Planning Inspectorate

Appeal Decision

Hearing held on 25 & 26 August 2026
Site visits held on 25 August & 8 October 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2026

Appeal Ref: APP/D0121/W/26/3378598
Land off High Street, Portbury BS20 7TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant planning permission.
- The appeal is made by Mr Patrick Mullane against the decision of North Somerset District Council.
- The application Ref 25/P1738/FUL, dated 22 August 2025, was refused by notice dated 5 February 2026.
- The development proposed is the material change of use of land from equestrian to a mixed use of equestrian and a residential caravan site to provide 2 pitches for human habitation, to be occupied by Gypsy and Traveller, each pitch comprising of 1 Static caravan, 1 touring caravan, 1 day room, hard standing, cycle store, bin store, landscaping and erection of sound barrier acoustic fencing, associated infrastructure (retrospective)

Decision: the appeal is dismissed

Application for costs

1. An application for costs has been made by Mr Patrick Mullane against North Somerset District Council. This is the subject of a separate Decision.

Procedural Matters

2. I indicated at the Hearing that I would make an unaccompanied site visit on 27 August 2026. In the event, the M5 motorway was closed for much of that day due to a serious accident, as a result of which the surrounding roads were reported to be very busy. I therefore heeded the advice of the Police to avoid the area. Accordingly, I carried out the site visit at the earliest opportunity which, due to other commitments, was on 8 October 2026.

3. I have taken the description of the development set out in the header above from the application form. The Council's formal Decision Notice gives the description of development as the change of use of land from equestrian to a mixed use of equestrian and a residential caravan site to provide 2 pitches for human habitation, to be occupied by Gypsy and Traveller. Creation of access tracks and hardstanding; the erection of dayrooms, bin stores, bike storage and an acoustic fence (part retrospective).

4. It seems to me that the neither the description of development on the application form nor that on the Council's formal Decision Note accurately describe the development for which planning permission is sought. I therefore circulated a draft amended description of the proposed development prior to the opening of the Hearing, as follows:

   The material change of use of land from equestrian to a mixed use comprising an equestrian use and use as a caravan site for the purposes of residential occupation comprising 2 pitches, each pitch comprising of 1 static caravan, 1 touring caravan, 1 day room, hard standing, cycle store, bin store, landscaping, the erection of acoustic fencing and associated infrastructure, including the creation of access tracks.

5. That description was agreed by the parties at the start of the Hearing.

6. However, during the course of the Hearing, evidence emerged that caused me to revise my view. In January 1993, planning permission was granted for a development described as a "Proposed horse shelter" (Council Ref: 2016/92). The use of the land formed no part of that planning permission.

7. The officer report for that application is entirely silent on the lawful use of the land. It does, however, provide more details about the proposal, including the use of the land. It is confirmed by the then applicant (not the appellant for this appeal) in a supporting letter that "it is envisaged that only one horse will use the building and it will remain in the adjacent fields for most of the year". The supporting letter goes on to confirm that "the fields are currently *grazed*" by "*a"* horse owned by the then landowner (emphasis added). The supporting letter explains that areas of the field can be *grazed* alternately which is good *grazing* practice and will not only prevent over *grazing* of the land but also possible infestation (emphasis added).

8. Agriculture is defined at section 336 of the Town and Country Planning Act 1990 as including the use of land as grazing land, where that use is ancillary to the farming of land for other agricultural purposes. I recognise that it is entirely possible that other equine activities may have taken place on the land and that the grazing of one horse on the land may have been for a purpose not ancillary to the farming of land for other agricultural purposes. However, there is no evidence of that. The only evidence before me is that the land was grazed by just one horse for purposes not stated.

9. There is no dispute that the use of the land involving the grazing of a horse has been taking place since at least 1993 and more likely than not for a considerable amount of time before that. It is therefore likely that the use, whatever that use might be, has become lawful over time pursuant to section 191(2) of 1990 Act. The difficult is that there is no evidence to show, on the balance of probability, that the lawful use is an equestrian use.

10. For the avoidance of any doubt, I make no determination on this point. That would require an application for a Certificate of Lawful Use or Development. I will, however, further amend the description of development to omit the words *The material change of use of land from equestrian to:* in other words, the 'from' use. This further change was canvassed at the Hearing and I am satisfied that no injustice would be caused, given that the 'to' use would remain unchanged from that I initially suggested. I have determined this appeal on the basis of that further amended description of the development proposed.

11. There is no dispute that the appellant and other occupiers of the site meet the definition of Gypsies/Travellers set out in Annex B: Glossary of the National Planning Policy Framework (Framework).

Policies S3 and S5 of the Framework

12. The Framework confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise, and that the Framework does not displace the statutory obligations placed on decision makers by virtue of section 38(6) of the Planning and Compulsory Purchase Act 2004. The Framework is a material consideration of critical importance but, nevertheless, a material consideration that should be read alongside the policies in the development plan.

13. Policy S3 of the Framework confirms that decisions on development proposals should apply a presumption in favour of sustainable development. Outside of settlements, Policy S5(1) of the Framework indicates that only certain forms of development should be approved, as set out in a closed list forming part of that policy. Policy S5(1) goes on to indicate that these forms of development should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework. There is no dispute that the appeal site is outside of any settlement, such that policy S5 of the Framework would potentially be the appropriate policy in this case.

14. The developments identified in Policy S5(1) include (g) development which would address an evidenced unmet need for gypsy, traveller or travelling showpeople accommodation, provided it meets the criteria in policy HO12 of the Framework. This establishes that this type of development would usually be acceptable in principle outside of a settlement.

15. However, the appeal site is within the Green Belt. It is indicated at policy S5(5) of the Framework that the policy does not apply to development proposals in the Green Belt, which should instead be determined in accordance with policies HC8, GB6, GB7 and/or GB8 (as appropriate). It follows that the principle established by Policy S5(1) of the Framework does not apply in this case. This is the approach that I have taken.

Main issues

16. The Council's formal Decision Notice cites a total of eight reasons for refusal. The appellant and the Council have collaborated to reduce the issues between them, as a result of which it is accepted that the reasons for refusal relating to character and appearance, air quality and ground contamination are either no longer applicable or can be overcome by the imposition of suitably worded conditions. I therefore consider that the main issues arising from the remaining reasons for refusal are:

- whether the proposed development constitutes inappropriate development in the Green Belt for the purposes of the Framework and the development plan
- the living conditions of the occupiers of the site, specifically in terms of noise

- whether the site provides a safe access onto the public highway
- whether the site prejudices the availability of land safeguarded for the improvement of Junction 19 of the M5 motorway
- if the development is not inappropriate development in the Green Belt whether the benefits of granting planning permission would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework.

  or

- if the breach of planning control alleged in the notice is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the proposed development constitutes inappropriate development in the Green Belt for the purposes of the Framework and the development plan

17. Policy GB6(1) of the Framework indicates that development in the Green Belt is inappropriate unless it falls within one of the categories in policy GB7.

18. Policy GB7 of the Framework sets out categories of development that are not inappropriate in the Green Belt and therefore should not be regarded as harmful to the Green Belt or be required to demonstrate very special circumstances. These include that at Policy GB7(1)(g), namely development where *all* of the following apply (emphasis added):

    i. The development would utilise grey belt land *and* would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan (emphasis added)

    ii. There is an evidenced unmet need for the type of development proposed[1]

    iii. The development would be in a sustainable location, with particular reference to policy TR3 of this Framework[2], and

    iv. (not applicable in this case).

