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## Appeal Decision

Inquiry held on 6 – 8 May 2026 and 11 May 2026 (online)

Site visit made on 6 May 2026

**by H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1<sup>st</sup> June 2026

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### **Appeal Ref: APP/E3335/W/25/3375539**

#### **Greenacres, Oxen Lane, North Curry, Taunton TA3 6NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Peter Richards against the decision of Somerset Council.
  - The application Ref is 24/25/0006.
  - The development proposed is change of use of land from agricultural into Gypsy/Travellers site to form 16 no. pitches with associated works including siting of static homes, touring caravans, roadway, treatment plant and formation of hardstanding, entrance gates, parking and landscaping at Greenacres, Oxen Lane, North Curry (retention of part works already undertaken).
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### **Decision**

1. The appeal is dismissed.

### **Application for costs**

2. An application for costs was made by the Council against the appellant. This application is subject of a separate decision.

### **Preliminary Matters**

3. The appeal was originally made on 6 November 2025 on the Council's failure to determine the application within the appropriate period. However, as the Council had been granted an extension of time, it proceeded to issue a formal decision notice on 14 November 2025 refusing the appeal scheme for eight separate reasons. These reasons are largely reflected in the main issues outlined below.
4. A case management conference (CMC) was held on 12 March 2026 with representatives of the appellant and the Council. Procedural matters including the main issues and the format of the inquiry were discussed and clarified during the CMC, but the merits of the appeal development were not.
5. Unauthorised works commenced at the appeal site around October 2024 and the site became residentially occupied by a number of households soon thereafter. Following enforcement action, an interim injunction<sup>1</sup> was granted which prohibits further works and occupation of the land for residential purposes by anyone other than the named defendants, but does not require current occupants to vacate the land. The proceedings relating to any permanent injunction are yet to take place. I must be clear that this decision is without prejudice to all other proceedings.

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<sup>1</sup> High Court Order date 21 July 2025

6. The appeal site has also been the subject of previous injunctions<sup>2</sup> and appeal decisions which have some relevance to the appeal before me. The decisions of relevance include a Secretary of State decision<sup>3</sup> for 16 pitches following a report made in relation to the same in 2005<sup>4</sup>, an appeal decision for 4 pitches from 2008<sup>5</sup> and an appeal decision for a single pitch (Pitch no. 1) from 2009<sup>6</sup>. Where relevant, I refer to these as the 2005 Decision, the 2008 Decision and the 2009 Decision.
7. The appellant's evidence refers to the Council's declination to consider an application/s for single pitches on the appeal site under s70 of the Town and Country Planning Act 1990 (as amended). However, this is not a matter for consideration for me under the current appeal.
8. During the course of the inquiry, it was clarified that the appellant was seeking to exclude Pitch no. 9 from the proposal and would accept a planning condition to this effect. Similarly, it was also indicated that as an agreement had been reached on a mains sewer connection, the originally proposed foul water treatment plant would no longer be needed and that this should also be omitted from the description of the development. Having already declined to allow late stage changes to the scheme to reduce the number of pitches to either 5 or 12, the alterations to reduce the scheme by one pitch and change the means of foul water treatment are considered to be relatively minor by comparison and I have accepted them on the basis that no material prejudice would be caused to other parties having regard to the principles established in the Wheatcroft and Holborn Studios cases<sup>7</sup>. As such, whilst I have left the original description in the banner above, I have proceeded on the basis that, notwithstanding details shown in the submitted plans, the description of the proposal should be taken as seeking a total of 15 no. Traveller pitches and without a foul water treatment plant.
9. Amongst other things, the appeal application was submitted with a location plan and a 'Block Diagram'. The Block Diagram available for consideration at the opening of the inquiry shows the delineation of the 16 no. pitches across the site, either side of a broadly central spine road. It became clear during the site visit and inquiry that what is shown on the Block Diagram bears only some resemblance to the site as it currently appears on the ground and how it is envisaged it would be further developed if planning permission were granted. Though the Block Diagram indicates grassed areas in each of the pitches, the site is already almost entirely hardsurfaced. The layout of caravans within any already occupied pitches do not conform to the depicted layout. It was also suggested that in the event of a grant of planning permission, a future variation would be sought to increase the numbers of permissible caravans from the 2 per pitch currently detailed.
10. I record the above in order to clarify that the plans before me have offered little more than a basis on which to identify the location of the site, the pitch numbers, positions and delineation between them. I have disregarded any notion of what could be forthcoming by way of further applications in the future. I have treated the appeal scheme before me as described during the course of the inquiry for a 15-pitch scheme, excluding the residential use of Pitch no. 9 on the submitted Block

<sup>2</sup> Including the final injunction granted on 7 September 2010 following which the land was cleared in compliance with the requirements of the related Enforcement Notice

<sup>3</sup> Ref APP/D3315/C/04/1167161 and APP/D3315/A/05/1182613, at CD6.1

<sup>4</sup> Dated 19 July 2005 at CD6.2

<sup>5</sup> Pitch numbers 7, 8, 15 and 16 at CD6.3

<sup>6</sup> Appeal ref APP/D3315/A/08/2076325 at CD6.4

<sup>7</sup> Wheatcroft Ltd V SSE [1982] and Holborn Studios Ltd v CLBH [2017] EWHC 2823

Diagram and where necessary, have supplemented my understanding of how the appeal scheme would be laid out and completed from the written and verbal evidence presented to the inquiry by the appellant's agent, Mr Carruthers.

11. Following the inquiry, the Council wrote to advise of a material change in circumstance which relate to amendments<sup>8</sup> to the Conservation of Habitats and Species Regulations (2017) as amended (the Habitats Regulations) which relates to the consideration of the effects on the Somerset Levels and Moors Ramsar Site (SLMRS). The appellant was provided with an opportunity to respond in writing so as to avoid any prejudice to their case.

## Main Issues

12. The main issues in the appeal are:
- the effects of the proposal on the SLMRS;
  - the effects of the proposal on the ecological value of the site and surrounding area, having particular regard to Great Crested Newts, Dormice and Reptiles;
  - the effects of the proposal on highway safety;
  - the effects on the living conditions of occupiers of 6 Oxen Lane;
  - whether the proposal would accord with development plan policies concerning development in the countryside;
  - the effects of the proposal on the character and appearance of the area;
  - whether adequate means of surface water drainage could be provided;
  - whether, by reason of its scale, layout and design, the scheme would provide an adequate quality of life for future occupiers; and
  - the general need for Gypsy and Traveller accommodation in the area, the personal circumstances of the appellant and occupiers/intended occupiers and their needs for accommodation.

## Reasons

### *Somerset Levels and Moors Ramsar Site*

13. The SLMRS is identified as a series of Sites of Special Scientific Interest within the largest area of lowland wet grassland and associated wetland habitat remaining in Britain. It covers about 35,000 ha in the flood plains of the Rivers Axe, Brue, Parrett, Tone and their tributaries. The SLMRS attracts internationally important numbers of wildfowl in winter and is one of the most important sites in southern Britain for breeding waders<sup>9</sup>. The network of rhynes and ditches also support an outstanding assemblage of aquatic invertebrates, particularly beetles<sup>10</sup>.

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<sup>8</sup> Made via Part 1 of Schedule 5 of *The Planning and Infrastructure Act 2025 (Commencement No. 3 and Transitional Provisions) Regulations 2026*, dated 20 May 2026 and coming into effect on 21 May 2026

<sup>9</sup> Ramsar criterion 6 species include: Tundra swan, *Cygnus columbianus bewickii*; Eurasian teal, *Anas crecca*; Northern lapwing, *Vanellus Vanellus*, with further species of Eurasian wigeon, Mute swan, Northern pintail and Northern Shoveler on the Criteria 6 list for possible future inclusion.

