning decision, which should be read as a whole (including its footnotes and annexes). The latest version was published in December 2024.

- 3.7 The **Planning Practice Guidance (PPG)** is an online publication which supplements the NPPF and, as a statement of government policy, may also be material when deciding applications/appeals.
- 3.8 The **Planning Policy for Traveller Sites (PPTS)** sets out the Government's planning policies for England in respect of Traveller Sites and these should be applied. The PPTS is a material consideration in planning decisions relating to Traveller Sites and should be read in conjunction with the NPPF. The latest version was published in December 2024.
- 3.9 The **Quality Design SPD (2006)** aims to help developers create places of high quality design which are sustainable, secure and accessible to all. The SPD series is made up of 10 documents.
- 3.10 The **Sustainable Drainage Systems (SuDS) SPD (2018)** was adopted by the Council in December 2018, following a period of consultation which took place in Summer 2018. It provides guidance on the approach that should be taken to SuDS in new developments in West Berkshire so as to manage and mitigate surface water flood risk.
- 3.11 The **North Wessex Downs Area of Outstanding Natural Beauty Integrated Landscape Character Assessment (2002)** provides a fully integrated view of the landscape incorporating all the features and attributes that contribute to the special and distinctive character of the North Wessex Downs National Landscape.
- 3.12 The **West Berkshire Landscape Character Assessment (2019)** provides a comprehensive and up to date landscape character assessment for all land outside defined settlement boundaries in West Berkshire and ensures that an understanding of the character of the landscape can be used as a positive tool to manage change by providing a framework for informed decisions to be made.
- 3.13 The **North Wessex Downs AONB Management Plan 2019-2024** sets out the strategic objectives for the period 2019-2024 and is intended to guide the relevant activities of local authorities, Government agencies, businesses, communities and individuals in the North Wessex Downs. The review of the current North Wessex Downs Management Plan is under way with a view to publishing a revised Plan in late 2025. As advised by DEFRA, the NWDNL Partnership has published a "light touch review statement", explaining its decision to extend the life of the current Management Plan and listing

some priorities it expects to guide the preparation of the revised Management Plan 2025-30.

- 3.14 The **North Wessex Downs National Landscape Position Statement Dark Skies & Artificial Light** informs local planning authorities, landowners, applicants and other interested parties regarding the provision of lighting likely to affect the North Wessex Downs AONB, both within the AONB and its setting. This document is intended to guide policy makers, to assist in the preparation of planning applications involving lighting and to assist in the decision-making process. More detailed design guidance can be found in *Dark Skies of the North Wessex Downs AONB: A Guide to Good External Lighting*.
- 3.15 The **Local Transport Plan for West Berkshire 2011-2026** sets the framework for the delivery of all aspects of transport and travel for West Berkshire. It supports the delivery of a number of West Berkshire's strategies and plans, in particular the Sustainable Community Strategy and the Local Development Framework.
- 3.16 The **Guidelines for Landscape and Visual Impact Assessment (2013) 3rd Ed** provides detailed advice on the process of assessing the landscape and visual effects of developments and their significance.
- 3.17 The **Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2019)** identifies the accommodation needs of Gypsies and Travellers, Travelling Showpeople and houseboat dwellers across the District.
- 3.18 The **Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2021 refresh)** provides an update to the 2019 GTAA and identifies the cultural need and a PPTS need for traveller sites. The 2021 GTAA provides an update of the 5 year need between 2021 and 2026, and of the longer term need up to 2038.
- 3.19 **Chief Planning Officer letter dated 31st August 2015** re intentional unauthorised development and associated Ministerial Statement dated 17 December 2015.
- 3.1 **Hermitage Design Guidelines and Codes September 2022** provides design guidance to ensure that development within the parish contributes to a distinctive place with a consistent and high-quality standard of design that reflects the rural nature of the village. This document is appended to the Hermitage Neighbourhood Plan.

Emerging Policies

- 3.2 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.
- 3.3 The Local Plan Review 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.
- 3.4 In terms of dates for the LPR, 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. The Inspector will then prepare his final report. If he recommends the Plan is sound the Council can then proceed to adoption. This needs to be considered and agreed by Members and this would need to go to a Full Council meeting, and this may potentially be on 15th May.
- 3.5 The emerging policies relevant to this proposal are:
- SP1 The Spatial Strategy
 - SP2 North Wessex Downs AONB
 - SP3 Settlement Hierarchy
 - SP5 Responding to Climate Change
 - SP6 Flood Risk
 - SP7 Design Quality
 - SP8 Landscape Character
 - SP9 Historic Environment
 - SP10 Green Infrastructure
 - SP11 Biodiversity and geodiversity
 - SP23 Transport
 - DM1 Residential Development in the Countryside
 - DM3 Health and Wellbeing
 - DM5 Environmental Nuisance and Pollution Control
 - DM6 Water quality
 - DM7 Water Resources and Waste Water