19. Taking these criteria in turn, Annex B: Glossary of the Framework defines 'Grey Belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in policy GB2. Those purposes are (a) check the unrestricted sprawl of large built-up areas; (b) prevent neighbouring towns merging into one another and (d) preserve the setting and special character of historic towns. Annex E of the Framework provides guidance on the contribution that assessment areas make to Green Belt purposes.

20. Previously developed land (PDL) is defined in Annex B: Glossary of the Framework as being land which, in summary, has been lawfully developed and

[1] Footnote 41 indicates that, in the case of traveller sites, this means the relevant local planning authority cannot demonstrate a five-year supply of deliverable traveller sites.
[2] Footnote 42 indicates that, in the case of development proposals involving the provision of traveller sites, particular reference should instead be made to policy HO12 of the Framework.

is or was occupied by a permanent structure and any fixed surface infrastructure associated with it. This includes the curtilage of the developed land, although definition makes it clear that it should not be assumed that the whole of the curtilage should be developed. The definition of PDL excludes land that is or was last occupied by agricultural buildings and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

21. The horse shelter granted planning permission in January 1993 (Council Ref: 2016/92) is still present on the site. For the reasons previously explained, it is not clear whether that horse shelter was used in connection with an agricultural use or an equestrian use of the land. As such, it is unclear whether that part of the site occupied by the horse shelter constitutes PDL.

22. Prior to the development subject of this appeal taking place in or around August 2025, the remainder of the land was open grazing with no other built structures upon it. There is evidence from Google Earth imagery that in 2021 some of the appeal site was occupied by a compound, possibly associated with highway works at Junction 19 of the M5. However, that fixed surface structure has subsequently become overgrown and has blended into the landscape, as shown in the Google Street View image taken in August 2023. Consequently, as a matter of fact and degree, that part of the site previously covered by that compound does not constitute PDL.

23. The appellant maintains that the use of land constitutes development and that the site constitutes previously developed land on that basis. However, there is no planning permission for an equestrian use of the land. Neither has an equestrian use been found to be lawful pursuant to Section 191 of the 1990 Act. I fully recognise that a use or development of land becomes lawful over time pursuant to section 191(2) of the 1990 Act irrespective of whether there is a Certificate of Lawful Use or Development in place. However, in the absence of a Certificate of Lawful Use or Development, there is no evidence to show that the use of the site (whatever that may be) has become lawful.

24. Section 55(2)(e) of the 1990 Act states that the use of any land for the purposes of agriculture shall not be taken for the purposes of that Act to involve development of the land. Consequently, if the use of the land is for agriculture rather than an equestrian use, then no development would have taken place and the land would not have been lawfully developed for the purposes of the definition of PDL.

25. Having regard to the above, I conclude that there is no evidence to show that the appeal site constitutes PDL.

26. Turning then to the second part of the definition of Grey Belt at Annex B of the Framework, namely whether the site strongly contributes to the purposes (a), (b), or (d) set out in policy GB2 of the Framework, it is firstly evident that the appeal site does not affect the setting and special character of any historic town(s)[3]. Purpose (d) is not therefore considered further.

27. Purposes (a) and (b) may be taken together. The key phrase here is 'strongly contribute'. It is therefore not necessary for the site to check the unrestricted sprawl of large built-up area(s) and/or prevent neighbouring towns merging

[3] As distinct from the setting of a listed building.

into one another on its own. The test to be applied in the second part of Policy GB7(g)(i) is whether the site makes a strong contribution to those purposes.

28. The appeal site is located immediately to the south of the M5 motorway, to the south-west of Junction 19. The M5 motorway acts as obstacle to the sprawl of the industrial estate at Portbury Docks located to the north. The major conurbation of Bristol is some distance to the east of the appeal site, to the east of the River Avon. The river is a major obstacle that effectively prevents the sprawl of Bristol and prevents it merging with towns to the east.

29. The appeal site forms part of an extensive area of largely open countryside to the east of Bristol. The appeal site does contribute strongly to the openness of that countryside but, because of its location adjoining the M5 motorway and the River Avon to the east, does not contribute strongly to checking the unrestricted sprawl of Bristol and/or preventing neighbouring towns merging into one another. I am therefore satisfied that the site does not contribute strongly to purposes (a), (b), or (d) as set out in policy GB2 of the Framework.

30. Consequently, although there is no evidence to show that the site constitutes PDL when taken as a whole, the appeal site may be considered as constituting Grey Belt as defined in Annex B: Glossary of the Framework. The site may therefore be taken as Grey Belt for the purposes of the first part of Policy GB7(1)(g)(i) of the Framework.

31. However, the word 'and' in Policy GB7(1)(g)(i) requires that, having found that the site qualifies as Grey Belt, it is then necessary to consider whether the proposed development would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Two points arise.

32. Firstly, the threshold is 'fundamentally undermine' and applies 'across the area of the plan', and not just to the area surrounding the appeal site.

33. Secondly, this applies to the purposes (taken together) of the remaining Green Belt across the area of the plan and not just purposes (a), (b) and (d). In this context, the purposes set out in Policy GB2 of the Framework not already considered above are (c) assist in safeguarding the countryside from encroachment and (e) assist urban regeneration by encouraging the recycling of derelict and other urban land. It is convenient to consider the latter in the first instance.

34. The development proposed is, in summary, a traveller site comprising of two pitches. It is unlikely that this development would be viable in an urban area in this part of the country, particularly in Bristol, even if the proposed development was acceptable in planning terms in that location. I am therefore satisfied that the proposed development would not fundamentally undermine urban regeneration or the recycling of derelict and other urban land and therefore does not offend purpose (e).

35. At the Hearing, Mr Phipps set out the history of development in the area surrounding Portbury. He pointed out that the appeal site is surrounded by car-related development to the north and east: Portbury Docks and the Gordano motorway services respectively. He also pointed out that the appeal site is located in a prominent position at the apex of a finger of open land that extends westwards from Junction 19 of the M5 until it meets the settlement of

Portbury. The area to the south is predominantly open and largely devoid of built development.

36. The location of the appeal is fundamental to preserving the openness of this part of the Green Belt. Although Mr Phipps expressed his concerns using the term 'coalescence', the proposed development would not result in coalescence with the settlement of Portbury: there would still be a substantial area of openness between the two, notwithstanding the presence of St Mary's Church in the midst of that otherwise open 'finger' of land.

37. The proposed development would, however, encroach into the countryside in this location. In this context, the appeal site does assist in safeguarding the countryside from encroachment. Moreover, because of the prominent and key location of the appeal site, the contribution and importance of the site in terms of safeguarding against encroachment into the countryside is out of proportion with the size of the site.

38. By encroaching into the countryside, the proposed development would fundamentally undermine the contribution the appeal site makes to the openness of the Green Belt in this location. Moreover, because of the location of the appeal site, the effect of the encroachment into the countryside extends beyond just the area surrounding the appeal site. It would, however, be difficult to conclude that this fundamentally undermines the purpose(s) of the Green Belt across the plan area as a whole.

39. I consider that the proposed development would not fundamentally undermine the purposes, taken together, of the remaining Green Belt across the area of the plan. I therefore conclude that the proposed development would accord with policy GB7(1)(i) when read as a whole.

40. The Council accepts that it cannot demonstrate a five-year supply of deliverable traveller sites, as revealed by the most recent Gypsy and Traveller Accommodation Assessment (GTAA) dated June 2022. It follows that there is an evidenced unmet need for the type of development proposed, such that Policy GB7(1)(g)(ii) is met[4].