<sup>10</sup> The SLMRS supports 17 species of British Red Data Book invertebrates, including: Lesser silver water beetle, *Hydrochara caraboides*; Flowering rush weevil, *Bagous nodulosus*; Orange-horned green colonel, *Odontomyia angulata*; Beetle species, *Oulema erichsoni*; Minute freshwater snail, *Valvata macrostoma*; Ornate briardier, *Odontomyia ornata*; Large marsh grasshopper, *Stethophyma grossum*; Snail-killing marsh fly, *Pteromicra leucopeza*; Sea club-rush hoverfly, *Lejops vittata*; Soldier beetle, *Cantharis fusca*; Beetle species, *Paederus caligatus*; Predatory water beetle species, *Hydaticus transversalis*; Diving beetle species, *Dytiscus dimidiatus*; Great silver water beetle, *Hydrophilus piceus*; Small water beetle species, *Limnebus aluta*; and Diving beetle species, *Laccornis oblongus*.

14. Site-specific conservation objectives for Ramsar sites have not been published. However, generic conservation objectives for all Ramsar sites include the need to ensure that the integrity of the [Ramsar] site is maintained or restored as appropriate, and ensure that the site contributes to achieving the wise use of wetlands across the UK, by maintaining or restoring;
  - The extent and distribution of qualifying habitats and habitats of qualifying species;
  - The structure and function of qualifying habitats and habitats of qualifying species;
  - The supporting processes on which qualifying habitats and habitats of qualifying species rely;
  - The populations of each qualifying species; and,
  - The distribution of each qualifying species within the site.
15. On 17 August 2020, all the planning authorities in Somerset received an advice note from Natural England (NE) concerning the unacceptable levels of phosphates in the SLMRS<sup>11</sup>. Phosphates can be introduced through human activity such as agriculture and food production, changes in land use and through increases in animal and human waste. Increased nutrient loads cause an excess in algae growth, which in turn deteriorates water quality and depletes the oxygen level, which plants and animals need to survive. This process is known as eutrophication. The Council's Guidance<sup>12</sup> also confirms that new Traveller sites are a form of development that give rise to phosphate increases and which must demonstrate nutrient neutrality.
16. The appellant's evidence raises and reiterates points about alleged administrative and/or legislative failings, evidence tampering or mistakes by the Council, the Department for Environment, Food and Rural Affairs, NE and the Joint Nature Conservation Committee (JNCC) in relation to the designation of the SLMRS. Much is detailed about the lack of registration of the SLMRS and other Habitats Sites as local land charges. A point also repeatedly made by the appellant is that the SLMRS does not qualify for designation as a Ramsar under Criteria 2 in respect of its support for vulnerable, endangered, or critically endangered species or threatened ecological communities, particularly because it is alleged that Ramsar Criteria 5 and 6, i.e. effects on the waterbird species, would not be affected by phosphates.
17. In essence, the appellant's evidence questions the integrity of the designation of the SLMRS and the regimes surrounding its protection and raises an issue with alleged 'taxation' of development through such. Notwithstanding the voluminous amount of evidence dedicated to these points, issues relating to qualifying features, component sites or registration issues with the SLMRS are not compelling.
18. At the time of the inquiry, Ramsar sites and candidate Ramsar sites were not strictly protected via the Habitat Regulations, but proposals affecting them still required Habitat Regulations Assessment (HRA) due to the protection afforded to

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<sup>11</sup> CD 4.14

<sup>12</sup> CD4.15 Somerset Council 'Nutrient Neutrality in Somerset: Guidance for Applicants' updated March 2026, V13

them by the *National Planning Policy Framework* (the Framework)<sup>13</sup>. The appellant's evidence also acknowledged that this has been the case since 2012<sup>14</sup>.

19. However, through the legislative amendments that came into force following the close of the inquiry on 21 May 2026, Ramsar sites are now given the same degree of legal protection as Habitats Sites. As such, notwithstanding that the appellant considers this a reasonably immaterial change given the asserted nullity of the designation, as competent authority for the purposes of this appeal, a HRA is necessary and it is necessary to consider whether the project is likely to have a significant effect on the SLMRS (either alone or in combination with other plans or projects), and if so, an appropriate assessment of the implications of the project in view of relevant conservation objectives must be made.

#### *Whether likely significant effect*

20. The appellant's evidence<sup>15</sup> acknowledges, that as per NE's guidance<sup>16</sup>, only a plan or project that will have an impact on water quality within the hydrological catchment of a Habitats Site which includes interest features that are sensitive to water quality impacts require a HRA. It then goes on to say that, despite this, the SLMRS contains no interest features that are sensitive to the water quality impacts from the plan or project. This last finding is the one with which the extensive evidence, including that of the JNCC and NE, is at odds. The same evidence of the appellant indicates that there is no dispute that the development shall produce wastewater and that there is no dispute that the project is within the hydrological catchment of the SLMRS<sup>17</sup>. As such, there is an increased potential for alterations to nutrient levels and, consequently, water quality, and, therefore, no ability to screen the project out from the initial stage of the HRA.

#### *Appropriate Assessment*

21. The appellant's evidence acknowledges that the appeal scheme is not necessary for the management of the site for nature conservation. In relation to nutrient levels, the appellant's evidence repeats issues with the alleged mistake in the identification of the SLMRS as a Ramsar site rather than focussing on the quantification of the potential effect. There is no clear, cogent or accepted evidence prepared by a suitably qualified professional that seeks to quantify the change in nutrient levels arising from the appeal scheme. Similarly, there is nothing to update the changes to nutrient levels arising from subsequent late changes to the scheme to a reduced number of pitches (15 no) and from the originally proposed foul water package treatment plant to the mains sewer treatment connection. In short, there is nothing that appears to robustly clarify the nutrient loadings that would be generated by the appeal scheme and certainly none which takes account of the nature and scale of the appeal scheme as it was envisaged at the time of the inquiry.
22. The appellant's evidence<sup>18</sup> says "*the applicants are willing to enter into a NNAMS [Nutrient Neutrality and Mitigation Strategy]. However, there is a lack of trust and confidence in Natural England which seems more interested in reducing costs to*

<sup>13</sup> paragraph 194

<sup>14</sup> Evidence document 'Final SHRA Screening Docs' submitted as part of the appellant's 'Phosphates Proof of Evidence'

<sup>15</sup> Evidence document 'Final SHRA Screening Docs' submitted as part of the appellant's 'Phosphates Proof of Evidence', pg 9

<sup>16</sup> Natural England guidance, 'Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites', dated 16 March 2022

<sup>17</sup> Via the River Parrett catchment area as confirmed in the Council's Phosphates PoE

<sup>18</sup> Phosphates Common Ground Final document, page 205



*its HM Treasury Core funding than restoring biodiversity as identified by the United Nations whose definition was adopted by most Local Planning Authorities.”*