- DM8 Air Quality
- DM14 Assets of Archaeological Importance
- DM15 Trees, Woodland and Hedgerows
- DM20 Gypsies, Travellers and Travelling Showpeople
- DM31 Residential Amenity
- DM42 Transport Infrastructure
- DM44 Parking

4. Main Issues

4.1 Taking into account the Council's reasons for refusal and the Appellant's Statement of Case, the main issues of this appeal can be broadly summarised as follows:

- Impact on the character of the area and the NWDNL
- Impact on sustainable drainage
- Highway safety

5. Policy Context

National Policy

5.1 In the context of meeting identified needs for housing, paragraph 63 of the National Planning Policy Framework states that size type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups include, amongst others, travellers, and reference is made to the Planning Policy for Traveller Sites (PPTS).

5.2 The PPTS requires that Local Planning Authorities should make their own assessment of need, to increase the number of gypsy and traveller sites in appropriate location, and to ensure that the Local Plan includes fair, realistic and inclusive policies.

5.3 The policies of the Development Plan have been prepared in accordance with the NPPF and PPTS. The current Local Plan includes allocations for travellers, and permissive policies for assessing proposed gypsy and traveller sites in the countryside.

Local Policy

5.4 The most important policies for determining whether the principle of development is acceptable are Policies ADPP1, ADPP5 and CS7 of the Core Strategy, and Policy TS3 of the Housing Site Allocations DPD. The Core Strategy includes a Spatial Strategy (ADPP1 and ADPP5) that provides a broad indication of the overall scale of development in the district, applying the principles of sustainable development, and based on defined spatial areas and a settlement hierarchy.

- 5.5 According to **Policy ADPP1**, most development will be within or adjacent to the settlements in the hierarchy, and related to their transport accessibility and level of services. The urban areas will be the focus for most development. The scale and density of development will be related to the site's accessibility, character and surroundings.
- 5.6 The appeal site is located outside of, and to the north of, Hermitage. According to Policy ADPP1, only appropriate limited development in the countryside (outside of the defined settlement boundaries) will be allowed, focused on addressing identified needs and maintaining a strong rural economy.
- 5.7 Hermitage itself is classified as a "service village" in the District Settlement Hierarchy of Policy ADPP1, which is a third tier settlement designated for having a more limited range of services and some limited development potential.
- 5.8 **Policy ADPP5** is the spatial strategy for the North Wessex Downs Area of Outstanding Natural Beauty (AONB), now 'National Landscape'. Relatively limited housing growth is planned within this protected landscape. Recognising the area as a national landscape designation, the policy envisions 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, particularly on the open downland. Development will respond positively to the local context, and respect identified landscape features and components of natural beauty.
- 5.9 **Policy CS7 (Gypsies, Travellers and Travelling Showpeople)** is the principal development management policy for this proposed development. It reads as follows (bullet points have been replaced by letters for ease of reference):

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

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

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

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

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

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

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

- (b) Incorporate appropriate vehicle access and turning space.*
- (c) Include appropriate landscaping proposals, retaining and incorporating key elements of landscape character into the site design.*
- (d) Be well designed and laid out with shelter and amenity buildings which are appropriately located and constructed of sympathetic materials suited for the purpose.*
- (e) Provide a mix of residential and business use where appropriate.*
- (f) Provide a Flood Risk Assessment in accordance with Policy CS16 of the adopted Core Strategy.*
- (g) Demonstrate that surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS).*
- (h) Include measures to improve accessibility by, and encourage use of, non-car transport modes. These measures should be set out in a Travel Plan for the site.*
- (i) Identify internal walking routes and show how they will be linked to existing routes including the Public Rights of Way network. They will also take advantage of the landscape features of value within the site. Opportunities to improve external routes to services and facilities will be sought.*
- (j) Identify measures to be provided to mitigate the impact of development on the local road network as identified by a site specific Transport Assessment or Transport Statement.*
- (k) Identify appropriate green space/green infrastructure in line with the Council's adopted standards as set out in Policy RL1 of the Local Plan 1991 – 2006 (Saved Policies 2007).*

- (l) Provide necessary infrastructure to meet the needs that arise from the development as a whole, in accordance with both the most up to date Infrastructure Delivery Plan (IDP) and through conformity with the appropriate standards.*
- (m) Provide a Landscape and Visual Impact Assessment (LVIA) in accordance with the Landscape Institute Guidelines for Landscape and Visual impact Assessment 3rd ed. 2013. This will inform the development design and layout of the site and requirements for green infrastructure.*
- (n) Provide an extended phase 1 habitat survey together with further detailed surveys arising from that as necessary. Appropriate avoidance and mitigation measures will need to be implemented, to ensure any protected species are not adversely affected.*
- (o) Provide appropriate mitigation to offset impact on key species and habitats through appropriate buffering, on-site mitigation and off-site compensation measures.*
- (p) Provide a design, layout and siting plan for the development.'*