41. In considering Policy GB7(1)(g)(iii), Footnote 42 directs that in the case of development proposals involving the provision of traveller sites particular reference should be made to policy HO12 of the Framework. I do not read 'particular reference' in that policy to mean 'solely' or 'exclusively'. On my reading, the words 'particular reference' in this policy allows for the consideration of other policies in the Framework where relevant, including policy TR3 relating to locating development in sustainable locations. Neither does "particular reference" imply that other considerations should be omitted.

42. Policy HO12 provides that development proposals for traveller sites should be located so that they:

    a. Provide a settled base while recognising the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability and may also mean that locations not well-related to existing settlements may be appropriate, and

[4] This relates to the need for the type of development that is proposed and is entirely separate to the appellant's own need for accommodation, which I consider below.

b. Enable access to frequently used services, such as education, welfare and health services, including ensuring that children can attend school on a regular basis.

43. The appeal site would provide a settled base for the occupiers. However, there is no evidence before me that the occupiers live and work from the appeal site, thereby omitting many travel to work journeys and contributing to sustainability. I understand that the appellant does keep horses on the appeal site and that he trades in horses at various horse fairs, including that at Appleby. However, there is no evidence before me that this forms a regular and/or significant element of his income. I therefore do not regard this as constituting working from the appeal site.

44. The Framework does not define the meaning of the term 'well related' in policy HO12(a). I have therefore considered that matter both in geographical terms and in terms of accessibility.

45. Geographically, the closest settlement to the appeal site is Portbury, which whilst in walking distance does not offer any significant services apart from a primary school. The public footpath to Portbury is also over unmade ground and is unlit[5]. Consequently, there are likely to be situations when this footpath is unusable. There is no footway adjacent to the highway surface on High Street, such that the route to Portbury along High Street is unhospitable to pedestrians. In that sense, whilst well-related in terms of proximity, Portbury is not well-related to the appeal a site in terms of being accessible.

46. Other geographically nearby settlements include Pill and Portishead, being some 1.4 miles and 2.8 miles away respectively. The latter is effectively separated from the appeal site by the M5 motorway, and in that sense is not geographically well-related to the appeal site.

47. Neither of these two settlements can be reasonably considered to be well-related to the appeal site in terms of being accessible on foot but are easily accessible by car. Both of these settlements are served by regular bus services albeit the location of the nearest bus stops, whist relatively close by in terms of distance, requires crossing High Street and/or Martcombe Road. Both are heavily trafficked roads with High Street having no designated crossing points. This would serve as a disincentive to using the bus routes served by these stops to those occupying the appeal site. I was able to walk to these bus stops from the appeal site as part of my site visit on 8 October 2026 and experienced at first-hand that this is an inhospitable pedestrian environment which, in my view, acts as a strong disincentive to using this route.

48. In overall terms, I consider the appeal site is not well-related to existing settlements in terms of being accessible to those occupying the appeal site.

49. In relation to policy HO12(b), I note firstly that the list of frequently used services does not include shops. I have therefore limited my consideration of 'frequently used services' to those set out in policy HO12(b), namely education, welfare and health services, given that shops are not akin to those services.

50. The closest frequently used services are mostly found in the settlements of Pill and Portishead. The former provides a pharmacy and a doctors surgery. The nearest primary school is in Portbury whereas the nearest secondary schools

[5] I walked this footpath as part of my site visit on 8 October 2026.

are somewhat further afield at distances of between 2 and 4 miles. Overall, I am satisfied that occupation of the appeal site would enable access to those services.

51. The appellant has cited a recent Appeal Decision in relation to a site at Emsworth, West Sussex (APP/L3815/C/26/3377990). The development proposed in that case was the material change of use of the land to a residential mobile home site. The appellant in that case, and the members of his family who occupy the site, meet the definition of gypsies and travellers in the Framework. The Inspector allowed the appeal and granted a temporary planning permission based, in part, on the appellant's personal circumstances. In that context, I note that the Inspector imposed a condition limiting the occupation of the site to named individuals and their dependants rather than to occupiers who meet the definition of gypsies and travellers in the Framework.

52. At paragraph 19 of her Decision, in referring to policy HO12 of the Framework the Inspector states that "as this policy accepts that gypsy sites may be located outside of settlements, it must therefore also be accepted that facilities and services may need to be accessed by car. The appeal site has a range of activities within a two-mile radius". The appellant in this case alights upon this paragraph in support of the proposed development.

53. There was no dispute that the appeal site in that case is located in the countryside outside of the settlement of Emsworth, such that policy S5 of the Framework applied. On my reading of the Framework, it is policy S5 (specifically S5(1)(g)) that specifically accepts that gypsy and traveller sites may be located outside of settlements and, by necessary implication, accepts that facilities and services may need to be accessed by car.

54. However, in this case, the appeal site is within the Green Belt, such that Policy S5 of the Framework is disapplied. The principle that gypsy sites may be located outside of settlements set out in policy S5 therefore does not apply in this case. Instead, the Framework directs that proposals fall to be considered under policy GB7 (amongst others) which, in relation to gypsy sites, through Footnote 42 directs that policy HO12 must be considered.

55. Policy HO12 of the Framework provides, amongst other things, that development proposals for gypsy/traveller sites should be located so that they enable access to frequently used services, such as education, welfare and health services. The Inspector for the Emsworth appeal does not break down policy HO12 into its constituent parts (a and b) but states in paragraph 20 that the site is well-related to the nearest settled community in Emsworth. Consequently, by reading paragraphs 19 and 20 together, it is apparent that the Inspector in that case considered that the development accords with Policy HO12 when read as a whole.

56. There is, however, an important difference between the two cases. The Inspector in the Emsworth appeal concluded that the site was well-related to the nearest settlement. For the reasons set out above, that is not the case with the site in Portbury. The Inspector's decision in relation to the Emsworth appeal (APP/L3815/C/26/3377990) may therefore be distinguished from this case in that respect also.

57. The reference to contributing to sustainability in policy HO12 must also be read having regard to the wider meaning of sustainability as set out in Policy TR3 of

the Framework. I have found that the occupation of the appeal site would provide access to the frequently used services listed in policy HO12 of the Framework albeit I consider that for practical purposes this would be mostly by private car.

58. The local bus services are reasonably regular and serve a variety of destinations, including to those settlements providing frequently used services and linking with rail services. However, as previously explained, access to the bus stops served by those routes from the appeal site presents some challenges, not least in terms of crossing busy roads. These challenges would be particularly pertinent to the elderly and those with young children. I therefore consider it unlikely that the occupiers of the appeal site would make regular use of the local bus services for day-to-day activities.

59. I concur with the Council that highway safety is an important element of sustainability and in any event is another consideration that may be taken into account in relation to policies HO12 and TR3 of the Framework. For the reasons set out below, I find that the proposed development would be harmful to highway and pedestrian safety. This represents an aspect of sustainability with which the proposed development would not comply.

60. I note that the appeal site is well served by a wide range of shops, including supermarkets. These are generally not in comfortable walking distance and, whilst accessible by bus, for the reasons set out above these are unlikely to be used on a regular basis. Similarly, the shops at the Gordano Services, whilst technically within a comfortable walking distance, are not easily reached from the appeal site, necessitating walking on the carriageway of the highway and the crossing of several lanes of traffic. Furthermore, the shops at the Gordano Services are located well within that site and are only accessible along roads used by high volumes of vehicular traffic, including HGVs. Consequently, for practical purposes, trips to all of these shops are likely to be by private car.

61. Having regard to all the above, the proposed development would not, in my planning judgement, be sustainable in terms of policy TR3 of the Framework. Amongst other things, this policy indicates that development should be located where it can support sustainable patterns of movement and make the most of existing transport infrastructure. In reaching that conclusion, I am mindful that the way of life pursued by Gypsies/Travellers makes more and different use of private cars and have factored that into account.

