



Appeal Decisions

Hearing held on 28 and 29 May 2025

Site Visit made on 29 May 2025

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 August 2025

Appeal A: APP/Q2115/C/3346856

Land at Emmanuel Ranch, Windmill Road, Towersey, Oxfordshire OX9 3QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Darren Smith against an enforcement notice issued by South Oxfordshire District Council.
- The notice was issued on 5 June 2024 ("EN A").
- The breach of planning control as alleged in the notice is "Without planning permission the material change of use of the land from keeping of horses to a mixed use, namely 1) keeping of horses; and 2) the stationing of four caravans for residential use, together with facilitating development including: (i) earthworks to clear the site of vegetation and create a development platform (shown hatched black on the plan at Attachment 2); (ii) the laying of a hardstanding driveway and parking and manoeuvring areas (also shown hatched black on the plan at Attachment 2); (iii) the erection of close-boarded fences and ornamental pillars (shown coloured blue on the plan at Attachment 2) and gates (in the approximate location shown on the plan at Attachment 2); and (iv) the installation of poles mounted with external lighting and closed-circuit television surveillance equipment (shown coloured orange on the plan Attachment 2)."
- The requirements of the notice are:
 - (i) Stop using the Land for the stationing of caravans for residential use.
 - (ii) Permanently remove all caravans from the Land together with all domestic goods, chattels and paraphernalia.
 - (iii) Dig-up all hardstanding driveway, parking and manoeuvring areas referred to in 3 above.
 - (iv) Dismantle and demolish, as the case may be, the close-boarded fences, ornamental pillars and gates referred to in 3 above.
 - (v) Disconnect, dig-up and dismantle, as the case may be, all poles mounted with external lighting and closed-circuit television surveillance equipment.
 - (vi) Permanently remove from the Land all materials, waste and equipment resulting from steps (i), (ii), (iii), (iv) and (v) above.
 - (vii) Reinstate the Land to the condition that it was in prior to the breach of planning control occurring, by the grading of the Land to levels and a fall commensurate with adjoining lands; the laying, rotavating, rolling and raking of clean topsoil and the sowing of a general purpose meadow grass mix; and the reinstatement of agricultural post and rail fences and gates to replace the fences and gates as a result of step (iv) above.
- The period for compliance with the requirements is 9 months after this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/Q2115/C/3361189

Land at Emmanuel Ranch, Windmill Road, Towersey, Oxfordshire OX9 3QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Darren Smith against an enforcement notice issued by South Oxfordshire District Council.
- The notice was issued on 16 January 2025 ("EN B").
- The breach of planning control as alleged in the notice is "Without planning permission the undertaking of operations comprising of: (i) earthworks to clear the site and create a raised

development platform (shown hatched black on the plan at Attachment 2); (ii) the laying of a hardstanding driveway and parking and manoeuvring areas (shown shaded grey on the plan at Attachment 2); (iii) the erection of close-boarded fences and ornamental pillars (shown coloured blue on the plan at Attachment 2) and entrance gates (in the approximate location shown on the plan at Attachment 2); (iv) the installation of poles mounted with external lighting and closed-circuit television surveillance equipment (shown coloured orange on the plan Attachment 2); (v) the laying of concrete slabs/bases (shown cross hatched black on the plan at Attachment 2); (vi) the laying of concrete and brick kerbs (shown coloured crimson on the plan at Attachment 2); (vii) the construction of brick skirts and steps around mobile homes (in the approximate location shown edged dark purple on the plan at Attachment 2); (viii) the erection of 3 x buildings (shown coloured dark brown on the plan at Attachment 2); (ix) the installation of 3 x septic tanks (in the approximate locations shown on the plan at Attachment 2); and (x) the depositing of spoil (shown hatched and shaded light brown on the plan at Attachment 2)."

- The requirements of the notice are:
 - (i) Dismantle and demolish, as the case may be, the close-boarded fences, ornamental pillars and gates referred to in 3 above.
 - (ii) Disconnect, dig-up and dismantle, as the case may be, all poles mounted with external lighting and closed-circuit television surveillance equipment referred to in 3 above.
 - (iii) Demolish and dig-up, as the case may be, the concrete slabs/bases, concrete/brick kerbs, and brick skirts and steps referred to in 3 above.
 - (iv) Disconnect and dig-up the septic tanks referred to in 3 above.
 - (v) The demolition of the buildings referred to in 3 above.
 - (vi) Dig-up all hardstanding driveway, parking and manoeuvring areas referred to in 3 above.
 - (vii) Dig-up and remove deposited spoil referred to in 3 above.
 - (viii) Permanently remove from the Land all materials, waste and equipment resulting from steps (i), (ii), (iii), (iv), (v), (vi) and (vii) above.
 - (ix) Reinstate the Land to the condition that it was in prior to the breach of planning control occurring, by the grading of the Land to levels and a fall commensurate with adjoining lands; the laying, rotavating, rolling and raking of clean topsoil and the sowing of a general purpose meadow grass mix; and the reinstatement of agricultural post and rail fences and gates to replace the close board fences and gates as a result of step (i) above.
- The period for compliance with the requirements is 9 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Appeal C: APP/Q2115/W/3346849

Land at Emmanuel Ranch, Windmill Road, Towersey, Oxfordshire OX9 3QQ

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Mr Darren Smith against the decision of South Oxfordshire District Council.
- The application reference is P24/S0941/FUL.
- The development proposed is described as "Change of use of land to use as a residential caravan site for 3 gypsy families, including the stationing of 6 caravans of which no more than 3 are to be static caravans/mobile homes, together with the laying of hardstanding."

Summary of decision: The appeal is allowed in the terms set out below in the Formal Decision.

Matters Concerning the Enforcement Notices

1. The name of the land affected by EN A and EN B has changed from Windmill Meadow to Emmanuel Ranch. The Land is addressed as Emmanuel Ranch in the s78 appeal and there is no reason why identifying the land as Emmanuel Ranch would cause confusion. The Land is identified on the plan at Attachment 1 of EN A and EN B in any event. For precision, I shall delete the words "*(formerly known as*

Windmill Meadow)”, and I shall delete the superfluous words *“For the purpose only of aiding identification the Land is shown edged red on the accompanying inset map.”*

2. EN B seeks to capture all the operational development that has taken place on the Land. That being the case, there is no need for EN A to include the facilitating development that had occurred at the time of it being issued. This matter was discussed at the Hearing, and it was agreed that the facilitating development should be deleted from the allegation in EN A. The requirements of EN A shall be varied to reflect the corrected allegation. The plan found at Attachment 2 of EN A, showing the location of the facilitating development is no longer necessary.
3. The allegation in EN B, setting out the unauthorised operational development, includes at (ix) *the installation of 3 x septic tanks (in the approximate locations shown on the plan at Attachment 2)*”. Discussion during the Hearing brought to light that there is only 1 septic tank serving the whole site, which is located next to the toilet building towards the rear of the site adjacent to the southern boundary. During the accompanied site visit we saw that there is only 1 septic tank. The allegation shall be corrected, and requirement (iv) shall be varied accordingly. The plan at Attachment 2 shall also be corrected to remove the 2 non-existent septic tanks.
4. No injustice will be caused to either the appellant or the Council because of these corrections and variations, which are carried out for clarity and precision.