Need and Supply, Alternatives, and the Emerging Local Plan Review

- 5.11 The Council will provide evidence that will detail the need and supply of Gypsy and Travellers, and the alternatives, in the district. It is also proposed to seek to agree a topic-based Statement of Common Ground on need and supply, to potentially narrow the issues.
- 5.12 Whilst not forming part of the reasons for refusal the need and supply of Gypsy and Traveller sites and alternatives sites are material planning considerations in the determination of the appeal. Since the decision was made the Planning Policy for Traveller Sites (PPTS) has been amended (December 2024), which the Council will refer to in its proof of evidence. The appellant's Statement of Case understandably does not reference the updated PPTS as it was submitted prior to the publication of the PPTS. Annex 1 has amended the definition of Gypsies and Travellers to the following (bold emphasis added to highlight the change):

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

- 5.13 The Council will refer to the Gypsy and Traveller Accommodation Assessment (GTAA) undertaken in 2019 and updated in 2021 which has assessed the need (former PPTS need and cultural need) of all Gypsies and Travellers. The GTAA is judged to reflect the needs of all Gypsies and Travellers when considering the updated definition in the PPTS 2024. In this regard the Council does not agree with the appellant’s Statement of Case paragraph 5.29 that the GTAA undercounts need.
- 5.14 Paragraph 28 of the PPTS has been amended to now engage the tilted balance, under paragraph 11 (d) of the National Planning Policy Framework (NPPF) 2024 in the event that the local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites.
- 5.15 In referring to the most recent update of the GTAA and the available pitches it will be demonstrated that there is a shortfall of 1 pitch in the short term (2021-2026), as a minimum, and in this regard the Council agree with the appellant’s statement in their Statement of Case paragraph 5.19. Therefore, the provisions of paragraph 11 (d) of the NPPF apply.
- 5.16 The proof of evidence will consider whether there are any alternatives.
- 5.17 The proof of evidence will consider the weight to give to emerging planning policies in the Council’s Local Plan Review. The Council consulted on the Main Modifications to the Local Plan Review between 6th December 2024 and 31st January 2025. The Local Plan Inspector has requested a summary of the main issues raised be provided within a month of the consultation closing, after which he will produce his final report. At the time of submission of proofs of evidence the Council is expected to have a greater understanding of whether the Inspector considers the Plan sound.
- 5.18 It is considered that the evidence on need and supply and alternatives could be effectively tested in a round table discussion. The LPA have agreed that it is common

ground that currently have an unmet need and cannot demonstrated a 5 year supply of Gypsy/Traveller sites. Further common ground could be found via the need and supply topic-based Statement of Common Ground.

6. Local Character and the North Wessex Downs National Landscape

Relevant Policies

- 6.1 Policy CS14 (Design Principles) of the Core Strategy states that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area and makes a positive contribution to quality of life. Considerations of design must be informed by the wider context – the immediate area and wider locality. Development shall contribute positively to local distinctiveness and sense of place. Development proposals will be expected to contribute positively to local distinctiveness and sense of place.
- 6.2 Policy CS19 (Historic Environment and Landscape Character) of the Core Strategy states that natural, cultural and functional components of character will be considered as a whole in seeking to conserve and enhance landscape character, having regard to the sensitivity of the area to change; local context; and the conservation and enhancement of heritage assets and their settings. Proposals for development should be informed by relevant landscape character assessments; settlement character studies and adopted community planning documents; and the nature, potential and significance of heritage assets.
- 6.3 Policy CS7 of the Core Strategy states that for the purpose of considering planning applications relating to sites not identified in the relevant DPD, the following criteria (amongst others) will need to be satisfied for sites outside settlement boundaries: The development will not materially harm the physical and visual character of the area and where applicable have regard for the character and policies affecting the North Wessex Downs AONB.
- 6.4 Policy TS3 of the HSA DPD states that proposals for development will be expected to comply with policies within the West Berkshire Development Plan and have regard to guidance outlined in the Government's good practice guide on Designing Gypsy and Traveller Sites where appropriate. In addition, proposals will include appropriate landscaping proposals, retaining and incorporating key elements of landscape character into the site design. Further, they will provide a Landscape and Visual Impact Assessment (LVIA) in accordance with the Landscape Institute Guidelines for

Landscape and Visual impact Assessment 3rd ed. 2013. This will inform the development design and layout of the site and requirements for green infrastructure.