62. However, the appellant has confirmed that this is not a situation where the occupiers live and work from the appeal site. Consequently, when not away travelling for work, journeys made by the occupiers of the appeal site would be primarily for the purposes of accessing the frequently used services in Pill and Portishead. For the reasons set out above, these journeys are more likely to be made by private car than by more sustainable modes of transport.

63. I therefore conclude that the proposed development would not accord with Policy HO12 when read as a whole and in conjunction with policy TR3. Policy GB7(1)(g) of the Framework clearly states that the development must comply with *all* of the criteria listed in that policy for the development to be considered not inappropriate development in the Green Belt. In this case, the proposed development would not accord with the criteria at GB7(1)(g)(iii).

64. Consequently, I conclude that the proposed development would constitute inappropriate development in the Green Belt when assessed against policy GB7(1)(g) of the Framework.

65. At the Hearing, it was suggested by Mr Masters that the proposed development would meet the exception at policy GB7(1)(e) of the Framework, specifically the redevelopment of previously developed land (including a material change of use to residential or mixed-use including residential), which would not cause substantial harm to the openness of the Green Belt. This policy raises two questions: does the appeal site constitute PDL and would the proposed development cause substantial harm to the openness of the Green Belt.

66. In relation to the former, I have already found that the appeal site does not constitute PDL.

67. The Courts have held that matters relevant to the openness of the Green Belt are a matter of planning judgement, and that openness can have both a spatial aspect as well as a visual aspect. I have assessed the effect of the openness of the Green Belt having regard to the drawings submitted as part of the planning application.

68. In spatial terms, the proposed static caravans/mobile homes and day rooms would by reason of their size and height erode the openness of the Green Belt in this location. By reason of its height, position and extent, the proposed acoustic fence would significantly erode the openness of the Green Belt in this location. The areas of hardstanding and the access tracks would have only limited harm to openness in spatial terms.

69. In visual terms, the proposed static caravans/mobile homes and day rooms would by reason of their size and height significantly harm the openness of the Green Belt in this location. By reason of its height, position and extent, the proposed acoustic fence would also significantly harm the openness of the Green Belt in this location. By reason of their extent and the materials used in their construction, the areas of hardstanding and the access tracks would significantly harm the openness of the Green Belt in visual terms.

70. Overall, I conclude that the proposed development would substantially harm the openness of the Green Belt in this location.

71. The appeal site is not PDL, and the proposed development would substantially harm the openness of the Green Belt. Consequently, the proposed development would not meet the exception at policy GB7(1)(e) of the Framework and would therefore constitute inappropriate development.

72. I conclude that the proposed development would constitute inappropriate development in the Green Belt when assessed against policy GB7 of the Framework. Policy GB6(2) of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy GB6(2) goes on to explain that such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposed development, is clearly outweighed by other considerations.

73. In terms of the development plan for the area, Policy DM12 of the North Somerset Council Development Management Policies: Sites and Policies Plan Part 1 (Sites and Policies Plan) indicates that inappropriate development is, by

definition, harmful to the Green Belt and will not be approved except in very special circumstances. This policy is entirely consistent with the Framework in that respect. For the reasons set out above, the development would constitute inappropriate development in the Green Belt and would therefore be contrary to that policy.

Living conditions of the occupiers of the site, specifically in terms of noise

74. The appellant has commissioned a Noise Impact Assessment Report to determine the likely noise levels that would be experienced by the occupiers of the caravans, both day and by night. In summary, the report concludes that with appropriate sound insulation measures installed, the habitable rooms at the proposed development are more than capable of achieving the internal noise level criteria specified within BS8233:2014 and World Health Organisation noise guidelines and will comply with the Local Authority planning policy. The Council does not dispute the methodology of that report. I also understand that the Council would accept daytime external noise levels at 57dB L_{Aeq} to be acceptable.

75. The area of dispute is around the relationship between internal noise levels and overheating. The Council maintains that if windows need to remain closed, particularly overnight, to achieve compliance with internal noise levels according to BS8233, then suitable ventilation will be essential. The Council is not satisfied, on the information so far available to it, that a suitable balance between ventilation and overheating can be achieved. It seeks an appropriately worded condition to secure that.

76. The appellant's position is that adequate sound insulation and ventilation requirements are inherent within BS 3632:2015, with which the static caravans on the site would all comply. In support of that position, the appellants refer me to an appeal decision in relation to a site at land to the west of the M40 at Chesterton, Oxfordshire (APP/C3105/W/18/3219199). In allowing that appeal, the Inspector imposed conditions requiring that any static caravan shall be comply with BS 3632:2015 and that any touring caravan shall not be used for overnight accommodation. The appellant invites me to take the same approach.

77. Had the proposed development been acceptable in other respects, I would have reached the same findings and adopted the same approach[6]. In the event, for the reasons set out elsewhere in this Decision, that is not open to me.

78. I do note, however, that in order to achieve acceptable nighttime noise levels, other sound attention measures set out in the appellant's Noise Impact Assessment Report would be necessary. In particular, the erection of a 2m high acoustic fence. Had I been in a position to allow the appeal, I would have additionally imposed a condition requiring the submission of details of that acoustic fence to be submitted to and approved by the local planning authority and for that fence to be subsequently retained thereafter. That has implications for other issues raised by this appeal.

79. I conclude that the living conditions of the occupiers of the site, specifically in terms of noise, would be acceptable. I therefore find no conflict with Policy CS3

[6] Provided, that is, that the proposed 2m acoustic fence is in place. In allowing the appeal in relation to the site at Chesterton, the Inspector made a similar assumption, albeit the noise attenuation measures in that case were not the same as in this case.

of the Core Strategy which, amongst other things, states that development that results in harm to amenity or health will only be permitted if the adverse effects would be mitigated to an acceptable level.

Whether the site provides a safe access onto the public highway

80. The vehicular access serving the development is an existing access onto High Street. At this point, High Street is subject to a 30mph speed limit. There are no recorded traffic accidents at this point, albeit the previous use of the site is likely to have generated fewer movements at this access. Local residents refer to an incident on High Street that occurred in April 2026, although I understand that this was further along High Street closer to Portbury.

81. The appellant has produced a diagram (Drawing No. 25100028-01) that purports to show that a visibility splay of 2.4m by 50.7m can be achieved in both directions. Paragraph 10.5.3 of Manual for Streets 2 (MfS2) explains that the 'Y' distance represents the distance that a driver who is about to exit from the minor arm can see to the left and right along the main alignment. It is explained in MfS2 that vehicles will normally be traveling at a distance from the kerb line and that a more accurate assessment of visibility splay is made by measuring to the nearside edge of the vehicle track. I have taken that into account.

82. I agree that an adequate visibility splay can be achieved to the east, notwithstanding the slight curvature in the road at this point. I acknowledge that vehicles travelling in a westerly direction on the opposite side of the carriageway may on occasion stray into eastbound side of the carriageway when passing a cyclist or other road user, for example. However, even if that should occur, I am nonetheless satisfied from my observation on site that a driver exiting the vehicular access to the appeal site would have adequate visibility of the oncoming vehicle, such that there would be minimal risk to highway safety.

83. The situation is, however, different in relation to the visibility splay to the west. In this direction, visibility for a driver attempting to join the carriageway from the vehicular access is impeded by a combination of a hedge and the slight curvature of the road. This hedge had been cut back by the appellant shortly before the Hearing. As a result, visibility was not significantly impeded at the time of my site visit(s) but I was not able to assess for myself what the visibility may been when the hedge was at its previous height/extent.