Preliminary Matters and Background

5. There are in effect two schemes for which planning permission is sought. The first relates to the use of all the land edged red on the plan attached to EN A as a mixed use comprising the keeping of horses and a caravan site and the operational development set out in the corrected allegation and corrected plan attached to EN B. I shall refer to this combined development as “the EN scheme”. The second scheme relates to the reduced area of land shown edged red on the site location plan that accompanies planning application reference P24/S0941/FUL. I shall refer to this scheme as “the P24 scheme”.
6. The land to which the EN scheme relates has been divided into 3 pitches and a grass paddock. For ease of reference, I shall refer to the pitch occupied by the appellant, his wife and 2 adult children as pitch 1. This pitch occupies the P24 scheme land. The 2 further pitches are located either side of the driveway. When entering the land, I shall refer to the pitch on the left (northwest corner of the land) as pitch 2 and I shall refer to the pitch on the right (southwest corner of the land) as pitch 3. Pitch 2 is occupied by Milo Smith, Taliajane Gallagher and their 3 children. Pitch 3 is occupied by Darren Lee, Whitney Price and their 3 children.
7. Prior to the unauthorised development taking place, the land was used for the keeping of horses and was occupied by an ‘L’ shaped stable building, a detached hay barn and a manège. These equestrian buildings remain in situ, while the manège has been removed. Planning permission was granted for the conversion of the hay barn and part of the stable into a one bedroomed dwelling, which included a link extension¹ (“P22”). Whether this planning permission is extant or has been implemented is in dispute. I will return to this later, if necessary.

¹ Application reference P22/S3712/FUL granted 21 November 2022

Appeals A and B on Ground (c)

8. An appeal on this ground is that the matters alleged, if they have occurred, do not constitute a breach of planning control. There is no dispute that the development alleged in EN A and EN B, as corrected, has occurred. It is however the appellant's contention that the driveway and hardstanding serving pitch 1 was already in place prior to the appellant's occupation of the land. Further, the works undertaken to the driveway and hard standing on pitch 1 amount to maintenance. In the alternative, they form part of the works granted planning permission by P22. The onus of proof rests with the appellant and the relevant test is the balance of probability.
9. In respect of Appeal A, there is no dispute the material change of use to a mixed use comprising the keeping of horses and a caravan site constitutes development requiring planning permission. No planning permission has been granted for that mixed use. The breach of planning control attacked by corrected EN A has therefore occurred as a matter of fact.
10. Turning now to the driveway and hardstanding serving pitch 1, they are claimed to be shown in historic aerial imagery. Images of the land dated 1999 and 2003 show a fenced track running in the approximate position of the driveway. The track is green in colour, presumably surfaced with grass or other vegetation, with 2 paler green lines running through it, perhaps corresponding with vehicle wheel positions. The 2003 image also shows the manège to have a green surface.
11. The images dated 2005 and 2009 show the track has had some form of surface material applied, although vegetation is still visible along its centreline. This surface material has also been applied in front of the stable building and the manège has a grey coloured surface.
12. The images dated 2015 and 2020 show the track has lost some of its earlier definition, as has the hardstanding adjacent to the stable and hay barn; vegetation is more apparent. The manège is also shown to be overgrown.
13. Site visit photographs taken by a Council officer, dated 13 March 2012, show vehicle tracks driven through a grass field. The gate position on to Windmill Road in these photographs leads me to conclude that they were taken from the adjoining field gate and the vehicle tracks shown are not the track located within the appeal land. These images show the hay barn on the P22 land in the distance along with a touring caravan. A post and rail fence between the vehicle tracks and the hay barn and caravan is also visible. The hardstanding adjacent to the haybarn and stable appears overgrown, which corresponds with the 2015 aerial imagery.
14. The drone images dated 13 October 2023 to 5 June 2024 show how the appellant has developed his land, which includes: the clearance of vegetation; removal of hedgerow along the northern boundary; the erection of close-boarded and post and rail fencing around the outer boundaries of the land; the erection of post and rail fencing within the land to define the driveway and the 3 pitches; the hard surfacing of the driveway and the hardstanding on pitch 1; and the stationing of caravans and a mobile home on pitch 1. The image dated 5 June 2024 also shows the regrowth of vegetation over what would become pitches 2 and 3, the paddock and parts of what had formerly been the manège.
15. Site visit photographs taken by a Council officer, dated 23 January 2024, show that pitches 2 and 3 have been levelled, fenced and lighting columns have been

- erected. They also show that pitch 1 has had hard core laid and that road planings are in the process of being levelled to form a hard surface. It is not possible to discern the depth of the sub-base or wearing course of the surfacing material from the images provided. However, throughout the Hearing the Council contended that it has a combined depth of some 300mm, which the appellant did not dispute.
16. Site visit photographs taken by the Council officer, dated 1 February 2024, show that the hard surfacing works to pitch 1 have been completed and the mobile home and a touring caravan have been stationed on it. They also show that the driveway has been hard surfaced in a similar manner. Pipework extending from the mobile home towards the uncontested location of the septic tank is also evident.
 17. Having regard to all the images provided, there can be no doubt that the location of the driveway corresponds with the track that has historically served development on the land since at least 1999. However, it is of note that the driveway has a much more formalised appearance and is undoubtedly of improved construction than the former track. The images also show that the former track was taken up in its entirety. Taking all these factors together, in my judgement, the driveway is a new construction, not an improvement or maintenance of the former track.
 18. The area of hardstanding that has been provided for pitch 1 corresponds with the approximate position of the manège and the hardsurfacing that was adjacent to the hay barn and stable. There is however no evidence to show that the hard surface adjacent to the hay barn and stable was joined to that forming the manège. I therefore find it more likely than not that the existing hardstanding exceeds what historically existed on land forming pitch 1.
 19. S55. (1) of the 1990 Act² confirms that the meaning of development is the carrying out of any building, engineering, mining or other operations in, on, over or under land, or the making of a material change of use of any buildings or other land. S55. (2) of the 1990 Act then lists operations or uses of land that shall not be taken to involve development. Maintenance, improvement or other alteration of a **building** [my emphasis] may not constitute development. Works to a road may also not be development, providing they are carried out by a highway authority.
 20. The works undertaken to form the driveway and hardstanding on pitch 1 do not include works to a building or a road. The appellant does not dispute that the works were carried out by him and his family. Having regard to s55 of the 1990 Act, the works undertaken to form the driveway and hardstanding are therefore development requiring planning permission. The only express planning permission that could be of relevance is P22.
 21. Having regard to P22, condition 2 required that the development be carried out in accordance with the listed approved plans, except as controlled or modified by other conditions. Conditions 5, 6 and 7 required the development to be carried out in accordance with a Phase 2 contamination report, detail how unexpected contamination should be dealt with, require a remediation strategy to be carried out in its entirety and a validation report to be submitted for approval. Condition 8 required a turning area and parking spaces to be constructed, laid out, surfaced, drained and completed to be compliant with sustainable drainage principles in accordance with details that have been submitted to and approved by the local

² Town and Country Planning Act 1990 as amended

planning authority. Additionally, *“the approved scheme shall be completed and maintained at all times”*.