23. Other than needing to be prepared by a suitably qualified party/ies as per NE's advice<sup>19</sup>, an NNAMS or similar document, such as a shadow HRA, would include a nutrient budget calculated via accepted methodology and evidence that the proposals can achieve nutrient neutrality through implementation of appropriate permanent offsetting measures (e.g. establishment of treatment wetlands, woodland planting, upgrading of existing septic tanks etc.) and/or the purchase of offsetting credits from Somerset Council or alternative providers<sup>20</sup>.
24. Despite the claimed willingness, no cogent NNAMS or similar has been submitted by the appellant in the event that one should be secured. Despite having submitted evidence entitled 'S106'<sup>21</sup>, the appellant did not submit either a formal bilateral S106 or unilateral undertaking (UU) incorporating any NNAMS obligations. On verbal exploration of this issue and despite an indication in the CMC that a S106 would be forthcoming, it became evident that the site is unregistered<sup>22</sup>, split across multiple ownerships with some uncontactable owners, and that there had not been sufficient time to resolve these issues.
25. Given that an NNAMS is likely to require the payment of financial contributions or outlay and collaboration on the implementation of a site-specific solution, leaving this to condition would not be appropriate. This is particularly so in the present circumstances where the quantification of the level of mitigation necessary is far from agreed and lack of certainty that the necessary mitigation will be secured, whether that be by way of planning obligation or other legal agreement.
26. Therefore, having regard to the qualifying features of the SLMRS and the related conservation objectives, I conclude that the appeal scheme would generate nutrients that could adversely affect its integrity, but the extent of the impact has not been demonstrated and it is not clear that mitigation could or would be secured to offset such effects<sup>23</sup>.
27. For the reasons identified above, the proposal would harm the integrity of the SLMRS, contrary to policies CP8 and DM1(c) of the *Taunton Deane Core Strategy* (adopted 2012) (Core Strategy) and the requirements of the Framework. The Core Strategy policies seek to ensure that development is in accordance with national, regional and local policies concerning those for protected Natura 2000 and Ramsar sites and avoids harm to protected wildlife species or their habitats.

#### *Ecological Value – Great Crested Newts, Dormice, Reptiles*

28. A Preliminary Ecological Appraisal (PEA) was prepared by a qualified ecologist and member of the Chartered Institute of Ecology and Environmental Management (CIEEM) of AKB Ecology. This PEA<sup>24</sup> was submitted with the appeal application.
29. The PEA summary states that the full impacts of the current proposal cannot be assessed without a botanical survey of grasslands, reptile survey, dormouse

<sup>19</sup> CD4.21

<sup>20</sup> As assessed in the *Generic Appropriate Assessment of Somerset West and Taunton's Interim Phosphate Mitigation Strategy*, Somerset West and Taunton Councils (2002)

<sup>21</sup> See appellant's Cost Application Response Tab 1 document

<sup>22</sup> With Land Registry

<sup>23</sup> As the site is already partly residentially occupied, the extent to which effects are already occurring, if at all, is similarly unclear

<sup>24</sup> Dated March 2025 – included in CD1.12

survey, Great Crested Newts (GCN) survey and invertebrate survey. The Council's Ecologist did not require an invertebrate survey and I find no reason to reach an alternative conclusion in this particular regard.

30. The PEA states that although the record search did not identify GCN within 2km of the site, 9 ponds were found occurring within this radius, of which 4 are located within 250m of the site, including one only c. 68m from the site boundary. Although there are no ponds suitable for breeding GCN on site, the PEA identifies the site to have potential to support terrestrial GCN and that the extent of site clearance undertaken already may have caused an offence to this species.
31. The PEA describes the further GCN survey required as needing to undertake an initial assessment of all ponds within 250m of the site boundary with any suitable ponds needing to be the subject of four presence / absence surveys survey between mid-March and mid-June (or a single environmental DNA survey mid-April to late June). Further recommendations were made if the surveys identified the presence of GCN, such as the potential need for a protected species licence.
32. In respect of hazel dormice, the PEA states that no records of hazel dormice were found within 2km of the site but that the hedges and dense scrub on site itself are considered to have suitability to support foraging opportunities and connectivity to adjacent suitable habitat. As further scrub clearance around the site boundaries was proposed at that time, the PEA recommended a tube survey which involves placing tubes in suitable habitat on site and checking them monthly between April and November.
33. In respect of reptiles, the PEA states that the grassland on site provides suitable foraging habitat for common reptiles such as slow worms, common lizards and grass snakes. Rubble piles and debris provide potential refuges and basking opportunities for reptiles and common amphibians. The PEA also indicates that it is highly likely that cleared habitats previously present on site provided suitable habitat for these species. On the basis of these findings, a reptile presence/absence survey was also recommended which would have involved placing several refugia mats in suitable locations on the site and checking them for basking reptiles on seven occasions in suitable weather conditions between March and September / October.
34. The appellant's evidence indicates that the PEA amounts to a flawed biological survey of the land and that it was withdrawn by the appellant in May 2025. The report provided by Mr Carruthers was offered instead. Mr Carruthers confirms his background to include university level zoology studies and asserts his competency in this field, with relevant experience of having occasionally undertaken biological surveys for planning clients. He does not, however, claim to be a professional ecologist member of CIEEM. Mr Carruthers' assessment indicates that the habitats on the site have some potential for common reptile species such as grass snake however the proposals are small-scale / low impact and have already taken place and thus precautionary measures are recommended. It also states that there is a low probability of the land supporting GCN. Hazel dormice appear to be omitted from any consideration in Table 1 of Mr Carruthers' own report.
35. Despite contesting whether or not they were needed, surveys undertaken by Mr Carruthers were subsequently provided. The GCN survey was undertaken on 11 October 2025 when none of the ponds could be located. They were resurveyed

(presumably on the following day) but again, no ponds could be located. The report by Mr Carruthers entitled '*Dormice, Reptiles, Common Amphibia and Bats*' is dated September 2025. It states that refuges for reptiles and amphibia were retained and monitored at least weekly and that there have been no reptiles or amphibia seen. In respect of dormice, it is stated that "...the hedges have been checked regularly for dormice nests and nuts and that none have been observed."

## Conclusions

36. Had the appeal application been clearer about the nature and precise extent of the proposal and extent of habitat being retained and protected, the need for the surveys and/or mitigation measures may have been avoidable. This may explain how other schemes have avoided the need for such<sup>25</sup>. However, some works had already been commenced at the time of the PEA without robust detail as to what was proposed. As such, despite that the originally submitted PEA being withdrawn, I consider it the more robust basis upon which to understand the site's features and importance for various species. The Council's agreement with the PEA recommendations of surveys for GCNs, reptiles and dormice appear reasonable and I share the observations that these species had and continue to have the potential to be present and affected by the appeal scheme.
37. I do not agree with Mr Carruthers' assertions that the proposals are small-scale or low impact such that precautionary measures alone would suffice. The surveys offered by Mr Carruthers do not appear to have been undertaken specifically within the recommended survey windows or in accordance with the recommended methodology for the species concerned. As such, I do not agree with their conclusions about the absence of GCN, reptiles or dormice. Rather contradictorily, Mr Carruthers conceded in cross-examination that reptiles and amphibia were likely to be present on site, despite the offered survey findings.
38. As per Government Circular 06/2005<sup>26</sup> and relevant case law<sup>27</sup>, the absence of these surveys at the time of granting permission could limit the ability to address all relevant considerations in respect of protected species. I have considered the appellant's claim that the costs of the surveys would have been prohibitive, resulting in the appeal scheme becoming economically unviable. I have limited cogent evidence on which to assess the cost implications of the survey recommendations, though this in itself does not justify the need to disregard the potential harm to protected species.
39. Similarly, any costs of credits to be purchased to secure Biodiversity Net Gain have been forecast with limited evidence of the basis for such calculations. The measures required to secure Biodiversity Net Gain would be a matter for the Council under the process of approving, or otherwise, the Biodiversity Gain Plan by way of relevant planning condition. The baseline habitats also appear to be in dispute for the purposes of such an assessment but as the appeal is failing for other reasons in any event, this is not a determinative issue.
40. For the above reasons, I conclude that the proposal would have a harmful effect on ecological value of the site and surrounding area having particular regard to GCN, dormice and reptiles contrary to Core Strategy policy CP8 which seeks to

<sup>25</sup> i.e. at 32 Greenway, in relation to the two glamping pods

<sup>26</sup> Government Circular 06/2005 - Biodiversity and Geological Conservation, CD 4.10

<sup>27</sup> Woolley v Cheshire East Borough Council & Millennium Estates (2009)



ensure that development mitigates and where necessary, compensates for adverse impacts on protected or important species, important habitats and natural networks so that there are no residual effects.