84. Moreover, I have not been presented with any evidence that the land on which this hedge is growing is within the ownership and/or control of the appellant. The Location Plan submitted with the planning application (Drawing number GP/01/22) does not show this land to be within the application site. The hedge is to the immediate west of the red line indicating the boundary of the application site, but wholly outside of it and on the other side of the public right of way that adjoins the appeal site. I have not been provided with any Title Deeds or Land Registry plan that shows the land on which the hedge is growing to be in the appellant's ownership or control.

85. There is reference in one representation, albeit unevidenced, that the appellant does not own that hedge and did not seek the permission of the landowner to cut it back. That view was repeated at the Hearing. I also note that in at least one photograph, this hedge is neatly trimmed to a consistent height for a

considerable distance where it fronts onto High Street and not just at the vehicular access to the appeal site. That photograph pre-dates the occupation of the site by the appellant and strongly suggests that the hedge is in the ownership of a different landowner and not in the ownership of the appellant.

86. Consequently, having regard to all of the above I cannot be satisfied that the appellant has the necessary permission to cut back this hedge to ensure that adequate sight lines are maintained.

87. This hedge appears at different heights in various photographs taken over previous years. In some of those photographs, visibility would have been significantly hampered by that hedge. Local residents also confirm that the hedge had been higher and more extensive than at the time of my site visits. The fact that the appellant deemed it necessary to cut back this hedge just prior to the Hearing is a tacit indication that this hedge hindered visibility in this direction.

88. Section 41 of the Highway Act 1980 (the 1980 Act) establishes a duty to maintain highways that are maintainable at public expense. Section 154(1) of the 1980 Act then provides, amongst other things, that where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public has access so as to interfere with the view of drivers a competent authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is growing, require him within 14 days from the date of service of the notice so to lop or cut it as to remove the cause of the danger, obstruction or interference. The competent authority in this case is the Highway Authority.

89. Two points arise. Firstly, I am not convinced that section 41 of the 1980 Act is intended for situations such as this, where visibility from a private access is impeded by a hedge that may or not overhang a public highway.

90. Secondly, even if section 41 of the 1980 Act does apply, then it has not been demonstrated that this hedge is on highway land, in whole or in part. I have not been provided with any plan that shows the land to be in the ownership or control of the Highway Authority. Consequently, I cannot be satisfied that any action taken by the Highway Authority pursuant to section 41 of the 1980 Act would be sufficient to mitigate the interference with visibility from the vehicular access to the appeal site caused by this hedge.

91. I recognise that this vehicular access has previously been used for many years without causing a hazard to highway safety with the hedge in place and impeding visibility to the west. However, aside from a short period when the site was used as a compound in association with works to the M5, the land has been used for agricultural or equestrian purposes throughout that time. It is therefore likely that the number of vehicular movements would have been relatively low.

92. The appellant has predicted total vehicle movements associated with the proposed development to equate to 1 vehicle movement during each of the morning and evening peaks and, during a typical weekday, a total of 10 vehicle movements. I acknowledge that these predicted movements are not substantial and would not result in there being a detrimental impact on the operation of the local highway network in capacity terms. That number of movements would, however, be likely to constitute a meaningful increase in

comparison with the previous use of the site. This is a material consideration in terms of highway safety.

93. The reason for refusal relating to highway safety does not specifically refer to pedestrian safety, albeit concerns in this regard are set out in the Internal Memorandum from the Council's Highway & Transport: Environment Assets & Transport Services in relation to planning application 25/P17/1738/FUL. This matter is therefore a material consideration and was discussed at the Hearing.

94. The Council's Internal Memorandum notes that there is no pedestrian footway available along High Street at the site access and there would be no safe means of pedestrian access to the site. It goes on to state that to access local facilities, pedestrians would be required to either walk in the carriageway or along the adjacent highway verge/bank, neither of which is considered appropriate given the high vehicle flows along High Street as well as the speed of vehicles and poor forward visibility. Thie view was repeated at the Hearing.

95. The appellant has predicted total pedestrian movements associated with the proposed development to equate to 6 movements during a typical weekday. That would not be insignificant on a recurring basis, not least because access to closest bus stops and the shops at Gordano Services requires negotiating this section of the carriageway. For that reason, I concur with the Council that the site does not provide safe access for pedestrians.

96. I conclude that the site does not provide a safe access onto the public highway for the purposes of the proposed development. I therefore conclude that the development is contrary to policy CS10 of the North Somerset Core Strategy (Core Strategy) and Policy DM24 of the Sites and Policies Plan which, amongst other things, state that development will be permitted provided it would not prejudice highway safety.

97. Policy TR3(c) of the Framework indicates that any significant adverse impacts from the development on the transport network in terms of highway safety should be mitigated to an acceptable degree using a vision-led approach. In my view, the risk to highway and pedestrian safety in this case constitutes a significant adverse effect for the purposes of policy TR3(c). No mitigation has been advanced. I conclude that the proposed development would not accord with the Framework in this respect.

Whether the site prejudices the availability of land safeguarded for the improvement of Junction 19 of the M5 motorway

98. Part of the appeal site, equating to some 6,200m², falls within land safeguarded for future capacity improvements at Junction 19 of the M5 motorway. Policy DM21 of the Sites and Policies Plan safeguards the area surrounding the existing M5 motorway junctions 19, 20 and 21, as shown on the North Somerset Policies Map, for the future widening of junction roundabouts and motorway slip roads. Policy DM21 states that development will only be permitted if it would not restrict proposals for junction improvements.

99. There is no definitive scheme, or for that matter indicative scheme, for the proposals to improve Junction 19. However, the Council's Joint Local Transport Plan 2020 -2036 describes the improvements to Junction 19 as providing

enhanced capacity to assist in accommodating future traffic growth generated by planned housing and employment developments.

100. The Council maintains that the proposed units, by virtue of falling within this safeguarded area, prejudice the future delivery of strategic capacity improvements at Junction 19 and would therefore be contrary to Policy DM21. The Council maintains that Junction 19 of the M5 motorway is considered to be a 'traffic sensitive route at all times' by the Highway Authority and therefore any development which may prejudice the delivery of future capacity improvements would not be considered acceptable.

101. The appellant responds by overlaying the design of a typical junction improvement on the proposed layout plan for the appeal site[7]. In these projected layouts, a junction improvement with a free-flow lane would just clip the northeast corner of Plot 2. The whole of Plot 1 and the vast majority of Plot 2 would not be directly affected by the junction improvements. Even if a fourth lane was to be added, this would only result in more of the northeast corner of Plot 2 being required for the junction improvement, leaving the majority of that plot and the entirety of Plot 1 unaffected.

102. The difficulty is that there is nothing to show that the planned improvements to Junction 19 of the M5 would be of a similar scale or design. The eventual improvements to junction 19 could take up more land than the appellant envisages. The actual active traffic lanes might even take up less land but then there is also the potential ancillary works to take into account, such as landscaping, embankments and attenuation ponds. There could also be a need to use the land as a vehicle compound associated with proposed works, just as happened previously. None of that detail is known at this time. Consequently, I cannot discount the possibility that all the 6,200m² of safeguarded land would be required to facilitate the proposed improvements to junction 19 of the M5.

103. I fully recognise that there is currently no timescale for the proposed improvements to junction 19 of the M5, although the commitment to safeguard this land has been carried over into the submission draft version of the emerging North Somerset Local Plan. I also recognise that caravans are by definition not permanent structures and could be moved/transported to other locations on the 3062m² of the appeal site not within the land safeguarded for the junction improvements. Nevertheless, in the absence of a detailed layout, which for obvious reasons cannot be provided at this time, there is no way of knowing whether such a scheme would be acceptable[8]. In addition, there are the unknown effects in terms of the living conditions of the occupiers of the caravans resulting from the proximity of the works to improve junction 19 of the M5 motorway.