22. Approved drawing P100 is the proposed location and site plan; this shows the area of building to be converted, a yard area adjacent to the stables with 3 parking spaces, and separate garden area. The hardstanding on pitch 1 exceeds the yard area identified on P100. The yard has not been separated from the garden area as shown on P100, and no garden has been created in accordance with P100. The red line area on P100 also excludes a strip of land included in pitch 1 and the driveway. The development has not therefore been carried out in accordance with the approved drawings specified in condition 2 of P22.
23. The appellant confirmed at the Hearing that the development was not carried out in accordance with the approved Phase 2 contamination report. Furthermore, I was told the remediation strategy was not carried out, no validation report has been produced, and there is no record of whether unexpected contamination was encountered. The development was not therefore commenced or carried out in accordance with conditions 5, 6 or 7 of P22.
24. The appellant further confirmed that the turning and parking facilities have not been provided with any means of drainage, other than natural percolation. While this may be an acceptable form of SuDS drainage, no detailed scheme has been submitted to or approved by the local planning authority to confirm this to be the case. Furthermore, compliance with condition 8 may have resulted in changes to approved plan P100. As condition 8 has not been complied with, any deviation from plan P100 has not therefore been approved.
25. Taking all the above factors together, the construction of the driveway and hardstanding serving pitch 1 does not benefit from the express planning permission granted by P22.
26. The GPDO 2015³ sets out forms of development that may benefit from deemed planning permission by virtue of article 3 and Schedule 2. However, I have not been directed to any Class or any Part within Schedule 2 of the GPDO 2015 under which the driveway and hardstanding could have benefited from deemed planning permission.
27. Furthermore, article 3(5) of the GPDO 2015 removes deemed planning permission rights where development is unlawful, thereby preventing the retro-fitting of development to permitted development limitations and conditions. As unlawful development has taken place on the land, permitted development rights cannot be exercised until such time as the unlawful development has been removed.
28. The driveway and hardstanding serving pitch 1 require the benefit of planning permission, and that planning permission has not been granted. The appellant has therefore failed to show, on the balance of probability, that the construction of the driveway and hardstanding on pitch 1 does not constitute a breach of planning control.

Conclusion on ground (c)

29. For the reasons given above, Appeals A and B on ground (c) fail.

³ Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

The ground (a) appeals and the deemed and express applications for planning permission

30. An appeal on these grounds is that planning permission should be granted for the corrected matters alleged in EN A and/or EN B, and/or the P24 scheme. I shall proceed on the basis that Appeal A relates to the use of all the EN land for a mixed use comprising the keeping of horses and a caravan site, Appeal B relates to the corrected operational development alleged, and Appeal C relates to a proposed development consisting of using the reduced area of land as a residential caravan site for 3 gypsy families and laying of hard standing.
31. If I find that the EN scheme is or can be made acceptable in planning terms, the lesser P24 scheme shall also be acceptable in planning terms as it is for the same development albeit on a smaller area of land. However, if I find the EN scheme to be unacceptable in any regard, I shall consider the acceptability of the P24 scheme in the alternative.
32. The **main issues** in the determination of these appeals are:
- The suitability of the location to accommodate the development;
 - The effect of the development on the character and appearance of the surrounding countryside;
 - The effect of the development on biodiversity, with regards to the loss of habitat and impact on protected species;
 - The effect of the development on residents' living conditions with regards to amenity space provision, contamination, drainage and flooding; and
 - Whether any other considerations would outweigh any identified harm and/or policy conflict.
33. There is no dispute that the appellant and his family meet the definition of gypsies and travellers found in Annex 1 of the Planning Policy for Traveller Sites 2024 ("the PPTS"). Policy H14: Provision for Gypsies, Travellers and Travelling Showpeople of the South Oxfordshire Local Plan 2011 – 2035 (December 2020) ("the SOLP") is fundamental to determining whether the EN scheme and/or the P24 scheme are acceptable in planning terms.
34. The land is not located within the Oxford Green Belt and the schemes would have no adverse impacts on the significance of any heritage assets. There is no dispute that any significant barriers to development exist in terms of flooding, ground stability or proximity to other hazardous land or installations where other forms of housing would not be suitable. The EN scheme therefore complies with criteria 2. ii), 2. iv) and 2. vii) of policy H14 of the SOLP and the EN scheme is therefore acceptable in principle.
35. The Council confirmed at the Hearing that they do not have a supply of specific deliverable sites sufficient to provide a 5-year supply of traveller pitches against their locally set targets. They also confirmed that there are no reasonably alternative sites available for the appellant and his family to move to, should planning permission be refused for the EN scheme and P24 scheme. There is therefore no dispute that there is a demonstrable need for this type of development.

36. The capacity of the site to meet the appellant's family needs is therefore justified and the principle of providing 3 pitches on the land complies with criteria 2. i) of policy H14 of the SOLP. Furthermore, while the land is in the countryside, providing for the very specific needs of the traveller community complies with policy STRAT1 of the SOLP, which otherwise seeks to protect the countryside from development.
37. While the Towersey Neighbourhood Plan ("the TNP") has recently been adopted, it makes no provision for the delivery of traveller sites. Paragraph C of policy TOW1 however confirms that development outside the village boundary will be supported where it is "*appropriate rural development*" as defined in the Framework and is consistent with other development plan policies. The keeping of horses is an essentially rural activity. The Framework and the PPTS also confirm that the provision of traveller sites in the countryside, thereby outside the village boundary, can be appropriate rural development. The EN scheme therefore accords with policy TOW1 of the TNP.