### *Highway Safety*

41. The key aspects for consideration on highway safety matters are the site access onto Oxen Lane, the junction between Oxen Lane and Greenway and the pedestrian connectivity between the site and facilities within North Curry.

### Site Access Junction

42. The site access onto Oxen Lane is situated in the north-eastern section of the site frontage. The access track rises up from Oxen Lane to the main site level and the track is presently surfaced with unbound hardcore. To the east side of the access is a high hedge which has been partly removed to allow its widening. To the west side of the access junction is a retaining bank which has been destabilised by works to widen the access. It was confirmed in cross-examination of Mr Carruthers that a structural survey would be needed to inform works to allow for the retention and restrengthening of this retaining feature.
43. There are limited informal passing places along the length of Oxen Lane and it is subject to the national speed limit. Nevertheless, due to its position, the access onto Oxen Lane has relatively clear line of sight towards both junctions at either end (Greenway junction and Windmill Hill junction). I find that the increased movement of vehicles along Oxen Lane and movements specifically associated with the site access would not be harmful to highway safety. However, very little is detailed in relation to the consolidation of the surface of the initial section of the access, any necessary highway surface water drainage measures, the need for and detail of any gates, the works to the retaining banks and extent of visibility that could be created and maintained within either the appellant's ownership or within the defined extent of the highway.
44. The lack of information on this matter presently before me is unsatisfactory, as is the present condition of the access, but my opinion is that this matter is capable of being resolved through planning conditions to the extent that highway safety on Oxen Lane would not be prejudiced specifically through the use of an adapted access in the position shown.

### Oxen Lane/Greenway Junction

45. The appellant's Highways Proof<sup>28</sup> suggests that a 15 pitch caravan site would likely generate about 60 vehicular movements per day. This figure differs from that in the appellant's earlier Transport Note<sup>29</sup> which predicted a total of 36 two-way movements for a total of 16 pitches. As such, notwithstanding the conflicting evidence or any suggestion that site occupancy rates may vary from time to time, the figure offered is for 60 two-way vehicle trips. This is not an insignificant number of movements to be directed towards either of the two junctions with Oxen Lane (Oxen Lane/Greenway and Oxen Lane/Windmill Hill). Mr Carruthers confirmed verbally that he did not deal specifically with the split between movements through the junctions in his written evidence.

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<sup>28</sup> CD7.14

<sup>29</sup> Ref ADL REF: 6577/AM/17A, Feb 2025, within Highways Proof appendices

46. Despite the below standard visibility for traffic turning left at the Oxen Lane/Windmill Hill junction which was previously acknowledged in both the 2005 and 2009 Decisions, the overall configuration of this junction has previously been found satisfactory to allow for an increase in vehicular movements. Despite the limited quantification of the number of additional movements, I do not find reason to reach an alternative conclusion specifically in respect of the suitability of the Oxen Lane/Windmill Hill junction.
47. The appellant's Highways Proof states that "*There is no dispute that the [Oxen Lane/Greenway] junction is substandard due to the presence of hedges.*" This again differs from the earlier submitted Transport Note where it states that visibility splays of 2.0m x 33m are achievable in both directions onto Greenway, in accordance with 25mph speeds. The Council's Highways Proof<sup>30</sup> casts doubt about the reliability of the offered 2.0 x 33m visibility splays due to them being incorrectly measured across physical obstructions and beyond the nearside carriageway edge.
48. In any event, the junctions of Oxen Lane and Greenway fall within a 30mph limit. The appropriate visibility distances for a 30mph road, based on stopping sight distance as set out in the Manual for Streets (MfS)<sup>31</sup> are 43 metres each way (the Y distance) from a setback of 2.4 metres (the X distance, which represents the reasonable maximum distance between the front of the car and a driver's eye). The 2005 and 2008 decisions found that Greenway is not a very lightly trafficked or low speed road which would allow a reduction in the visibility splays from that required for a 30mph road and I find no cogent evidence to reach an alternative decision based on my experience during the inquiry and site visit.
49. The Y distances at this junction, based on an X distance of 2.4m, have previously been recorded as either 10.3m, 14.5m or 17.5m to the left (north) and 16.3m or 20.0m to the right (south), with little discernible difference when the hedgerows are trimmed back. No Y distances have been offered within the appellant's evidence based on a 2.4m X distance.
50. The anticipated number of vehicle movements generated would therefore result in a material increase in the daily use of vehicles emerging from Oxen Lane onto Greenway with its acknowledged visibility deficiencies. Despite the absence of recent collision history, the material increase in traffic through the junction would give rise to a commensurate number of opportunities for collisions to occur into the future. Nothing has physically changed in the geometry or configuration of the junction on the ground since any of the earlier Decisions to warrant an alternative conclusion being reached. Furthermore, nothing is proposed as part of the appeal scheme to physically alter the junction that would address the acknowledged visibility deficiencies, such as a contribution towards a build-out feature, speed reductions or priority reconfiguration. Rather, the appellant's suggested resolution to the substandard junction is for the Council to require the owners of hedges at 'Doolittles' and 32 Greenway to move hedges back or for Council to use powers under the *Highways Act* (1980) (as amended) to remove or vary the hedges.
51. The reference to 'Doolittles' is to a site on the opposite side of Oxen Lane, closer to the Oxen Lane/Greenway junction. The appellant's evidence refers to this being a 16-pitch residential caravan site though I cannot find any cogent evidence to

<sup>30</sup> CD7.3

<sup>31</sup> Table 7-1 of CD4.18

corroborate this assertion or that it is a site that generates 64 vehicular movements per day. From the Council's evidence<sup>32</sup>, it appears that it has a certified site licence for caravans and camping which permits up to five caravans for tourism purposes and that another two residentially occupied static caravans exist which have become immune from enforcement action through the passage of time. As it is accepted that these traffic flows are now a part of the existing baseline, there seems little basis upon which to demand that hedgerows are varied or removed to allow the continued use of this particular site for such purposes.

52. From the Council's evidence, the other local site, '32 Greenway' has a resolution to grant planning permission for two 'glamping' pods subject to a legal agreement which is yet to be completed. As part of this scheme, the stopping up of the access onto Oxen Lane has already taken place, but works to widen its access onto Greenway are as yet, incomplete. Even if the Greenway junction to this site is widened to that required under the terms of the application or planning conditions, it is suggested that it will stop short of the Oxen Lane/Greenway junction (southern side). Thus, any such change would not materially change the junction layout to improve safety for users of the Oxen Lane/Greenway junction.
53. The Council has not indicated that it would or could engage powers under the Highways Act to improve the junction through requiring adjoining landowners to remove or vary their hedges. It is not within my remit as part of the appeal to insist that these powers are used. The Council has, however, indicated that if the appellant were to provide means of improving the junction, then it would help to try and overcome the issues. This would appear to be the more appropriate course of action given that the need for the junction improvements would arise more directly from a material intensification in its use through the proposal.