- 6.5 Policy HER2 (Design) from Hermitage Neighbourhood Plan states that development should demonstrate high quality design and layout which respects the local character of Hermitage identified in the Hermitage Design Guidelines and Codes 2022 (or any successor document).
- 6.6 Policy HER3 (Countryside views between properties) states that in order to preserve its setting within the North Wessex Downs National Landscape development within or adjacent to the settlement boundary of Hermitage must be designed and arranged in a manner which would safeguard views of the surrounding countryside that occur between buildings.
- 6.7 The above policies are consistent with paragraph 135 of NPPF. Furthermore, Paragraph 189 of the NPPF finds that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Policies HER2 and HER3 are consistent with the NPPF as their objective is to further protect and enhance the North Wessex Downs National Landscape.
- 6.8 The North Wessex Downs AONB Management Plan 2019-2024 sets out the strategic objectives for the period 2019-2024 and is intended to guide the relevant activities of local authorities, Government agencies, businesses, communities and individuals in the North Wessex Downs.
- 6.9 The West Berkshire Landscape Character Assessment (2019) provides a comprehensive and up to date landscape character assessment for all land outside defined settlement boundaries in West Berkshire and ensures that an understanding of the character of the landscape can be used as a positive tool to manage change by providing a framework for informed decisions to be made.
- 6.10 Section 245 (Protected Landscapes) of the Levelling-up and Regeneration Act 2023 (LURA) amends the duty on relevant authorities in respect of their functions which affect

land in National Parks, National Landscapes, and the Norfolk and Suffolk Broads (collectively referred to as Protected Landscapes) in England. Relevant authorities must now 'seek to further' the statutory purposes of Protected Landscapes. This replaces the previous duty on relevant authorities to 'have regard to' their statutory purposes. The duty is intended to facilitate better outcomes for England's Protected Landscapes, which are in line with their statutory purposes.

Assessment of Appeal Proposal

- 6.11 During the consideration of the application, the Local Planning Authority engaged a Chartered Member of the Landscape Institute to review the appellant's LIVA by Draffin Associates at the application stage and then give a report.
- 6.12 The full report can be read in appendix A. In summary, the main conclusions in the Landscape consultation response was that the LVIA was incomplete, contained subjective opinions and overall did not provide an objective assessment of the development proposals, for the reasons as follows.
- 6.13 The LVIA did not follow a recognised landscape and visual assessment methodology. Therefore, the judgements can only be the subjective opinion of the assessor.
- 6.14 The assessment used the baseline as the presently semi-constructed proposals, then concluded the mitigation measures would therefore offer an improvement, this is a misguided form of assessment. The baseline should have been the existing undeveloped grass field.
- 6.15 Review of the baseline, content and findings of the assessment: The LVIA omitted relevant adopted evidence, in particular the NWD AONB Integrated Landscape Character Assessment Technical Report (LUC, March 2002) and the NWD AONB Management Plan 2019-2024. Not fully referencing these documents shows a lack of understanding of the baseline, what is of value and the proposed landscape strategy for this area and how the open undeveloped character of the proposed site contributes to the landscape character and special qualities of the National Landscape.
- 6.16 The LVIA made no reference to the West Berkshire Local Plan 2006-2026 and in particular policies ADPP5, Policy CS7, CS14, CS19. Housing site allocations and the detailed planning considerations for travellers' sites.

6.17 Presentation including plans and tables: The LVIA did not include any Visual and Landscape assessment tables, although not a requirement, there is a requirement to show a clear, methodical transparent assessment. The LVIA also contained:

- Generalised plans not acknowledging tree canopies and the location of trees of value
- Inadequate and poor-quality photos for the visual assessment

6.18 The report also concludes that the site originally as a small grass field would have contributed to the rural edge of settlement character of Hermitage. The proposals have already resulted in an adverse effect on the landscape character of the site and adjacent area. Furthermore, the location of the site aligns an approach road into Hermitage, where there are views into the site, which will increase especially within the leafless winter months and will be visible by a large number of people. Thus, the proposal does not accord with policy ADDP5.

6.19 The proposals will harm the physical and visual character of the area and will not conserve and enhance the National Landscape. Thus, the proposal does not accord with policy CS7.

6.20 The proposed development includes features which are not only suburban in character but are also not characteristic to the area. Also due to the site's visible location and lack of adequate and available space along the western boundary, it will not be possible to provide any effective mitigation measures, leaving permanent views of the development from the adjacent Hampstead Norreys Road. Thus, the proposal does not accord with policy CS14.

6.21 The appeal site is located within the National Landscape and within Character Area 8A: Hermitage Wooded Commons. As stated within this policy ... in order to ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced particular regard will be given to ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character. The site due to the adverse effect on valued landscape features, its visible location, use of non-vernacular style, detailing and materials will not conserve and/or enhance the landscape character of this area of the National Landscape. The development proposals have also not met the requirements

of the AONB Management Plan or the Landscape Strategy of the West Berkshire Landscape Character Assessment. The proposal is therefore in conflict with Policy CS19.