104. The Council could also exercise its powers under the Compulsory Purchase Act 1965 to acquire the land if and when the improvements are scheduled to take place. This would however present a potential obstacle and delay to the provision of that scheme.

105. For all these reasons, I conclude that the proposed development of the site prejudices the availability of land safeguarded for the improvement of Junction 19 of the M5 motorway, contrary to Policy DM21 of the Sites and Policies Plan.

[7] Based, as I understand it, on the improvements to Junction 10 of the M25 motorway at the Wisley Interchange.
[8] Including, for example, how noise attenuation might be secured and whether that would adequate.

106. In this respect, the proposed development would also not accord with Policy TR3(b) of the Framework which indicates that opportunities should be taken to utilise existing or proposed transport infrastructure in optimising the amount or density of development which can be accommodated in different locations.

Other considerations

Ecology

107. The initial application was not supported with the submission of an appropriate Ecological Impact Assessment, albeit the appellant has subsequently provided a Shadow Habitat Regulations Assessment (sHRA) received on 19 August 2026. The appellants sHRA concluded that *"the proposed development is not likely to have significant effects on any Habitats Site, alone or in combination with other plans or projects."*

108. The appellant did, however, provide a Preliminary Ecological Appraisal (PEA) with the planning application, the survey for which was undertaken in March 2026. The PEA was therefore undertaken several months after the site was first occupied in August 2025. The Habitat Survey Plan shows a significant part of the site covered by 'Artificial unvegetated unsealed surfaces' – essentially the hard core deposited by the appellant when the site was first occupied. The corollary is that the site surveyed and evaluated by the authors of the PEA was not the original condition of the site.

109. The PEA concluded that in accordance with the Statutory Biodiversity Metric Condition Assessment Matrix, the habitat on the site was not subject to a condition assessment and was automatically assigned a poor condition. That conclusion was not – and could not have been - reached on the basis of the original condition of the site before the appellant took up occupation.

110. The PEA assessed the potential impact of the proposed development on a species-by-species basis. For example, in relation to Horseshoe bats, the PEA concluded that the affected grassland is of limited ecological value, whilst the boundary features provide the more relevant potential commuting and foraging habitat for Horseshoe bats. The PEA goes on to conclude that given the limited scale of habitat loss and the low ecological value of the affected grassland, it is considered that impacts to Horseshoe bat foraging habitat are minimal.

111. The PEA concludes that no direct impacts to any designated sites will occur as a result of the proposed development. However, that misses the point. The salient point is that some habitat loss has already occurred. The PEA contends that this was mostly confined to the loss of a relatively small area of low-value grassland only, with all boundary habitats, including hedgerows, scrub and treelines, retained.

112. That is, as best, an informed opinion. There can now be no way of knowing exactly what habitats were present on the site or what species the site may have supported. The baseline has been fundamentally altered by the laying of a not inconsiderable amount a hard core when the site was first occupied in August 2025 together with further damage to the area of low-level grassland associated with the occupation of the land. Whatever habitats were present before that, and which species the site may have supported, cannot now be known.

113. By way of example, in relation to dormice, the PEA concluded that the site is predominantly composed of modified grassland and artificial, unvegetated surfaces, which are considered suboptimal habitat for this species. The artificial, unvegetated surfaces equates to the area of hard core laid when the site was first occupied. It is now not possible to say with any degree of certainty whether the land may have been of greater potential for dormice than 'sub-optimal' before that hard core was laid.

114. The inescapable conclusion is therefore that the occupation of the site prior to the requisite surveys being undertaken has potentially caused at least some harm to species and their habitat. This potentially includes protected species.

115. The PEA acknowledges that the development has resulted in the loss of a small area of grazed grassland, albeit this habitat was considered to be of limited ecological value in isolation. Notwithstanding that, the PEA indicates that Habitat Evaluation Procedure (HEP) calculations can be undertaken, if required, to demonstrate that the proposals will not result in a net loss of functionally linked SAC habitat.

116. However, this is not the approach advocated in Circular 06/2005, paragraph 99 of which states:

> "It is *essential* that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, *before the permission is granted*." (emphasis added)

117. It is now too late to follow the approach advocated in Circular 06/2005. The level of harm to protected species and their habitats is set out in the PEA and the sHRA cannot be relied upon simply because the development took place before there was an opportunity to establish the baseline in terms of any protected species that might be present.

118. The fact that part of the application relates to retrospective works does not automatically require progression to Appropriate Assessment. As the appellant points out, the relevant consideration is whether the development, including the works undertaken, gives rise to a likely significant effect upon the North Somerset and Mendip Bats Special Area of Conservation (SAC). The salient point is again the fact the works have been carried out in advance of surveys being undertaken prevents consideration as to whether the development gives rise to a likely significant effect upon the SAC.

119. Consequently, having regard to the policy tests set out in the Framework relating to the imposition of conditions, as well as to the guidance in Policy 06/2005, I am not satisfied that is potentially open to me to rectify any harm

to valuable habitat (including that used by protected species) resulting from this development through the imposition of a condition(s). In that context, in my view the circumstances of this development do not qualify as 'exceptional circumstances' for purposes of paragraph 99 of Circular 06/2005.

120. I take the appellant's point that the use of the land for grazing could itself have had an impact on habitats on the site, including those used by protected species. However, the development that is proposed constitutes an additional use over and above the use for grazing, whether that be for agricultural or equestrian purposes. There are in addition the specific harms resulting from the occupation of the site in August 2025, including the laying of a substantial area of hard core. Any residual harms resulting from the use of the land for grazing therefore do not justify any additional (and potentially ongoing) harms resulting from the development that is proposed and that which has already taken place.

121. I conclude that the carrying out of the development before planning permission was granted has, more likely than not, had an adverse effect on protected species and their habitats. I therefore conclude that the development is contrary to Policy DP38 of the District Plan and Policy CDNP09 of the Neighbourhood Plan. These policies state, amongst other things, that biodiversity will be protected and enhanced by requiring measures to avoid and reduce disturbance to sensitive habitats and species.

122. Paragraph 193(a) of the Framework states that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused". Due to the development being carried out before adequate surveys were undertaken, there is no evidence before me that any harm to protected species can be adequately mitigated or compensated for. In these circumstances, paragraph 193(a) of the Framework clearly states that permission should be refused.

Setting of the Church of St Mary

123. The appeal site is located to the east of the Church of St Mary, a Grade I Listed Building dating to the C12, altered and extended in the early C13 and C14/C15 and restored in 1870-75. The listing description identifies the west tower of the church as dating from the mid C15 with a plain embattled parapet[9].

124. I have a legal duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving the building or its setting or any features of special architectural importance or historic interest which it possesses. Having regard to the listing description, the west tower of the church is a feature of special architectural importance or historic interest.

125. Policy HE5(2) of the Framework confirms that assessments of the potential effects of development proposals on the significance of heritage assets (including through effects on their setting) should identify whether they would be likely to: a. Have a positive effect; or b. Have no effect; or c. Result in harm

[9] List Entry: 1311826

(which includes substantial harm), the degree of which should be identified; or d. Cause the total loss of significance. In this case, the assessment at Policy HE5(2)(c) is the relevant assessment.