### Pedestrian Connectivity

54. Given the site's location in close proximity to the village centre of North Curry, a number of facilities are within close range of the site. The Transport Note details that the nursery, playing fields and primary school are within 10 minute walk from the appeal site. The village health centre, post office, pub and shop are also within 15 minute walk at a distance of approximately 1km from the site. Notwithstanding that supermarkets, secondary education and employment opportunities will require journeys by vehicle or bus to Taunton or another outlying settlement, the proximity to this range of local facilities is a positive factor.
55. There are also opportunities to catch buses from Windmill Hill, a short distance from the site entrance along Oxen Lane. There are around 5 daily services between Taunton and Stoke St Gregory (other than on Sundays) which offer residents some choice in the mode of travel.
56. However, Oxen Lane is rural and subject to the national speed limit with limited passing places. Even if residents manage to safely traverse along Oxen Lane to the bus stop around 200m away, there is also an absence of pedestrian footways from the junctions of Oxen Lane heading towards the village centre over additional distances of approximately 600 metres on Windmill Hill and 480 metres along Greenway; both of which are rural and subject to 30mph speed limits. There are no demarcations within the carriageway to offer any visual separation between cars and pedestrians, an absence of continuous streetlighting and in many

<sup>32</sup> Planning cross-examination of Dawn DeVries

narrowed sections of carriageway, a reliance on verges and dwelling frontages to offer protection from passing vehicles. I traversed both routes on foot during my visit and ruled out the likelihood of them being used regularly for walking to local facilities within the village and less likely still for people with young children, pushchairs or at any time after the hours of optimal daylight.

57. Local public rights of way (PROWs) exist in the area, including no. T17/51 from Borough Lane, but they involve modestly longer routes overall and cannot be accessed without walking within some part of the carriageways on Oxen Lane and Borough Lane. Furthermore, they are unsurfaced, uneven in places, have gates and stiles which can present difficulties if using pushchairs and are less likely to be attractive during wetter spells in the winter. Whilst they offer means of connection, they are more recreational than functional. They would not encourage residents to make a journey on foot rather than by vehicle.
58. As such, the surrounding road network is unsuited to offering safe routes for pedestrians making journeys to and from the appeal site. It is accepted that this is the current situation for residents that already live in similarly peripheral locations relative to village facilities. However, the proposal would introduce a material number of new residents to the site that would rely on access to local facilities. Whilst the access to services is broadly compliant with the terms of the Planning Policy for Traveller Sites (PPTS), despite their short duration, these journeys are more likely to be made by vehicle, rather than by foot. This links back to the likelihood of the material increase in movements through the Oxen Lane/Greenway junction and its identified shortcomings.

#### Other Highways Matters

59. There is no plan which delineates the parking spaces on each pitch, but I have no doubt that each pitch could provide adequate spaces by way of planning condition. This finding is consistent with previous decisions which have found that each pitch would be very large for its primary purpose of accommodating an individual household.
60. Whilst the roads are rural and without dedicated cycle lanes, it seems likely that experienced cyclists or at least adult cyclists could share the carriageways and that, aside the Oxen Lane/Greenway junction, their safety would not be obviously prejudiced.
61. Despite the limited information in relation to electric vehicle charging points and the provision of a turning head on the site access road, if the development were acceptable in all other respects, these could be secured by way of conditions.

#### Highway Safety Conclusion

62. Bringing the above together, whilst the consultee responses from the Highways Service issued in June and October 2025 present materially different professional opinions to one another, allowing the appeal would be prejudicial to highway safety for both drivers of vehicles using Oxen Lane/Greenway and pedestrians having to navigate within the carriageway to local village facilities. On this basis, the proposal conflicts with, in particular, policies DM1, DM3 and CP6 of the Core Strategy which seek to contribute to reducing the need to travel and seeks to ensure that development would not lead to overloading of access roads, road safety problems or environmental degradation through additional road traffic.

63. I have also reached the conclusion above in the context of paragraph 116 of the Framework which indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. There would be an unacceptable impact on highway safety and there are no means proposed that would mitigate or reduce the severity of such effects.

### *Effect on Neighbouring Occupiers*

64. There are three pairs of semi-detached houses that sit in an elevated position on the southern side of Oxen Lane towards the western end, with 6 Oxen Lane being the closest to the appeal site. I visited no. 6 as part of the site visit, both inside the house, its outbuilding and garden.
65. The curtilage surrounding no. 6 is broadly triangular. It shares a common boundary with the adjoining dwelling, 5 Oxen Lane. The frontage of no. 6 is onto Oxen Lane and the rear boundary is shared with the appeal site. Whilst the garden is ample in size overall, its depth from the rear of the house is relatively modest. As such, the rear of the house is around 6m from the appeal site. The outbuilding is also a workspace combining a treatment room and office and is also a similar distance from the appeal site boundary.
66. At first floor level, the two rear bedroom windows and landing window have clear views over the appeal site. The master bedroom window on the flank elevation also includes the appeal site. From the rear windows at ground floor level, the close boarded timber boundary fence prevents views towards the appeal site but appears to have been recently increased in height to achieve this degree of enclosure and privacy. The large dining room window on the flank elevation takes in the garden extending to the side and the rear boundary. There is no intervening fencing at some points of the rear boundary, with the only screening provided by deciduous trees and vegetation. The rear window from the outbuilding also has views towards a static caravan within Pitch no. 10 which is situated very close to the shared boundary.
67. The planning system does not exist to protect private views. However, given the proximity and level of no. 6 in relation to the appeal site, the outlook from many of its windows would be affected, to at least some degree. The degree of visibility from within no. 6 and intensity of the site's occupation across 15 no. pitches would result in a sense of enclosure and domination when compared to the rural outlook and context that would have existed previously. This would result in harm to the living conditions of the occupiers of this dwelling even if direct overlooking were capable of being avoided.
68. Under the current proposal, no dayrooms or other amenity buildings are proposed. However, the proposal seeks for each pitch to be used for the stationing of two caravans, including one static and one touring caravan. Given that family members living as one household live between the caravans and utilising the external space on the pitches more intensively than a typical garden, it is more likely that activities would be audible and cause disturbance to adjoining neighbours. Even if below the level of statutory noise nuisance<sup>33</sup> given the scale and intensity of the development

<sup>33</sup> Under the terms of the Environmental Protection Act 1990 (as amended)



proposed relative to the location and layout of no. 6 and its garden, there is real potential for harm from regular noise disruption and a sense of intrusion.

69. On the basis of the plans before me, the closest pitch to no. 6 would be Pitch no. 9. The proposal seeks to exclude the residential occupation of this pitch entirely. Some intervening vegetation has grown to the rear of no. 6 which partially obscures and softens views and over some of Pitch no. 9. However, the Pitches numbered 10 and 11 also directly adjoin the garden of no. 6. It is clear to see that the current occupation of Pitch no. 10 creates a sense of intrusion and has reduced the level of privacy and tranquillity previously enjoyed in the dwelling and garden at no. 6 Oxen Lane, particularly where hedgerow failure has resulted in gaps. In essence, the reduction in the scale and extent of development through omitting Pitch no. 9 would not go far enough to maintain an adequate quality of life for occupiers of no. 6.
70. Though little has been offered, I have considered whether the introduction of landscaping on at least Pitch no. 9 could secure an adequate quality of living environment for the occupiers of no. 6 Oxen Lane. I am not persuaded that it could do so, partly for reasons outlined above but also given that the robustness of such cannot be guaranteed, even if it establishes well initially. As such, relying on soft landscaping would not be a solution to resolve the above identified issues.
71. In conclusion, the appeal scheme would harm the living conditions of occupiers of 6 Oxen Lane, having particular regard to outlook and noise, contrary to Core Strategy policies DM1 and DM3 and the PPTS. These policies collectively seek to prevent development that would unacceptably prejudice the amenity of adjoining or adjacent occupiers.
72. Despite not having visited no. 5, its more distant relationship and buffering by no. 6 and intervening vegetation suggests to me that its occupants would not be similarly harmfully affected as those at no. 6.