6.22 Policy TS3 (Detailed Planning Considerations for Traveller Sites) states that proposals for development will need to: include appropriate landscape proposals, retaining and incorporating key elements of landscape character into the design; and provide a Landscape and Visual Impact Assessment (LVIA) in accordance with the Landscape Institute Guidelines for Landscape and Visual Impact Assessment 3rd. 2013. This should then inform the development design and layout of the site and requirements for green infrastructure. Although a LVIA was submitted, it used the half-built site as its baseline, rather than the original grass field therefore its conclusion that the proposals will result in a slight beneficial impact are very misguided.

6.23 The proposed development which will result in significant and demonstrable harm as follows:

- The introduction of development including suburbanising elements and non-vernacular architecture on the rural landscape character of the North Wessex Downs AONB.
- The loss of valued features and special qualities of the AONB, including a well hedged field of grassland on the settlement edge of Hermitage, which contributes to its rural character and transition to open countryside

6.24 The Planning Committee gave great weight to the visual harm which would be caused to the character of the North Wessex Downs National Landscape. They gave particular regard to proposal having a harmful impact on the soft transition between the built-up area of Hermitage to the south and open countryside to the north.

6.25 The building and engineering operations that have taken place to date, as well as the siting of caravans and related paraphernalia are incongruous features within this landscape and are causing harm to the rural character of the site. The Council will provide evidence to demonstrate that the development will cause visual harm which would have a very harmful impact on the character of the North Wessex Downs National Landscape. The Council will provide evidence to support this position through the submission of a Proof of Evidence on Landscape. The LPA consider that Landscape

evidence can be mostly effectively test via the cross cross-examination because landscape issues are a key consideration in this appeal and matter is disputed. There have been inaccuracies within the appellant's submitted LVIA which need to be tested via cross examination.

7. Sustainable Drainage

Relevant policies

- 7.1 Policy CS16 of the Core Strategy states that development within areas of flood risk from any source of flooding, including Critical Drainage Areas and areas with a history of groundwater or surface water flooding, will only be accepted if it is demonstrated that it is appropriate at that location, and that there are no suitable and available alternative sites at a lower flood risk. On all development sites surface water is required to be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS).
- 7.2 Policy TS3 states that proposals will provide a Flood Risk Assessment in accordance with Policy CS16 of the adopted Core Strategy and demonstrate that surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS). Further, they will provide an integrated water supply and drainage strategy in advance of development to ensure the provision of adequate and appropriate infrastructure for water supply and waste water, both on and off site. Development will be occupied in line with this strategy. All sites that are not connected to the mains sewerage system will ensure there are no deleterious effects to Special Area of Conservation (SACs) and river and wetland Site of Special Scientific Interest (SSSIs).
- 7.3 Policy HER4 states that all development must minimise surface water runoff to prevent surface water flooding through implementation of suitable sustainable drainage systems (SuDS), and where possible incorporate mitigation and resilience measures for any increases in surface water flood risk that may occur due to climate change or other factors. The design of SuDS should be in accordance with best practice and national standards. It should also be ensured that they are multi-functional and can deliver additional benefits where possible, including biodiversity, environmental net gains and water quality. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.
- 7.4 The Council's adopted Sustainable Drainage Systems (SuDS) SPD (2018) sets out the concepts of SuDs and outline the design principles required to deliver SuDs in West

Berkshire. It provides advice on integrating SuDs within any development and delivering the multiple benefits drainage system expected within West Berkshire.

- 7.5 Paragraph 181 of the NPPF states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. In paragraph 182 it requires applications which could affect drainage on or around the site to incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff.

Assessment of appeal proposal

- 7.6 The appellant has not provided acceptable evidence that there is a viable surface water drainage solution on site. The main issues are regarding submitted evidence and associated calculations in support of ground investigations, and concerns regarding the drainage strategy including issues with calculations and alternative discharge locations. The LLFA do not believe the applicant has provided a suitable analysis of ground conditions to support the surface water drainage strategy in accordance with best practice/national standards contravening policy CS16 of WBC's Core Strategy.
- 7.7 As highlighted in the response to the LPA on 08/10/2024 the Factual Report submitted by Jaxx Engineering used to support the Drainage Strategy does not adhere to best practice and contains errors. The LLFA does not consider the test results to be valid without further information and testing.
- 7.7.1 Infiltration testing was carried out in summer (21/08/2024). The details of the trial pit locations were not provided and no pictures or evidence of the trial pits provided. Ground investigations should be carried out in winter or early spring to account for the performance of underlying soils subject to infiltration during seasonally wet periods and to establish groundwater levels. This is stated in section 3.2.3 of BRE365 2016 (appendix F). Evidence of testing should include the location of trial pits dug to ensure that the appropriateness of the results can be assessed.
- 7.7.2 The underlying strata was identified as being comprised of clay underlain by sand with made ground in the upper surface layer. According to the report "sandy CLAY" is encountered between roughly 150-170mm below ground level (bgl) to depths of around 1800mm bgl. The infiltration rates in the Jaxx report were not representative of clay like materials which is classified as being poor or very poor infiltration media. C753

The SuDS Manual (appendix E) Table 25.1 suggests clay has infiltration rates in the region of ($<3 \times 10^{-8} \text{m/s}$). Whilst betterment on these rates is not unexpected with the presence of other sediments, the range of values from testing still does not reflect clay like materials.