Sustainability

38. The Framework sets out the government's approach to promoting sustainable transport at paragraphs 110 and 115. These paragraphs seek to achieve sustainable developments through limiting the need to travel and offering a genuine choice of transport modes. The difference in opportunities to maximise sustainable transport solutions between urban and rural areas is however acknowledged by the Framework.
39. It is generally recognised that the traveling community have a greater reliance on private transport due to their nomadic habit of life. I also acknowledge that Towersey, and therefore the land, is not served by regular public transport services. Vehicle speeds on the surrounding highway network may also make cycling a less than desirable option for children living on the land. Like all the residents of Towersey, the occupiers of the land are therefore reliant on private transport to access the wide range of services and facilities in Thame and the wider locality.
40. Given the appeal site's rural location, the limited access to alternative modes of transport is not unusual. The additional vehicle trips generated by the schemes would have only a negligible effect on existing traffic levels generated by residents of Towersey and other road users.
41. Sustainability is not just about transport. Paragraph 13 of the PPTS requires traveller sites to be sustainable economically, socially and environmentally. To that end: the close proximity of the land to the local community of Towersey should allow, in time, for a peaceful and integrated co-existence; due to the proximity to Thame, the appellant and his family have been able to access and utilise local health services; children living on the appeal site are attending school on a regular basis; the provision of a settled base has reduced both the need for long distance travelling and environmental damage caused by unauthorised encampments; and the scale of the development does not place undue pressure on local infrastructure and services.
42. The appeal site is in the countryside, but only some 200 metres beyond the defined development boundary for Towersey. The PPTS identifies that local planning authorities should "*very strictly limit new traveller site development in open countryside that is away from settlements*". I saw that there are other residential developments along Windmill Road that are further away from the village than the

appeal site. In my judgement, 200 metres does not amount to the land being in the open countryside away from the village. Furthermore, I am told the Council has not granted planning permission for any traveller sites, which if true, goes beyond “very strictly controlling” new traveller development regardless of its location.

43. From what I heard and saw during the Hearing, I find the EN scheme, occupied by the appellant and his extended family, does not dominate the nearest settled community of Towersey.
44. Taking all these factors together, the EN scheme conforms to national policy. There is therefore no conflict with policies DES1, DES6, DES7, DES8 and H14 which seek amongst other things, to ensure development has access to services and facilities, makes best use of land, and does not dominate the local settled community. I therefore find the EN scheme to be sustainable.

Character and Appearance

45. The South Oxfordshire Landscape Character Assessment (2017) confirms the appeal site lies within “*The Clay Vale*”; a low-lying agricultural landscape stretching from Benson to Thame. The landscape is predominantly arable land crossed by busy transport corridors and interspersed with nucleated settlements.
46. The land lies just beyond the built-up limits of Towersey village. It sits within an area of large, rectangular fields. Adjacent to Windmill Road and along the southern boundary traditional hedgerows are retained, however a mix of close boarded and post and rail fencing define part of the western and southern boundaries. I saw during my site visit that the surrounding arable landscape is also interspersed with sporadic farmsteads, woodlands and infrastructure, such as a sewage treatment works and solar farm.
47. The EN scheme prevents the use of the land for arable purposes. However, the last lawful use of the land was for the keeping of horses for private equestrian purposes. The field had therefore already been taken out of agricultural production and had been subjected to the erection of equestrian buildings and a manège. The P22 residential conversion scheme would also have resulted in the domestication of part of the land.
48. The native species hedgerows to the western and southern boundaries, along with similar hedgerows bounding land further to the north, screen the use of the land and most of the operational development that has occurred. The ornamental pillars and entrance gates have not been sensitively designed for this rural setting and are incongruous in views along Windmill Road. The retention of these structures is therefore contrary to criterion 2. iii) of policy H14 of the SOLP.
49. While close boarded fencing is not a traditional rural landscape feature, most of that which has been erected is set inside the native species hedgerows. The parts that can be seen from public vantage points, adjacent to the entrance, could be screened by vegetation as part of a landscaping scheme. As such any visual harm arising from the use of inappropriate fencing could be addressed by the imposition of a suitably worded condition.
50. Caravans are generally accepted as being traditional features within a rural landscape. Of the 3 timber buildings erected on the land, one is ‘L’ shaped and was designed as a stable building. While it may not be used solely to house horses or

other animals, its design and materials are appropriate for a rural location. The second is a timber amenity building and the third is a toilet block, both serving pitch 1. These 2 buildings are small in scale and are inconspicuous in their siting. The 3 buildings therefore have no adverse effect on the character and appearance of the land or its surroundings.

51. Except for the ornamental pillars and gates, the EN scheme does not therefore have any significant adverse effect on the character and appearance of the surrounding countryside in my judgement. The P24 scheme does not provide for the ornamental pillars or entrance gates to be retained. The schemes therefore comply with policies DES2, ENV1 and H14 of the LP and TOW4 of the TNP, which seek to sustain, conserve and enhance landscapes, countryside and rural areas, along with mitigating visual impacts and complementing the development's surroundings.

Biodiversity

52. The condition of the land prior to the development taking place could have been suitable to support a range of protected species such as: Great Crested Newt, slow worm, common lizard, and grass snake, as well as ground nesting birds such as Skylark and Snipe and mammals including Hare. The hedgerows would also provide suitable foraging for bats. The development does not however affect any statutory or locally designated sites for biodiversity conservation.
53. The unauthorised nature of the EN scheme has prevented a baseline assessment of the land's biodiversity contribution being carried out. Taking a precautionary approach and having regard to aerial imagery, and oral submissions of interested parties at the Hearing, it would not be unreasonable to assume that '*other neutral grassland*' and '*mixed scrub*' previously existed on the land. The Council's Ecology Officer has however concluded that, given the historic use of the land, for the keeping of horses, it is unlikely the grassland supported priority habitat.
54. While it is recognised that Biodiversity Net Gain is not applicable to the development, there is scope within the land for habitat to be provided to secure biodiversity enhancements. Furthermore, the external lighting could be re-designed to reduce any adverse effects it may be having on foraging bats.
55. External lighting may not of itself require planning permission, however the poles upon which the existing external light is mounted constitutes part of the Appeal B works. While I do not doubt that an acceptable lighting scheme can be secured by condition, in the absence of such an approved scheme, it would not be appropriate to grant planning permission for the retention of the poles and thereby the lighting.
56. For these reasons, except for the poles, the EN scheme complies with policies ENV2 and ENV3 of the LP and TOW7 of the TNP, which seek to protect priority habitat and species, restore and enhance biodiversity, and secure appropriate mitigation, amongst other things.

Living Conditions

57. The 3 pitches have been hard surfaced, although peripheral landscaping in the form of privet hedgerows and some tree planting has been undertaken since the enforcement notice were issued. The Council's concern rests with the perceived lack of children's play space. The Hearing was told that the hardsurfacing does not

only provide parking and vehicle manoeuvring facilities, it also provides children's play space. The appellant also explained how grassed play space and other grassed areas would become overgrown and unsightly when they are away travelling.