#### *Location of Development*

73. In respect of the location of the appeal scheme, Core Strategy policy DM3 is most relevant. It seeks demonstration that consideration has been given to sites within existing settlement boundaries in the first instance and where such sites are not available, for consideration to be given to sites adjoining or adjacent to existing settlement limits. For sites that do not fulfil these criteria, they are only justifiable where the Council is satisfied that alternatives are not reasonably available to the appellant. The other related criteria of the policy include the need for the scheme to demonstrate that it would meet a clear and evidenced need through a Gypsy Traveller Accommodation Assessment (GTAA) or other similar evidence and that it is well related to local services and facilities, including retail opportunities, schools and doctors' surgeries etc.
74. The site is not within, adjoining or adjacent to the existing settlement limit of North Curry. Beyond the points made in the Personal Circumstances Proof that many of the occupiers/intended occupiers have no other accommodation available, the appellant's evidence does not specifically seek to attempt to justify the selection of the site and discounting of other options, such as other land or schemes for smaller numbers of pitches against policy DM3. This raises some conflict with at least this initial criterion of the policy. I return to this matter in the overall planning balance below.

### *Character and Appearance*

75. The appeal site lies within an area which is defined in the *Somerset Landscape Character Assessment* (2024) as *LCA22: Farmed and Settled Low Vale*. The rural character of the vale is largely influenced by its large areas of agricultural production, though other relevant key characteristics of LCA22 include:
- Locally distinctive low hills and occasional ridgelines, i.e. Norton Camp hillfort and North Curry ridge, which contrast with the broad and gently undulating vale.
  - Field boundaries are fairly linear, bounded by hedgerows with mature hedgerow trees (often Oak).
  - Gradual alterations to the landscape, such as field subdivisions and the construction of large agricultural buildings, have had a cumulative negative effect on the traditional rural landscape character.
  - Sweeping, panoramic views overlooking the vale are available from local hills and the enclosing ridgelines within and surrounding the area.
76. The appeal site has a lawful use as an agricultural field and, along with other adjoining fields, forms a part of the patchwork of agricultural land that covers much of the LCA that contributes to its rural character. The field boundaries of the site are, or were, formed of hedgerows and/or mature trees (including Oaks), though, the hedgerow trees along the frontage have since been replaced with a wooden fence and the widening works at the access have left the banks exposed. There are views towards the site and surrounding low lying land from the nearby ridgeline.
77. The appellant's evidence suggests that the development would not have significant effects on the landscape as it is not easily seen. However, a development can harm landscape character even if it would not be widely visible. In this case, the appeal scheme would remove a c. 2ha parcel of agricultural land from the patchwork that makes up the area's rural character. It would introduce long lengths of timber fencing around much of the site and between the pitches. The site frontage hedgerow has been removed and has also been replaced with a close boarded fence. Works have been undertaken at the access to widen and formalise it, though the extent of works to retain the exposed and partially collapsed banks is, as yet, unknown. The entrance gates included within the description of the proposal have not been the subject of any submitted plans so their effects in terms of segregating the site cannot be assessed. The fuller occupation of the pitches would also result in the introduction of a material number of additional static and touring caravans, vehicles and other domestic paraphernalia across an almost exclusively largely hardsurfaced area.
78. There would be detectable changes in the tranquillity of the area as well, with the intensity of residential use materially altering this aspect of its character. Taking the above together, the appeal development would therefore materially urbanise the rural landscape character of the site and the contribution it makes to the area.
79. In terms of the visual effects from the development, the elevation of the site above the level of Oxen Lane means that the site access works are highly visible, as are the boundary changes at the frontage, but most of the caravans and structures are out of view other than those that are or could be present on Pitch no. 1. As a result, some visual harm has occurred which is visible within Oxen Lane.

80. I visited local PROWs, including on 'Rock Hill' and PROW T17/31 which is to the south of the appeal site. From the most distant elevated views, the site forms a part of a wider panorama and the degree of effect is only modest. From PROW T17/31, the views of the appeal site are either partial or glimpsed. Some caravans and structures on the appeal site are already visible in these partial views. The introduction of further caravans would increase the likelihood of greater visual effects. From other local footpaths, there are very limited views to the appeal site owing to topography and landscape features.
81. Considered in the round, there would be harm to the landscape character and perceptual qualities of the landscape from the change of use and development of an agricultural field to a residential use, though the related visual extent of such harm would be relatively localised. As such, there would be conflict with, in particular, Core Strategy policies CP8, DM1 and DM3. Policies CP8 and DM1 largely seek to ensure that the appearance and character of any affected landscape, settlement or street would not be unacceptably harmed whereas policy DM3 specifically seeks to minimise the environmental impacts of Traveller developments, including appropriate screening and siting of development.

### *Surface Water Drainage*

82. The submitted Flood Risk Assessment (FRA)<sup>34</sup> sets out that the site is generally at low risk of surface water and fluvial flooding and that in order to manage surface water, all roads, pitches and surfaces are to be permeable.
83. Much of the existing hardstanding laid across the site appears to be of a largely permeable nature. However, the infiltration capacity of the permeable surfaces or underlying soils has not been detailed. Similarly, in addition to the surface area of static caravans, any bound areas of hardsurfacing would also create impermeable areas. No calculations or plans showing required attenuation features, discharge locations, required volumes and discharge rates had been submitted to supplement the appellant's case in order to demonstrate that surface water can be safely and suitably managed onsite.
84. The appellant's reliance is therefore placed on a suggested planning condition to address this issue. However, given the sizeable extent of the site, leaving this matter entirely to condition would expose occupiers and neighbours at an unknown degree of risk without sufficient information to clarify the means by which such could be addressed.
85. In the absence of such information, the proposal conflicts with, in particular, policy DM3 of the Core Strategy and policy I4 of the *Site Allocations and Development Management Plan* (adopted 2016). Core policy DM3 seeks to ensure that proposals for Traveller and Transit sites can be adequately served by the appropriate infrastructure to support the development including foul and surface water drainage and SADMP policy I4 seeks to ensure that surface water shall be disposed of by Sustainable Urban Drainage Systems (SUDS) unless it is demonstrated that it is not feasible.

<sup>34</sup> CD1.25

### *Scale, Layout and Design*

86. The appellant's proof of evidence sets out that there have been no design guidelines for Gypsy / Traveller sites for many years with the 'Good Practice Guide'<sup>35</sup> having been cancelled, but that the main issues are to ensure that they are not on a blind corner, are not in Flood Zone 3 or on contaminated land, and that they are affordable.
87. The PPTS, in paragraph 27, sets out that in considering applications, weight should be attached to matters including, sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase openness; promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
88. Though the issue of dominance of neighbouring occupiers is addressed separately elsewhere in this decision, as a site proposed for 15 pitches in total, it would be at the upper size limit as was previously advocated under the Good Practice Guide. Separately, whilst it may be each respective household's choice as to whether to have a dayroom, the pitches already occupied on site have modestly-sized buildings containing facilities external to the caravans. This suggests that, despite their omission from the appeal scheme, such buildings are likely to be introduced to the site in greater numbers commensurate with occupation of each plot.
89. As was made clear by Mr Carruthers during the inquiry, there would be little likelihood of any meaningful soft landscaping being returned to the site, other than some potential hedgerow divisions between the pitches, and thus, no soft landscaped play areas, communal or otherwise. Though not particularly safely accessible on foot, there is a well-equipped play area in the village a short distance from the site which could offer opportunities for resident children to play.
90. Taking the above together, the combination of works undertaken and proposed would not entirely accord with the positive intent of the PPTS to promote healthy lifestyles. These represent shortcomings with the scale, layout and design of the scheme, but the development would still provide at least an adequate quality of life for its occupiers and would not bring the scheme into conflict with Core Strategy policy DM3 on this particular basis.