126. The church is some 294 meters from the site and, with the exception of the tower, is entirely screened from view by surrounding hedges. By reason of its height, the tower projects above the surrounding vegetation and is a prominent local landmark. The tower is, moreover, specifically identified in the listing description as being one of the features of special architectural importance or historic interest which the listed building possesses.

127. Annex B: Glossary of the Framework defines the setting of a heritage asset as the surroundings in which that heritage asset is experienced. In this case, the setting of St Mary's Church is, and has historically always been, the surrounding countryside. This remains the case notwithstanding the construction of the M5 motorway to the north. The setting of St Mary's Church makes an important and positive contribution to the significance of the Grade I listed building insofar as it facilitates a continued appreciation of its special architectural importance and historic interest of the listed building in its historic context.

128. This particularly applies to the tower which historically has been a prominent feature widely visible from the surrounding landscape, and one directly associated with the purpose of the listed building as a church. As such, the setting of this listed building does not have the capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it.

129. Public views of St Mary's Church in conjunction with the development on the appeal site are limited. However, the Glossary to the Framework does not distinguish between being experienced in a public or private capacity: the contribution of the setting to the significance of a heritage asset does not depend on public rights or ability to access it.

130. In any event, the tower of St Mary's Church would be clearly viewed in conjunction with the development on the appeal site from the public footpath/pavement on the north side of Martcombe Road. In these views, due to the vegetation on the south side of Martcombe Road, it is my assessment that only the tops of the static caravans would be visible. Everything at ground level would be obscured by the intervening vegetation and in my assessment would not be visible to pedestrians on the footpath/pavement.

131. Nevertheless, the obvious presence of the static caravans in the foreground would be a positive indication of the development on the site. It would not be possible in these views to determine whether the buildings were being used for residential purposes or for purposes associated with agriculture. The presence of these static caravans would, however, fundamentally change the way in which the setting of St Mary's Church would be experienced in these views. That change would be harmful, insofar as the setting of the listed building would no longer be just the surrounding countryside.

132. The appeal site is also clearly visible by drivers and passengers in vehicles using Martcombe Road. This is another, and numerically significant, way in which the setting of St Mary's Church is experienced. I recognise that these are mostly glimpsed views from moving vehicles, albeit some lingering views are

also possible from vehicles stationary at the traffic lights. Moreover, because views are obtained from a position close to the vegetation on the southern boundary and from a slightly elevated position inside the vehicle, it is possible to look directly into the site[10].

133. The proposed development would provide two pitches, each pitch comprising of 1 Static caravan, 1 touring caravan, 1 day room, hard standing, cycle store, bin store and associated infrastructure. The two pitches would be linked by an internal access road with a 2m high acoustic fence located on the eastern and northern boundaries of the site. The appellant has offered to remove the existing close boarding fence that adjoins the public right of way on the eastern boundary of the site. I have therefore excluded that from my considerations.

134. The result would be a significant urbanisation of the site. I acknowledge that this would to some extent be softened by landscaping, including of the 2m high acoustic fence. However, notwithstanding the assurances of the appellant, I have no confidence that the latter would be effective in either the short or long term. My concerns in this respect are derived partly from the initial cost of providing the 'instant' landscaping now proposed and the long-term management of that landscaping. This is of fundamental importance because if I was minded to grant a permanent planning permission, this landscaping would need to remain in situ and effective throughout the lifetime of the development.

135. The proposed development would therefore result in a fundamental change to the former open and rural character of the appeal site, replacing that with a visually cluttered and 'busy' site. I am not convinced that the setting of St Mary's Church has the capacity to accommodate that change without harm to the significance of the heritage asset or the ability to appreciate it. My concerns in this respect are compounded by the fact that the development would be prominent in the foreground from most vantage points from which St Mary's Church would be viewed in conjunction with the development on the appeal site, such that it would tend to dominate views of the church in the more distant background. For these reasons, I conclude that the proposed development would harm the setting of the designated heritage asset.

136. Policy HE6(4) of the Framework indicates that where a development proposal would harm the significance of a designated heritage asset the effect on the asset and its significance should be weighed against any public benefits resulting from the proposal. In this case, the harm is to the setting of a feature of special interest on a Grade I Listed Building. I attach considerable weight and importance to that harm.

137. The public benefits arising from the proposed development amount to the provision of a travellers site in an area with unmet need. However, in practice, that is limited to two pitches neither of which are generally available to the wider travelling community. The site is a private site that is only available to the appellant and his family. Consequently, the benefit that arises is mostly a private benefit. For that reason, I attach only limited weight to any public benefits arising from the proposed development.

138. In weighing the balance required by Policy HE6(4) of the Framework, I conclude that the public benefits arising from the proposed development do not

[10] Based on personal observations during my site visit on 8 October 2026.

outweigh the harm to the significance of the designated heritage in terms of its setting. The proposed development would therefore not accord with Policy HE6(4) of the Framework.

139. Policy DM4 of the Sites and Policies Plan states that development will be expected to preserve the character, appearance and special interest of listed buildings, including their setting. I have found that the proposed development would harm the setting of St Mary's Church, such it would be contrary to Policy DM4.

Intentional Unauthorised Development

140. Policy DM8(2) of the Framework indicates that if it is concluded based on evidence that unauthorised development was intentional, that fact should be given substantial weight in considering whether to grant planning permission. It follows that there are three factors to consider: has development taken place; if so, is that development unauthorised; and if unauthorised, was the carrying out of that development intentional.

141. There is no dispute that development has occurred, insofar as the appeal site has been used for the stationing of caravans for residential occupation, albeit not in the form shown on the planning application drawings. There is also no dispute that the development that has occurred was carried out without the benefit of planning permission and was therefore unauthorised. The question before me is whether the carrying out of that unauthorised development was intentional.

142. The appellant explains that having purchased the appeal site he instructed a planning agent to submit a planning application in or around April 2025. The appellant explained, and I fully accept, that he intended to first obtain planning permission and only then to move onto the site with his family.

143. Then, in or around August 2025, the appellant was involved in a dispute with another resident of the site he was occupying at the time. This was the catalyst for the appellant to vacate that site and move onto the appeal site over the Bank Holiday weekend that August. The appellant maintains that it was not his intention to the move onto the appeal site at that time.

144. I do not agree. On the date that the appellant moved onto the appeal site, he was aware (having submitted a planning application) that the use of the land for the stationing of caravans for residential occupation required planning permission. The appellant knew that planning permission had not been granted for that use. He therefore knew on that date that the use of the appeal site for the stationing of caravans for residential occupation was unauthorised development. Yet the appellant still took the decision to move onto the site.

145. There is a further component to this. When the appellant moved onto the site in August 2025, he deposited a not insubstantial quantity of hard core onto the site. I understand that he sourced that hard core from members of his family/the travelling community employed in the construction industry, such that the lead-in time for the delivery of that material was relatively short. That is entirely consistent with the appellant's decision to move onto the site at relatively short notice following the dispute with the resident of the site he was then occupying.

146. Nevertheless, even if at short notice, organising the delivery of hard core to the site reveals an element of pre-planning. The hard core would need to be pre-ordered, and arrangements made for the delivery of that hard core to the appeal site. In other words, on the appellant's own evidence, he made a conscious decision to move onto the site and then acted upon it in full knowledge that planning permission had not been granted.

147. Finally in this context, there is the timing of the occupation of the appeal site by the appellant. This took place over the Bank Holiday weekend in August 2025. This is unlikely to have been a coincidence. In my experience, in situations where Intentional Unauthorised Development has occurred, for whatever reason it is not uncommon for that to have occurred over a Bank Holiday weekend.