58. The amount of hardsurfacing within the land is substantial. There is however no policy requirement for residential amenity space to take the form of grass or other soft landscape medium. Even with conventional housing, occupiers can remove lawns and flowerbeds and replace them with hardsurfacing, such as paving and artificial turf. Each of the 3 pitches occupies a substantial area, not all of which is required for vehicle parking and manoeuvring facilities. The land also includes a grassed paddock used for horse grazing, and the appellant told of how the children play in the tree located in this area. I am therefore satisfied that the land accommodates adequate children's play space, which need not take the form of grass.
59. Furthermore, there may be scope for the beds containing the privet hedgerows and tree planting, adjacent to the driveway, to be widened. Additional planting could then be provided to enhance the visual outlook for occupiers. Similarly, the undeveloped area in the southeastern corner of the site could be better utilised through the introduction of additional hedgerow and tree planting. I appreciate the appellant's concerns that any planting should require little maintenance, so as not to become unsightly when they are travelling.
60. While the Phase 2 Contaminated Land Risk Assessment covers the land identified in the notices, its recommendations to address identified contaminants related to dealing with potential risks to on-site Human Health within the land to be developed by the P22 scheme. Contaminated land was identified in the wider land area, but no recommendations were made to address them in relation to P22.
61. There is no dispute that the remedial works identified in relation to P22 have not been carried out. Furthermore, there is no evidence to show that the site clearance works undertaken have not expanded or potentially relocated the previously known areas of contamination.
62. The appellant claims that the surfacing works carried out have, in effect, contained any contamination, thereby breaking the potential pathway to occupiers of the land. Further, the Hearing was told that the imported material used in the hard surfacing of the land was 'clean'. Documentation prepared by 'Terra Tek (Trading as IGNE) Aston' on behalf of 'C Putnam & Sons – Summerleys Farm' shows the constituents of the coarse recycled aggregate to which it relates to be innocuous. However, there is nothing within the document to show that the material to which it relates is that which was deposited on the land.
63. I therefore find there are potential contamination issues that need to be investigated and, if necessary, addressed to ensure the land is safe for human occupation. It was agreed at the Hearing that this matter could be addressed by the imposition of a suitably worded condition, and I see no reason to disagree.
64. For these reasons, the development complies with policies DES5, DES7, ENV11 and ENV12 of the LP, which seek to ensure a satisfactory level of residential amenity and to protect occupiers of new development from adverse impacts of pollution, amongst other things.

Other Matters

Intentional unauthorised development

65. A Written Ministerial Statement (WMS) dated August 2015 establishes that Intentional Unauthorised Development (IUD) is a material consideration to be weighed in the determination of planning applications and appeals. The WMS relates to all forms of development not just that relating to traveller sites. It places particular emphasis on IUD in the Green Belt, which does not apply here. Part of the underlying reason for seeking to deter IUD is to avoid prejudicing the opportunity to mitigate the impact of development by using planning conditions.
66. The appellant told the Hearing that prior to moving on to the land, he and his family were living on farmland in Morton, without the benefit of planning permission. The owner of that farmland was not supportive of planning permission being sought to regularise their occupation and withdrew his authorisation for them to stay there. I do not doubt that the family were facing a roadside existence, given the context of the significant and immediate need for sites within this district. As the appellant had purchased this land, the unauthorised development was an inevitable outcome in my view.
67. The EN land was not arable farmland when the appellant purchased it, it was previously developed land. Furthermore, it benefited from planning permission for the creation of a dwelling, albeit it to be occupied in connection with the lawful keeping of horses taking place on the land. The keeping of horses and the use of the land as a caravan site for travellers is not that dissimilar to the previously lawful and approved development, albeit the scale of residential activity associated with 3 traveller households living on the land would be greater.
68. A planning application was lodged for the P24 scheme. Furthermore, a ground (a) appeal is made in respect of the EN scheme. These provide for otherwise unacceptable elements of the schemes to be controlled by condition, if necessary, which addresses a main IUD concern. The 1990 Act makes provision for a grant of retrospective planning permission, including the imposition of conditions. Furthermore, planning enforcement is remedial rather than punitive. The intentional unauthorised nature of the development therefore attracts negligible weight in my judgement.

Flooding

69. There is no dispute that the appeal site lies within Flood Zone 1 and is not therefore at risk from flooding. While a detailed drainage scheme for the development has not been provided, I do not doubt that a suitable scheme could be designed and secured by condition, if I were to allow the appeals.
70. I acknowledge a septic tank has already been installed and is serving the EN scheme. While that septic tank may be adequate to cater for the development that has taken place, in the absence of such detailed confirmation, or details relating to its ongoing and future maintenance, it would not be appropriate to grant planning permission for its retention. It may however form part of a detailed drainage scheme that could be secured by condition.
71. Except for the septic tank, the development does not conflict with policies EP4, FW1, FW2 and INF4 of the LP, which seek to direct development to the areas with

the lowest risk of flooding, restrict the rate of surface water run-off, promote the use of sustainable urban drainage schemes, and protect the surrounding water environment from pollutants.

Personal circumstances

72. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. I am also mindful that Article 3(1) of the United Nations Convention 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.
73. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.
74. It is undisputed by the Council that the 3 households residing on the land include 6 young children aged 1 x six years, 2 x five years, 1 x four years and 2 x under 1 year. All school age children are attending John Hampden Primary School and have done so since September 2024. All residents are registered with Unity Health and one of the children is receiving regular health support for their physical and developmental needs.
75. There can be no doubt that if the appeal is unsuccessful, it would take away a settled base for these households, who would most likely have to resort to living on the roadside. This would disrupt the children's educational, health and welfare provision as a result. I am mindful that it may be difficult to maintain the children's attendance in school and/or enrol the younger children in school if they have no fixed address. Similar difficulties are associated with maintaining established health support and/or registering with health professionals.
76. I consider there is a clear benefit to the children of remaining on site, as part of a settled base, to which I shall give significant weight. Furthermore, no other issue is intrinsically more important than the needs of the children, which is a primary consideration.

Facilities and services

77. While I saw that ornamental planting partially obscures visibility for drivers emerging from the land, their removal/reduction in height can be secured by condition. Once the obstruction to visibility is addressed, a safe and suitable access, which has no significant adverse impact on highway safety or the surrounding transport network, can be achieved. The design and layout of parking areas meets current national guidance and complies with the relevant criteria of policy TRANS5 of the SOLP.

78. The land has mains electricity and a water supply. The development is served by a private sewage treatment facility, albeit it has not yet been demonstrated that this is sufficient to meet its long-term needs. The land is served by local authority waste collection facilities. The EN scheme therefore complies with criterion 2. vi) of policy H14 of the SOLP.

Bonfires

79. The appellant told the Hearing that he has had bonfires on the land. His sons operate roofing contracting businesses, and they bring timber and other materials back to the land. In the past timber has been burnt. I saw evidence of fires and discarded pieces of bitumen felt and roof tiles in the area formerly occupied by the manège.
80. There are no residential properties immediately adjacent to the development. As such, I find it unlikely that the smoke arising from bonfires has caused significant harm to the amenity for residents along Windmill Road or within the wider locality. However, unregulated burning is not a suitable method of disposal for commercial waste. I am satisfied that this can be controlled by the imposition of a suitably worded condition and there are other forms of controlling legislation that can be applied.