### *Need for Gypsy/Traveller Accommodation and Personal Circumstances*

#### Need

91. The *Somerset Council Gypsy and Traveller Accommodation Assessment* (GTAA) of February 2026<sup>36</sup> sets out that the overall need for pitches for Gypsy and Traveller households for the period 2025/26 to 2044/45 is for a total of 261 pitches, broken down between 136 pitches for households that meet the planning definition of Gypsies/Travellers as per Annex 1 of the PPTS and 125 households of undetermined status. The GTAA also further seeks to distribute the number of

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<sup>35</sup> Designing Gypsy and Traveller Sites - Good Practice Guide (May 2008), withdrawn on 1 September 2015

<sup>36</sup> CD4.22

pitches needed across the 20 year period with a total of 153 pitches needed by 2029/30; 38 pitches needed between 2030/31 and 2034/35; 40 pitches needed between 2034/35 and 2039/40 and the balance in the final period (30 pitches).

92. The GTAA also includes reference to 12 unauthorised pitches at the appeal site and 12 interviews having been undertaken with the then occupiers of said pitches. It is therefore clear that the needs of the occupiers interviewed at that time have been factored into the GTAA.
93. The Council accept that the GTAA confirms a significant unmet need for pitches across Somerset which weighs significantly in favour of the proposal. This significant unmet need equates to an inability of the Council to demonstrate an up-to-date 5 year supply of pitches as required by the PPTS. Where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the Framework apply. I return to this below.
94. The emerging *Somerset Local Plan 2045* is in the early stages of its development. A call for sites has been undertaken and analysis of those sites is reported to be ongoing. The Council's intention to explore allocations and draft criteria-based policies for Traveller sites for inclusion in the future Local Plan. However, this early stage of development suggests that the policy solution to the identified need is some way off. This is another factor which compounds the difficulties that are and will continue to be faced by the Traveller community for at least the short term.

### Personal Circumstances

95. The status of the appellant and intended occupiers as Travellers defined by Annex 1 of the PPTS (2024) is not disputed. The appellant indicated acceptance of a planning condition suggested on a without prejudice basis that would limit the site's occupation to individuals and households that meet this definition.
96. The appellant's Personal Circumstances Proof of Evidence and updated version<sup>37</sup> set out that due to a lack of time, it had not been possible to produce statutory declarations for all of the occupiers and intended occupiers of the site. Some owners of the pitches have changed since the 2025 interim injunction and appeal application were made. Supplementary written evidence on the health conditions of the appellant's family members was also offered during the Inquiry<sup>38</sup>.
97. I report the basic facts of the respective households relevant to each pitch as they have been presented in the above mentioned documents and as verbally emphasised by the appellant himself at the inquiry.
98. Pitch 1 – It is suggested this pitch is currently occupied by 3 adults and 2 children of the Brian family who have no other accommodation available. There did not appear to be much evidence of current occupation despite verbal suggestions at the site visit that an occupied caravan was currently being serviced elsewhere.
99. Pitch 2 – The site is currently not occupied due to the injunction and the Gammell family (2 adults, 3 children) are allegedly living on the roadside and other pitches of family in the south-west (geography undefined). It is stated that the family have no alternative accommodation and that the children attend school when possible.

<sup>37</sup> Inquiry Document 8

<sup>38</sup> Inquiry Document 13



100. Pitch 3 – The 2 adults and 3 children of the Cooper household are not living on the pitch due to the injunction and live between the roadside and family pitches, including one in Wokingham that they are required to leave imminently.
101. Pitch 4 – The 2 adults and 3 children of the Roberts household are not living on the pitch due to the injunction and are living between the roadside and family pitches, albeit the general whereabouts of these other pitches is not detailed.
102. Pitch 5 – The 2 adults and 2 young children of the Murphy household are not living on the pitch due to the injunction but are living between the roadside and family pitches.
103. Pitch 6 – the 2 adults and four children of the Murphy household are not living on the pitch due to the injunction but are living between the roadside and family pitches.
104. Pitch 7 – the 2 adults and 4 children of the Murphy household are living between the roadside and family pitches. A member of this household has health issues which the evidence reports as a basic fact without detail of the links to healthcare facilities, local or otherwise.
105. Pitch 8 – The 2 adults and 4 children of this household are living between the roadside and family pitches elsewhere.
106. Pitch 9 – is owned but is not to be developed or occupied by said owner or others.
107. Pitch 10 – the 3 adults and 5 children of the Carter household that reside on pitch 10 do not have any alternative accommodation available. Of the children (below 18 years of age), 3 attend the local primary school. A resident adult has health conditions.
108. Pitch 11 – the 2 adults and 4 children of the Doran household are not living on the pitch and are unable to live on site without a water supply due to health issues. They are living on the roadside and staying on family pitches.
109. Pitch 12 – the 2 adults and 3 children of the Murphy household are not living on the pitch but currently live between the roadside and family pitches elsewhere.
110. Pitch 13 – The 2 adults and 3 teenage children of the Murphy household are not living on the pitch due to the injunction and are living between family pitches and the roadside.
111. Pitches 14, 15, 16 – on the ground, it appears that pitches 14 and 16 are occupied but pitch 15 is not. However, the information presented for these pitches relates to an extended family that would, were it not for the terms of the injunction, be residing across the three pitches more evenly. The extended Richards family appears to comprise around 10 adults and 9 children. It is stated that the family have no other accommodation available. The medical information provided in relation to one resident appears to relate to an address and hospital outside of Somerset. Nevertheless, the appellant indicated his strong desire to continue to live locally for reasons including access to the local surgery and for any resident family members to have access to local schools.
112. A general theme of the evidence presented is that there are limited details as to where the respective households have previously lived, i.e. whether within

Somerset or elsewhere, and why they have moved. Similarly, other than the obvious familial linkages explained by a common surname and shared pitch occupation, there is limited detail on the relationships, if any, between the respective pitch occupiers and, if relevant, their desire to live alongside one another. Coupled with the acknowledgement that some intended occupiers have changed since the submission of the appeal application, this undermines the clarity and robustness of the personal circumstances presented by the appellant.

113. However, in the context of an unmet need in Somerset more generally, there is an identified lack of alternative accommodation available to the households as highlighted in the evidence. For those that currently live on site<sup>39</sup>, this need appears most pressing. However, I cannot disaggregate the needs of the households in such a way – they should be taken collectively.

114. It is also evident that there is a community of Travellers, including a great number of children, that whatever their links to one another, would be affected by any decision. For each respective household, there would be benefits from having access to a permanent base to provide access to everyday services and facilities. The opportunity to access the local surgery and primary school would also be available, providing benefits from a continuity of care and education.

115. On the other hand, for any of the families having to return to or continue roadside living or doubling up with families, the reality is very different and has many significant disadvantages. As such, the personal circumstances attract significant weight in support of the appeal scheme taken as a whole.

## **Other Considerations**

### **Intentional Unauthorised Development**

116. The Written Ministerial Statement of 2015 provides that intentional unauthorised development is a material consideration in planning matters. This arose from the Government's concern about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is little opportunity to appropriately limit or mitigate the harm that has already taken place. Whilst harm to areas of the Green Belt was a clear reason for the need to introduce this issue as a material consideration, it is not exclusive to Green Belt locations.

117. The appellant's case refers to an alternative appeal decision<sup>40</sup> where only limited weight was attached to the unauthorised development that had occurred. That particular site was not within the Green Belt, underlining the point that intentionally unauthorised development can be a consideration of relevance to developments on sites outside of the Green Belt. Otherwise, there are limited directly comparable factors between that case and the appeal scheme before me.

118. The appellant's Proof asserts that the land has a significant planning history and that there has been a substantial failure of the Somerset Councils to make accommodation available for Gypsy / Travellers. It does not specifically deny that the site was occupied and works were undertaken knowingly but infers that there were few options otherwise in light of accommodation shortages.