- 7.7.3 The infiltration rates calculated in the Jaxx Engineering report are incorrect. Testing in accordance with BRE365 requires repeat filling of trial pits with water and timing the time it takes to empty. Typically, the tester would expect the rate of emptying (infiltration rate) to slow with each test as the ground becomes more saturated. In the two trial pits that were used (referred to by letters as A and B) the rates increased. In the tests 'BRE TP1 – B' and 'BRE TP2 – B' the rate increased from $1.05 \times 10^{-5} \text{m/s}$ to $9.18 \times 10^{-4} \text{m/s}$ (over 87 faster on the second test). This is not believed to be possible under normal circumstances and warranted further scrutiny.
- 7.7.4 A spot check on 'BRE TP1 – A' was carried out by the LLFA to check the validity of the results. The rate of 'BRE TP1 – A' of $1.48 \times 10^{-4} \text{m/s}$ is more than 5x greater than the actual rate using the raw values with the used equation in section 3.2.3 of BRE365 2016 (the LLFA determined that the actual rate would be $2.78 \times 10^{-5} \text{m/s}$). Further checks demonstrated similar differing results. Prior to the planning decision the LLFA called Jaxx Engineering Consultancy to discuss the results, the representative confirmed they were likely incorrect and would provide revised information (this was not received prior to determination).
- 7.7.5 Groundwater hasn't been assessed but isn't anticipated to be an issue in this area (high elevation and no groundwater flood risk anticipated in the WBC SFRA).
- 7.7.6 Unfortunately, whilst the information submitted does not rule out the use of infiltration devices, the calculation errors, failure to carry out testing during a seasonally wet period and failure to provide evidence or record the location of trial pits renders the submitted information unacceptable in its current state.
- 7.8 As highlighted in the response to the LPA on 08/10/2024 the Drainage Strategy submitted by Flume Consulting Engineers is flawed and contains outstanding issues which were not resolved prior to the decision. The LLFA does not consider the surface water Drainage Strategy to be valid without further information and resolution of outstanding issues.

- 7.8.1 Figure 4 of the report confusingly refers to infiltration rates being determined at a later stage despite being established by supporting evidence and discussed in the report. The rate used in the calculations from the Flow Drainage Strategy (Appendix F) is 0.03780m/hr which corresponds to 1.04×10^{-5} m/s (equivalent to the slowest rate from the Jaxx Engineering report). Whilst the Jaxx Engineering report values are incorrect, in this instance the value is slower than the rate the LLFA calculates to be correct 2.0202×10^{-5} m/s. Unfortunately, as previously established in clause 7.7.6 the Jaxx Engineering Consultancy evidence is not considered to be valid.
- 7.8.2 An exceedance plan has not been provided. A single arrow on the SuDS scheme drawing shows exceedance leaving the site towards the northwest and B4009. Exceedance needs to be substantiated with levels assessment across the site and evidence of how the site shed runoff prior to development. This is relevant to understand the consequences of failure of the system and to inform calculations. Providing the applicant can provide storage of water up to the 1 in 100 years plus climate change storm event within the site boundary, exceedance onto the highway is not necessarily prohibited, however alternative potential exceedance arrangements might be preferable. Any increase or residual flood risk to the highway below the 1 in 100-year event plus climate change is not acceptable. Water on the highway creates an immediate skidding risk, results in potential for ice on the road which is a significant health risk to the public, and rapid deterioration of the highway. Inadequate drainage provision would be considered a nuisance problem.
- 7.8.3 There are issues with the calculations for the surface water drainage system.
- (a) The rainfall data that has been used should be FEH rainfall data not FSR.
 - (b) CV values should be revised to 0.9-1.0 where 100% rainfall capture is anticipated.
 - (c) The infiltration rate is not valid.
 - (d) Only the base should be considered as being viable for infiltration when designing permeable paving.
 - (e) Based on the limited exceedance information submitted the safety factor should be raised to 10 (see table 25.2 of C753 The SuDS Manual).

(f) In the unlikely circumstance that revised ground investigation data suggests that the proposal to infiltrate is not viable, the applicant would need to provide an alternative discharge location for surface water. There are no public surface water systems within 30m of the site and no watercourses. The applicants only potential alternative would be a private system to the east of the site (as marked on Thames Water asset data), and it is highly likely that this is a WBC owned highway drainage asset which would preclude any connection under WBC's SuDS SPD section 5.1.2. As a result infiltration testing must show that a valid surface water drainage solution can be provided on site.