Antisocial behaviour

81. I understand the settled community may feel intimidated by the presence of the appellant and his family. I remain unclear as to how the appellant's use of CCTV cameras on the land contributes to the settled community's concern in this regard. I was also told of confrontations that are claimed to have occurred between residents of the land and members of the settled community. There is however no reasonable or cogent evidential basis linking the use or the occupiers of the land with criminal activity.
82. From what I heard during the Hearing it would also seem that the appellant and his family has a degree of distrust of the settled community. The regularity of drones being flown over the land to take photographs seems an unduly intrusive invasion of the occupiers' privacy. However, planning legislation does not provide a mechanism for controlling or preventing such activity.

Planning Balance

83. I attach significant weight to the Council's failure to provide a 5-year supply of deliverable sites, there being an immediate need for pitches, and lack of available alternative sites to accommodate the appellant and his family. The site occupiers' personal circumstances also attract significant weight.
84. There are also no significant barriers that would make the EN scheme unacceptable in principle. The limited harm to character and appearance and moderate harm to biodiversity can be overcome by conditions. These factors therefore carry neutral weight in the planning balance.
85. The design of the ornamental pillars and entrance gates is unacceptable in this rural location. It would also be inappropriate to grant planning permission for the poles and septic tank as additional details need to be submitted and approved before they can be shown to be acceptable in planning terms. These works can however be separated from the other works included in Appeal B and a split

decision could be issued. These works being unacceptable is therefore neutral in the planning balance.

86. Intentional unauthorised development carries negligible weight against the EN scheme. I have found there to be no other considerations that weigh against it.
87. I have balanced the harm arising from the EN scheme and the P24 scheme against the supporting factors set out above. Having regard to policy H14 of the SOLP, the Framework and the PPTS, I find they clearly outweigh the harm identified. Even if I were to attribute negligible weight to antisocial behaviour, it would not be sufficient to outweigh the supporting factors. Furthermore, I find this to be the case without the need to rely on the weight I have attributed to the occupiers' personal circumstances. In this context I find the schemes accord with the development plan taken as a whole.

Conditions

88. I have considered the conditions discussed at the Hearing. A condition confirming that the use of the land is restricted for residential use by Gypsies and Travellers is required to safeguard the land for that purpose. The personal circumstances of the appellant and his family have not tipped the balance in favour of the schemes, the personal condition suggested by the Council is not therefore necessary.
89. Conditions limiting the number of pitches and caravans to be stationed for residential purposes are necessary in the interests of residential amenity and to ensure the character and appearance of the area is not adversely affected by the scale of the development. The suggested condition seeks to restrict the number of caravans per pitch to 2, of which only 1 can be a static caravan. During my site visit I saw that pitch 1 has a static caravan and 2 touring caravans stationed on it, while pitch 2 only has 1 touring caravan stationed on it. The number of caravans on the land does not therefore exceed the maximum of 6. I shall adjust the condition wording accordingly for Appeal A. The condition wording for Appeal C shall remain as suggested to align with the proposed site layout plan.
90. Conditions limiting the size of vehicles and number of commercial vehicles parked, and preventing any commercial use of the land, including materials storage and the burning of waste are necessary in the interests of residential amenity and to ensure the character and appearance of the area is not adversely affected by the scale of the development in relation to Appeal A. For the same reasons, such conditions are also required for Appeal C, as well as a condition requiring the development to be carried out in accordance with the submitted plans.
91. The ornamental planting carried out adjacent to the vehicular access obstructs visibility for drivers emerging from the site. A condition requiring its height to be reduced, or its removal, is necessary in the interests of highway safety.
92. Conditions requiring the submission and approval of schemes relating to contamination investigations and mitigation, biodiversity enhancements and mitigation, a site development scheme to include site layout, landscaping, foul and surface water disposal, external lighting, visibility splays, and a timetable for the implementation and maintenance of the approved schemes are necessary in the interests of amenity.

93. In relation to Appeal A, the conditions requiring the submission of schemes to be approved will include a sanction to ensure the required details are submitted, approved and implemented to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition. The conditions will ensure that the development can be enforced against if the required details are not approved and implemented within the periods given.

Conclusions on ground (a) and the deemed and express applications for planning permission

94. For the reasons given above, I conclude Appeal A succeeds on ground (a), I shall grant planning permission for the mixed use described in EN A as corrected. In these circumstances Appeal A on ground (g) does not fall to be considered.
95. For the reasons given above, I conclude that Appeal B should succeed in part only, and I will grant planning permission for the matters listed in the corrected allegation as (i), (ii), (iii) the erection of close-boarded fences, (v), (vi), (vii), (viii) and (x), but otherwise I will uphold EN B with a corrections and variation and refuse to grant planning permission for the matters listed in the corrected allegation as (iii) the erection of ornamental pillars and entrance gates, (iv) and (ix). The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act (as amended).
96. For the reasons given above, I conclude Appeal C shall be allowed.

Appeal B on ground (g)

97. An appeal on this ground is that the 9 month period specified in EN B falls short of what should reasonably be allowed. The appellant requests a period of 12 months to find a suitable alternative site, with an additional 3 months to return the land to its condition before the development occurred. The Council accepts a period of 12 months would be reasonable given the lack of any suitable alternative sites.
98. I have had regard to the lack of suitable alternative sites. However, I find it more likely than not that the current situation will change in the next 9 or 12 months. I do not therefore consider that this is sufficient justification to extend the period, which the Council could do in any event under s173A. (1) (b), should the appellant be unable to find an alternative site.
99. I have granted planning permission for the use of the land as a caravan site under Appeal A. Conditions imposed on that planning permission require the submission of schemes for approval which could include details to adapt or alter the ornamental pillars, entrance gates, poles and septic tank or that show the poles or septic tank to be part of an acceptable lighting or drainage scheme. It would therefore be reasonable to extend the EN B period of compliance to reflect the timescales imposed in the Appeal A conditions. A period of 12 months would be sufficient to resolve the outstanding Appeal A matters and remove the items to which EN B continues to apply if they are subsequently found not to be necessary in relation to the approved schemes.
100. Appeal B on ground (g) succeeds to this limited extent.