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<sup>39</sup> Taken as detailed in the evidence as pitches 1, 10, 14, 15 and 16

<sup>40</sup> APP/Y3940/W/21/3271379

119. None of the site occupants or intended occupiers named on the current interim injunction were named on the original injunction, but the appellant himself was the same applicant for a single Traveller pitch application made and refused in 2015<sup>41</sup>, prior to the land being cleared pursuant to that original injunction. As such, I can have little doubt that at least the appellant would have been aware of the relevance of the site history and knowingly proceeded to commence works and residential occupation of the land in October 2024 without planning permission. The extent of works undertaken through coordinated efforts is not limited in either scale or extent and some works have continued more recently, such as works at the access. In light of the circumstances in this case, intentionally unauthorised development forms a consideration that weighs against the scheme.

## Planning Balance

120. The harms identified above include harm to the integrity of the SLMRS; harm to the ecological value of the site and surrounding area; prejudicial effects on highway safety and harm to the living conditions of occupiers of 6 Oxen Lane. I attach substantial weight to each of these harms.
121. The proposal also conflicts with the key locational requirements of the development plan; harm to the character and appearance of the area, and harm from the lack of adequate means of surface water drainage. I attach modest weight to each of these additional harms. That works were also undertaken on an intentionally unauthorised basis also attracts modest weight against the scheme.
122. However, there is an identified shortfall of pitches for Gypsies and Travellers in Somerset and lack of policy solutions to resolve that shortfall in at least the short term. This attracts substantial weight in favour of the scheme. At 15 no. pitches, the proposal would materially contribute towards the pitch needs highlighted by the GTAA.
123. In addition, there are a range of personal considerations that also weigh significantly in favour of the overall balance, including the appellant's and others' needs for pitches, lack of alternatives and the best interests of the very many children.
124. The main parties agree that paragraph 11 d) of the Framework is engaged owing to the Council's inability to demonstrate a five year supply of deliverable sites (pitches). Paragraph 11 d) requires that permission should be granted unless:
- i. the application of Framework policies that protect areas or assets of particular importance provide a strong reason for refusal; or
  - ii. any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
125. The appellant's evidence invites me to depart from the Framework's approach to the protection of Ramsar sites and proposed Ramsar sites. However, the unmitigated harm to the integrity of the SLMRS represents a strong reason for refusal in the context of footnote 7 and paragraph 11 d) i) of the Framework. Therefore, the presumption in favour of sustainable development does not apply in this case.

<sup>41</sup> Under planning reference 24/14/0054, refused 01.04.2015

126. If I had not found that harm to the integrity of the SLMRS represented a strong reason for refusal, it would have been necessary to consider paragraph 11 d) ii) of the Framework.
127. However, the totality of the harms would still significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole.
128. I have not found that these harms could be overcome through the use of planning conditions as too little certainty is offered in respect of any schemes of mitigation that could be secured this way. I have also considered the potential for restricting the occupation of the site to named occupiers based on their personal circumstances but a condition to this effect would not overcome the range of identified and serious harms either.
129. I have also given consideration to the imposition of a condition limiting the residential occupation of the 15 no. pitches to a temporary duration of either 3 or 5 years.
130. In either scenario for a 3 or 5 year temporary permission, harms to the character and appearance of the area and harms to the living conditions of neighbouring occupiers would eventually be reversed, thus reducing the weight to be attached to these harms. However, the harms to the integrity of the SLMRS, ecological value of the site and surroundings and from the absence of an adequate surface water drainage scheme would endure for either 3 or 5 years and the effects of such harms is difficult to quantify. Similarly, the prejudice to highway safety would only endure for the temporary period and cease thereafter, but the exposure to such risks over even a reduced period would remain unacceptable.
131. As such, taking these factors into account, the overall balance does not weigh in favour of a grant of permission on a temporary basis.

### **Proportionality**

132. Article 8 of the European Convention on Human Rights (ECHR) is incorporated into UK law through the Human Rights Act 1998 and provides that everyone has the right to respect for their private and family life, home, and correspondence. The duty to facilitate the Gypsy and Traveller way of life is part of that, and Article 8 must also be considered in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. This states that the best interests of the child shall be a primary consideration. Whilst those interests can be outweighed by other factors, no other consideration can be inherently more important. I have taken account of these rights and duties in the context of relevant case law.
133. The appellant and other intended occupiers are in an ethnic minority and have a protected characteristic under the Equality Act 2010. The Public Sector Equality Duty (PSED) means I must have due regard to the aims of eliminating discrimination and other prohibited acts; advancing equality of opportunity; and fostering good relations between persons who share a relevant protected characteristic and those who do not. Furthermore, by virtue of Article 14, ECHR rights, including under Article 8, shall be secured without discrimination.
134. I have acknowledged that the dismissal of the appeal would give rise to a degree of interference with the Article 8 rights of the appellant and current occupiers of the

site, including very many children. However, there is a strong public interest in ensuring the enforcement of planning control and providing certainty of outcomes through the planning process.

135. As such, the dismissal of the appeal is proportionate in the circumstances and the public interest cannot be achieved by any means less interfering. This decision has regard to rights under Article 8 of the ECHR, the best interests of the affected children and the PSED.

### **Conclusion**

136. The appeal scheme conflicts with the development plan when taken as a whole. There are no considerations, including the provisions of the Framework, which indicate that the decision should be made other than in accordance therewith.

137. Consequently, the appeal should be dismissed.

*H Nicholls*

INSPECTOR



## APPEARANCES

### FOR THE APPELLANT:

|                    |                |
|--------------------|----------------|
| Stuart Carruthers  | Planning agent |
| Michael Lethbridge | Planning agent |
| Peter Richards     | Appellant      |

### FOR THE LOCAL PLANNING AUTHORITY:

|                |                                               |
|----------------|-----------------------------------------------|
| Mark Beard     | Counsel for the Council                       |
| He called:     |                                               |
| Dawn De Vries  | Somerset Council - Development Management     |
| Sam Tearle     | WSP, on behalf of Somerset Council - Highways |
| Emily Kennet   | Somerset Council - Ecology                    |
| Aimee Fletcher | Somerset Council - Drainage                   |
| Paul Browning  | Somerset Council - Phosphates                 |
| Myra Spalding  | Somerset Council - Enforcement                |

### INTERESTED PARTIES:

|             |                     |
|-------------|---------------------|
| Fleur White | Adjoining landowner |
| Mike Steele | Local resident      |
| Lucy Back   | Local resident      |

### INQUIRY DOCUMENTS:

|                              |                                         |
|------------------------------|-----------------------------------------|
| Document 1 (with appendices) | Opening statement of the appellant      |
| Document 2                   | Opening statement of the Council        |
| Document 3                   | Adoption statement of Emily Kennet      |
| Document 4                   | Appellant RAMSAR note                   |
| Document 5                   | Updated planning conditions             |
| Document 6                   | Updated planning conditions v2          |
| Document 7                   | Appellant note on planning conditions   |
| Document 8                   | Updated personal circumstances document |
| Document 9                   | Costs response of appellant             |
| Document 10                  | Appellant closing statement             |
| Document 11                  | Council closing statement               |

### DOCUMENTS RECEIVED FOLLOWING INQUIRY

|             |                                                                                            |
|-------------|--------------------------------------------------------------------------------------------|
| Document 12 | Council reply to appellant's costs response                                                |
| Document 13 | Confidential medical information (electronic version of hardcopies shown on Inquiry day 3) |
| Document 14 | Correspondence from Somerset Council, 21.05.26                                             |
| Document 15 | Final comments from appellant, 21.05.26                                                    |
| Document 16 | Final comments from appellant (3 emails) 22.05.26                                          |