7.9 Whilst the LLFA 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.

7.10 Further ground investigations taken during winter with clear evidence of the testing, location of the testing and correctly calculated infiltration rates (with any encountered groundwater noted clearly) needs to be provided in addition to amending the calculations in the drainage strategy to account for the issues noted in clause 1.5.3.

7.11 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, appendix G) and does not conform with best practice as required by CS16 of WBC's Core Strategy and policy HER4 of the Hermitage Neighbourhood Development Plan 2023 (appendix D). The Council will provide evidence to support these arguments through the submission of proof of evidence. The LPA consider that SuDS evidence can be most effectively be tested via the round table discussion. The refusal reason relates to insufficient information with regards to SuDS and involves specialist technical information and will give each participant equal standing in a discussion and help to reach expedient conclusion.

8. Highway Safety

Relevant policies

- 8.1 Within the West Berkshire Council Core Strategy (2006-2026), there is the following relevant policy:
- 8.2 Policy CS7 relates to Gypsies, Travellers and Travelling Showpeople and states that purpose of considering planning applications relating to sites not identified in the relevant DPD, the following criteria will need to be satisfied for sites outside settlement boundaries which are safe and easy access to major roads and public transport services; and easy access to local services including a bus route, shops, schools and health services.
- 8.3 Policy CS13 of the Core Strategy relates to transport and highways.

Policy CS 13 Transport

Development that generates a transport impact will be required to:

- *Reduce the need to travel.*
- *Improve and promote opportunities for healthy and safe travel.*
- *Improve travel choice and facilitate sustainable travel particularly within, between and to main urban areas and rural service centres.*
- *Demonstrate good access to key services and facilities.*
- *Minimise the impact of all forms of travel on the environment and help tackle climate change.*
- *Mitigate the impact on the local transport network and the strategic road network.*
- *Take into account the West Berkshire Freight Route Network (FRN).*
- *Prepare Transport Assessments/Statements and Travel Plans to support planning proposals in accordance with national guidance.*

**Development proposals may not need to fulfil each bullet point. The supporting text below clarifies the types and scale of development which will be required to meet the specific parts of this policy. The explanation of the policy is detailed in the Core Strategy document.*

- 8.4 Housing Site Allocations DPD (2006-2026) West Berkshire Council: Adopted May 2017 has the following relevant policy:

8.5 TS3 - Detailed Planning Considerations for Traveller Sites.

8.6 TS3 finds that proposals for development will be expected to comply with policies within the West Berkshire Development Plan. In addition, proposals will:

- Incorporate appropriate vehicle access and turning space.
- Include measures to improve accessibility by, and encourage use of, non-car transport modes. These measures should be set out in a Travel Plan for the site.
- Identify internal walking routes and show how they will be linked to existing routes including the Public Rights of Way network. They will also take advantage of the landscape features of value within the site. Opportunities to improve external routes to services and facilities will be sought.
- Identify measures to be provided to mitigate the impact of development on the local road network as identified by a site specific Transport Assessment or Transport Statement.
- Provide necessary infrastructure to meet the needs that arise from the development as a whole, in accordance with both the most up to date Infrastructure Delivery Plan (IDP) and through conformity with the appropriate standards.

8.7 With the NPPF (December 2024) the following paragraphs are relevant to this appeal

Paragraph 109 Transport issues should be considered from the earliest stages of plan-making and development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve:

a) making transport considerations an important part of early engagement with local communities;

b) ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places;

c) understanding and addressing the potential impacts of development on transport networks;

d) realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated;

e) identifying and pursuing opportunities to promote walking, cycling and public transport use; and

f) identifying, assessing and taking into account the environmental impacts of traffic and transport infrastructure – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.

8.8 Paragraph 111(b) of the NPPF (December 2024) states that planning policies should:

b) be prepared with the active involvement of local highways authorities, other transport infrastructure providers and operators and neighbouring councils, so that strategies and investments for supporting sustainable transport and development patterns are aligned.

Assessment of appeal proposal

8.9 The appeal site is located adjacent to the eastern side of the B4009, just to the north of Hermitage. Prior to unauthorised development taking place, the site was undeveloped paddock land and is bordered by existing vegetation to the north and east and a residential dwelling to the south.

8.10 The B4009, within the immediate vicinity of the site access, is subject to a 30mph speed limit. This increases to the national speed limit approximately 20m to the north of the site access.

8.11 It is proposed that the site access would remain as existing from the south western corner of the site.

8.12 West Berkshire Council refused planning permission on 24th October 2024 due to an unauthorised vehicle access onto the B4009, inadequate visibility distances being achieved to the north and south of the proposed site access and the lack of a footway / pedestrian link to the south of the application site.