Formal Decisions

Appeal A

101. It is directed that the enforcement notice (EN A) is corrected by:

- *in section 2, the deletion of the words "(formerly known as Windmill Meadow)" and "For the purposes only of aiding identification the Land is also shown edged red on the accompanying inset map.";*
- *in section 3, the deletion of all the words and their substitution with the words "Without planning permission, the material change of use of the land from the keeping of horses to a mixed use comprising (1) the keeping of horses and (2) a caravan site.";*
- *In section 5, delete all the steps and replace them with step "(i) Cease the use." and*
- *The deletion of the plan labelled "Attachment 2".*

And varied by:

- *In section 5, the deletion of steps (iii), (iv), (v), (vi) and (vii).*

102. Subject to the corrections and variation, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the land to a mixed use comprising (1) the keeping of horses and (2) a caravan site at Emmanuel Ranch, Windmill Road, Towersey Oxfordshire OX9 3QQ as shown on the plan attached to the notice (Attachment 1) and subject to the conditions set out in Schedule 1 attached.

Appeal B

103. It is directed that the enforcement notice (EN B) is corrected by:

- *in section 2, the deletion of the words "(formerly known as Windmill Meadow)" and "For the purposes only of aiding identification the Land is also shown edged red on the accompanying inset map.";*
- *in section 3 (ix), the deletion of all the words and their substitution with the words "the installation of 1 x septic tank (in the approximate location shown on the plan at Attachment 2)"; and*
- *the substitution of the plan annexed to this decision and labelled "Attachment 2" for the plan attached to the enforcement notice labelled "Attachment 2".*

And varied by:

- *in section 5, step (iv) delete the word "tanks" and substitute the word "tank".*

Subject to the corrections and variation, Appeal B is allowed in so far as it relates to (i) the earthworks to clear the site and create a raised development platform; (ii) the laying of hardstanding driveway and parking and manoeuvring areas; (iii) the erection of close-boarded fences; (v) the laying of concrete slabs/bases; (iv) the laying of concrete and brick kerbs; (vii) the construction of brick skirts and steps

around mobile homes; (viii) the erection of 3 x buildings; and (x) the depositing of spoil and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of these parts of the development at Emmanuel Ranch, Windmill Road, Towersey, Oxfordshire OX9 3QQ as shown on the plan attached to the notice (Attachment 1).

Appeal B is dismissed and EN B is upheld as corrected and varied in so far as it relates to (iii) the erection of ornamental pillars and entrance gates; (iv) the installation of poles mounted with external lighting and closed-circuit television surveillance equipment; and (ix) the installation of 1 x septic tank, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of these parts of the development at Emmanuel Ranch, Windmill Road, Towersey, Oxfordshire OX9 3QQ as shown on the plan attached to the notice (Attachment 1).

Appeal C

104. Appeal C is allowed subject to the conditions set out in Schedule 2 attached.

M Madge

INSPECTOR

Enforcement Notice Plan

This is the plan referred to in this decision date: 01 August 2025

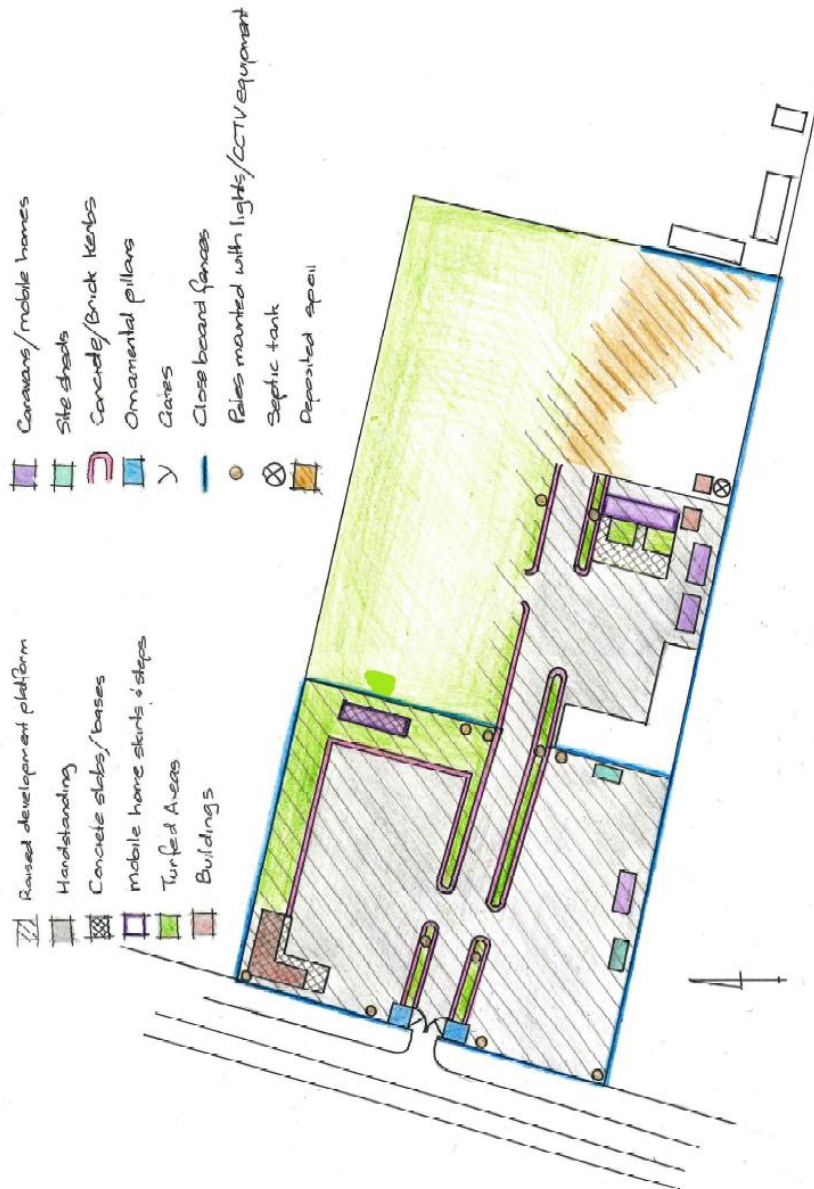
by M Madge Dip TP MA MRTPI

Land at: Emmanuel Ranch, Windmill Road, Towersey, Oxfordshire OX9 3QQ

Reference: APP/Q2115/C/25/3361189

Scale: Not to scale

Attachment 2



SCHEDULE 1:

Conditions for Appeal A

1. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
2. There shall be no more than three (3) pitches and no more than six (6) caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) stationed at any time on the site hereby approved, of which only one (1) caravan on each pitch shall be a static caravan.
3. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and no vehicle parked on the site shall exceed 3.5 tonnes in weight.
4. No commercial activities shall take place on the land, including the storage of materials or burning of waste.
5. Other than in accordance with condition 6 below, no sheds/amenity/utility or other buildings or structures, walls, fences or other means of enclosure shall be erected on the site unless details of their size, materials and location have previously been submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
6. The use hereby permitted shall cease and all mobile homes/caravans brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 4 months of the date of this decision a site development scheme ("SDS") shall have been submitted for the written approval of the local planning authority. The SDS shall include:
 - a. The proposed internal layout of the site, including the full extent of the residential pitches, the location of the mobile homes, touring caravans, vehicle parking and manoeuvring areas, cycle parking facilities, outdoor amenity areas, buildings, hardstanding, concrete bases, septic tank(s), soakaways, all boundary treatments and internal means of enclosure;
 - b. Details of all existing and proposed soft landscaping including a planting schedule and specification;
 - c. Details of all proposed external lighting designed by a qualified lighting engineer to a standard compliant with an E2 Environmental Management Zone as defined by the Institute of Lighting Professional Guidance for the reduction of obtrusive light, including full technical specifications for all equipment to be used, Isolux