8.13 The Local Highway Authority (LHA) originally objected to the application in May 2023 due to insufficient information relating to vehicular and pedestrian access. However,

additional information was submitted by the applicant's transport consultant Motion and the LHA subsequently recommended approval subject to conditions.

Site access Arrangements

8.14 In July 2024, the applicant submitted a highways technical note (dated 12th September 2023) which contained details of the proposed access arrangements.

8.15 The LHA reviewed the submitted information including the results of an ATC survey (located to the north of the site access) and calculated visibility splays. The ATC survey showed an 85th percentile northbound speed of 36.2mph and 37.6mph in the southbound direction. The required visibility splays were therefore 2.4m x 104m to the north and 2.4m x 64m to the south (where the splay extends to the B4009 / Manor Lane / Pinewood Crescent roundabout junction). The LHA considered the visibility splays acceptable and these are shown on drawing 2305055-01 at Appendix B

8.16 With regards to visibility, the condition put forward by the LHA stated:

Within 3 months of the date of this permission, the visibility splays at the access must be provided in accordance with drawing number 2305055-01 dated October 31st 2024. The land within these visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres above the carriageway level.

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

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

8.19 Evidence will be provided to show the visibility to the north of the site access and this will be evidence when Inspector undertakes a site visit. It will be demonstrated that the speed gateway in the current location, visibility splays to the north are not achievable.

Footway Provision

8.20 The additional plans submitted included drawing J004472-DD-07-revA showing the provision of a 1m wide footway link to the south of the access joining the existing footway to the south. This plan is included at Appendix C. It should be noted that this drawing was uploaded to the Council's planning portal on 21st October 2024. In the meantime, on the 14th October 2024, the LHA had already submitted their recommendation and conditions.

8.21 With regards to footway provision, the condition put forward by the LHA stated:-

Within 3 months of the date of the permission details of a 1.5 metre wide footway to be constructed southwards, between the site and the dwelling known as Torcove must be submitted to the Local Planning Authority. Once approved the scheme shall be constructed to the satisfaction of the LPA within 3 months of that approval date. Any statutory undertaker's equipment or street furniture located in the position of the footway/cycleway must be re-sited to provide an unobstructed footway/cycleway.

8.22 The LHA requirement for a 1.5m wide footway is the minimum acceptable width as outlined within Inclusive Mobility guidance. Therefore the 1m wide footway proposed is contrary to Inclusive Mobility guidance. As drawing J004472-DD-07-revA was submitted after the LHA had put forward their recommendation, the provision of an insufficient footway had not been identified.

Conclusion

8.23 Although the Local Highway Authority recommended approval of planning application 23/00815/FUL, it is recognised that a significant restriction to visibility to the north of the site access was not previously identified. The existing location of the speed gateway to the north of the site access results in visibility splays not being achievable. To address this concern, an updated plan would have been required showing the relocation of the speed gateway to a suitable location.

8.24 With regards to the proposed footway provision, as previously mentioned, a plan showing a 1m wide footway was submitted after the LHA had put forward their recommendation. As reflected by the LHA planning condition and Inclusive Mobility guidance, a footway with a 1.5m width would be required. To address this concern, an

updated plan could be submitted for LHA approval showing the provision of 1.5m wide footway.

8.25 The Council will provide evidence to support these arguments through the submission of proof of evidence. The LPA consider that Highway evidence can be mostly effectively test via the round table discussion as it will give each participant equal standing in a discussion and help to reach expedient conclusion.

9. Planning Balance

- 9.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. This Statement sets out the reasoning behind the Council's refusal reasons.
- 9.2 At this current time the Council is unable to demonstrate a five-year supply of deliverable gypsy and traveller sites, with a shortfall of one pitch. In these circumstances, paragraph 11(d) of the Framework is engaged in accordance with the revised PPTS (2024). If this changes during the course of the appeal, this will be notified to all parties.
- 9.3 However, the Council has identified that there would be significant harm to the scenic and landscape beauty of the NWDNL which provides a strong reason for refusing the development in accordance with paragraph 11(d)(i) of the Framework. As such, the 'tilted balance' is disengaged and there is no need to refer to the test in 11(d)(ii). It is, however, the Council's case, that this too would fail as the total harm would significantly and demonstrably outweigh the benefits.
- 9.4 There would be social and economic benefits associated with the provision of 5 gypsy and traveller pitches. However, given the scale of the development, these benefits carry moderate weight in the planning balance.
- 9.5 There would be significant harm arising from the site's location in the NWDNL. In addition, its location would not comply with the Council's spatial strategy and outstanding Highways and Drainage issues also means the development is contrary to the local development plan. The moderate benefits of the proposal would not outweigh these significant collective harms. The proposal would conflict with the development plan when considered as a whole.
- 9.6 In conclusion, the Council respectfully request the inspector to dismiss this appeal.