- diagrams overlaid over the site and adjacent areas and details of lighting operation hours;
 - d. Details of vision splays measuring 2.4 metres by 215 metres on either side of the access unobstructed by any object, structure, planting or other material with a height exceeding or growing above 0.9 metres as measured from the carriageway level;
 - e. Details of all proposed foul and surface water drainage arrangements, designed by a competent person, including details of size, position and construction of sustainable drainage systems, demonstrating the attenuation of run-off from the site to greenfield rates; and
 - f. A timetable for implementation of the SDS.
- ii) If within 8 months of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined, and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon completion of the approved site development scheme specified in this condition, it shall thereafter be maintained/retained/remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7. The use hereby permitted shall cease and all mobile homes/caravans brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 4 months of the date of this decision a biodiversity compensation scheme ("BCS") for the site, prepared by a suitably qualified ecologist, shall have been submitted for the written approval of the local planning authority. The BCS shall include:
 - a. Full details of a biodiversity metric assessment (utilising the statutory biodiversity metric published by DEFRA), including habitat condition assessment sheets, to demonstrate that the scheme will not result in a net loss of biodiversity from an agreed pre-development baseline for habitat and hedgerow elements of the metric as applicable;
 - b. Details, including plans and habitat descriptions as necessary, of a post-development scheme of habitat creation and enhancement;
 - c. Detailed method statement for the successful establishment of created or enhanced habitats and features stated in the BCS;

- d. Full details of on-going habitat management for the scheme to achieve relevant habitat condition criteria;
- e. The scheme shall secure no net loss of biodiversity on-site, with any short fall secured through off-site enhancement or, as a last resort, through the purchase of credits; and
- f. A timetable for implementation of the BCS.

Upon implementation of the approved BCS specified in this condition, the on-going management and monitoring provisions shall thereafter be retained and complied with.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

8. The use hereby permitted shall cease and all mobile homes/caravans brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
- v) Within 4 months of the date of this decision a phased contamination risk assessment ("PCRA") shall be carried out by a competent person in accordance with current government guidance and Environment Agency Guidance and Approved Codes of Practice, and submitted for the written approval of the local planning authority, including as required by any preceding phase:
 - a. Phase 1 – a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken;
 - b. Phase 2 – a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risk to receptors and if significant contamination is identified to inform a Phase 3 remediation strategy; and
 - c. Phase 3 – a remediation strategy to ensure the site will be rendered suitable for its approved use, including a timetable for implementation.
 - (ii) If within 8 months of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined, and the submitted site development scheme shall have been approved by the Secretary of State.
 - (iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon completion

of the approved site development scheme specified in this condition, it shall thereafter be maintained/retained/remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

---- END ---

SCHEDULE 2:

Conditions for Appeal C

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans, except where details are required to be submitted under conditions 8, 9 and 10 below: Site Location Plan Drawing No. LOC-001; Site Layout Plan Drawing No. SIP-001; and Post and Rail Fence Drawing No.PBA2.
3. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
4. There shall be no more than three (3) pitches on the site and there shall be no more than two (2) caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) stationed at any time on each pitch hereby approved, of which only one (1) caravan shall be a static caravan.
5. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and no vehicle parked on the site shall exceed 3.5 tonnes in weight.
6. No commercial activities shall take place on the land, including the storage of materials or the burning of waste.
7. Other than in accordance with condition 8 below, no sheds/amenity/utility or other buildings or structures, walls, fences or other means of enclosure shall be erected on the site unless details of their size, materials and location have previously been submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
8. Prior to the commencement of the development a site development scheme (SDS) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The SDS shall include the following details:
 - i) The internal layout of the site, including the full extent of the residential pitches, the location of the mobile homes, touring caravans, vehicle parking and manoeuvring areas, cycle parking facilities, outdoor amenity

- areas, buildings, hardstanding, concrete bases, septic tank(s), soakaways, all boundary treatments and internal means of enclosure;
- ii) Details of all existing landscaping to be retained and proposed soft landscaping, including a planting schedule and specification;
 - iii) Details of all proposed external lighting designed by a qualified lighting engineer to a standard compliant with an E2 Environmental Management Zone as defined by the Institute of Lighting Professional Guidance for the reduction of obtrusive light, including full technical specifications for all equipment to be used, Isolux diagrams overlaid over the site and adjacent areas and details of lighting operation hours;
 - iv) Details of vision splays measuring 2.4 metres by 215 metres on either side of the access unobstructed by any object, structure, planting or other material with a height exceeding or growing above 0.9 metres as measured from the carriageway level;
 - v) Details of all proposed foul and surface water drainage arrangements, designed by a competent person, including details of size, position and construction of sustainable drainage systems, demonstrating the attenuation of run-off from the site to greenfield rates; and
 - vi) A timetable for implementation of the SDS.
9. Prior to the commencement of the development a biodiversity compensation scheme ("BCS"), prepared by a suitably qualified ecologist, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The BCS shall include the following details:
- i) Full details of a biodiversity metric assessment (utilising the statutory biodiversity metric published by DEFRA), including habitat condition assessment sheets, to demonstrate that the scheme will not result in a net loss of biodiversity from an agreed pre-development baseline for habitat and hedgerow elements of the metric as applicable;
 - ii) Details, including plans and habitat descriptions as necessary, of a post-development scheme of habitat creation and enhancement;
 - iii) Detailed method statement for the successful establishment of created or enhanced habitats and features stated in the BCS;
 - iv) Full details of on-going habitat management for the scheme to achieve relevant habitat condition criteria;
 - v) The scheme shall secure no net loss of biodiversity on-site, with any short fall secured through off-site enhancement or, as a last resort, through the purchase of credits; and
 - vi) A timetable for implementation and on-going maintenance of the BCS.

10. Prior to the commencement of development a phased contamination risk assessment ("PCRA") shall be carried out by a competent person in accordance with current government guidance and Environment Agency Guidance and Approved Codes of Practice, and submitted for the written approval of the local planning authority, including as required by any preceding phase:

- i) Phase 1 – a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken;
- ii) Phase 2 – a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risk to receptors and if significant contamination is identified to inform a Phase 3 remediation strategy; and
- iii) Phase 3 – a remediation strategy to ensure the site will be rendered suitable for its approved use, including a timetable for implementation.

--- END ---