148. The appellant's own evidence clearly shows that following the dispute with the resident of the site he was previously occupying there was a clear intent to move onto the site before planning permission had been obtained. The three elements of Intentional Unauthorised Development are all present.

149. I have a great deal of sympathy with the appellant in this respect. Vacating the site that he was previously occupying before obtaining planning permission in relation of the appeal site was clearly not the appellant's original intention. Nevertheless, having found based on evidence that Intentional Unauthorised Development has occurred, Policy DM8(2) of the Framework directs that should be given substantial weight in considering whether to grant planning permission for the development that is now proposed. There is no discretion within policy DM8(2) for me to attach lesser weight having regard to the sequence of events that led to the appellant moving onto the site when he did.

Suitable alternative sites

150. The Council cannot demonstrate a five-year supply of sites and cannot point to any suitable alternative sites that are available to the appellant and the other occupiers of the site. That is a matter to which I attach significant weight.

Personal circumstances of the appellant and other occupiers of the site

151. Although not currently laid out as such, when fully implemented the proposed development would comprise of two pitches. The appellant and his family would occupy Pitch One.

152. The appellant, Mr Patrick Mullane, is a self-employed roofer. He travels for work and then carries out work within a radius of approximately 50 miles from where stops. His work requires relatively little equipment, and he travels for work using his pick-up vehicle.

153. His wife stays at home to look after the children, of which there are three. The eldest child has recently started attending a local primary school and is doing well there, making friends with children in the settled community. It is envisaged that the middle child will also attend the same school in due course. The youngest child is an infant.

154. The family are registered at a local doctors surgery and are currently all in good health.

155. Pitch Two would be occupied by three elderly relatives of the appellant. I understand that these individuals are looking to settle down and as such no longer travel for work, albeit they do travel for cultural purposes. They are all in good health.

156. It therefore seems to me that beyond requiring a stable base from which to travel/settle down and access frequently used services, including the local primary school, there is no other imperative for the appellant and the other occupiers to reside on the appeal site. I also noticed that at the time of my site visit on 8 October 2026 the site appeared not be occupied. I am aware that the appellant himself may have been away travelling for work and that my site visit is only a snapshot in time. However, the site being unoccupied is not consistent with the evidence I heard in relation to the other occupiers of the site.

157. Nevertheless, the appeal before me is for a proposed development. In that scenario, it would be in the best interests of the children residing on the site to remain there, not least as a settled base from which they can access education facilities. That is a matter to which I attach substantial weight.

Human Rights Act and Public Sector Equality Duty

158. I am fully aware that the dismissal of this appeal could ultimately result in the appellant losing his home albeit, in the absence now of an enforcement notice, there is no immediate prospect of that occurring. Should that ultimately occur, it would interfere with his rights under the European Convention of Human Rights, as incorporated into domestic law by the Human Rights Act 1998 (HRA). In particular, his rights under Article 8 (right for respect for private and family life, home and correspondence) and Article 1 of the First Protocol (right to respect to property) would be interfered with. Both of the above are qualified rights, and interference with them may be justified where lawful and in the public interest.

159. In *Chapman v UK 33* EHRR 399, the court recognised that the gypsy status did not confer "immunity from general laws intended to safeguard the assets of the community as a whole, such as the environment", but added: "… the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases …". The courts have subsequently held that there is thus a positive obligation imposed by virtue of Article 8 to facilitate the Gypsy way of life.

160. The courts have held, however, that this is far from saying that planning authorities are bound to regard this factor as sufficient in itself to justify the grant of permission in any case. The balance involves issues of "complexity and sensitivity". That is a judgment of policy not law, and it needs to be addressed at two levels: one of general principle, the other particular to the individual case."

161. I fully recognise the positive obligation to facilitate the Gypsy way of life. I also fully understand all the implications that dismissing this appeal could ultimately have on the appellants and their families, not least in relation to the best interests of the children residing on the site as a primary consideration.

162. However, having regard to the facts in this case, I do not consider that these factors should be regarded as sufficient to justify the grant of planning permission. The appeal site is sensitive in environmental terms. It is within the Green Belt. It is within the setting of a Grade I listed building and within the SAC. It is subject to the policy and legislative protections associated with those designations and as such is an environmentally protected site.

163. In no small part, my conclusions flow the fact that development that has taken place on the site was carried out without the benefit of planning permission. It is a fundamental principle of planning control that planning permission should not be refused simply on the basis that the development was carried out without planning permission or is unlawful. However, because the development was carried out in advance of planning permission being granted, there has been no opportunity to appropriately mitigate the harm that has already taken place.

164. The development that has taken place on the appeal site is an example of intentional unauthorised development. It was held in *Chapman* that if the home was lawfully established, this factor would self-evidently be something which would weigh against the legitimacy of requiring the individual to move. Conversely, the Court held, if the establishment of a home in a particular place was unlawful, the position of the individual is less strong. In those circumstances, the Court indicated that it would be slow to grant protection to those who, in conscious defiance of the prohibitions of the law, establish a home on an environmentally protected site. The Court found that to do otherwise would be to encourage illegal action to the detriment of the protection of environmental rights of other people in the community.

165. In reaching that conclusion, I am fully mindful that the development that has occurred to date is not that ultimately proposed in this appeal. Nonetheless, the harm that has already occurred would carry over onto the scheme that is proposed and cannot now be rectified through the proposed scheme. It is therefore relevant in that respect.

166. Consequently, dismissing the appeal would be in the wider public interest. In weighing the balance of issues in terms of their complexity and sensitivity, I conclude that in this particular case the balance falls on the side of dismissing the appeal.

167. I have also had regard to my responsibilities under the Public Sector Equality Duty. I fully recognise that dismissing this appeal could ultimately have implications for the appellant, his family and the other occupiers of the site in terms of the ability to pursue their traditional way of life. That is a matter that I have factored into the overall planning balance.

Conditions

168. The Council has provided a list of conditions in the event that I am minded to allow the appeal. These were discussed at the Hearing. I have considered whether the imposition of suitably worded conditions could overcome the harms that I have identified above and make the development acceptable in planning terms. However, in my view the harms identified are intrinsic to the development that is proposed on the site and could not be overcome by the imposition of conditions.

Green Belt balancing exercise

169. In accordance with Policy GB6(2) of the Framework, I attach substantial weight to the harm to the Green Belt by reason of the inappropriate nature of the development, including harm to its openness. I attach substantial weight to the likely adverse effect on protected species and their habitats, noting also that the Framework indicates that permission should be refused where any harm to protected species cannot be adequately mitigated or compensated for (which cannot be achieved here because the development was carried out before planning permission was granted). In accordance with Policy DM8(2) of the Framework, I attach substantial weight to the Intentional Unauthorised Development that has occurred. Given that the proposed development does not accord with the Framework in these respects, these are all material considerations of critical importance.

170. I attach significant weight to the harm to highway safety, including pedestrian safety, and significant weight to the prejudice to the availability of land safeguarded for the improvement of Junction 19 of the M5 motorway. I attach considerable weight to the harm to the setting of St Mary's Church, a Grade I listed building.

171. I have found that the proposed development would not accord with policies GB6, GB7, HE6, HO12 and, by implication, policy S3 of the Framework. This is a material consideration of critical importance.

172. Against this, it would be in the best interests of the children residing on the site to remain there so they can access education facilities. That is a matter to which I attach substantial weight. I attach moderate weight to the personal circumstances of the other occupiers of the site. I attach significant weight to the fact that the Council cannot demonstrate a five-year supply of sites and significant weight also to the fact that there are no suitable available sites.

173. Consequently, the harm by reason of inappropriateness and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist.

174. For the reasons set out above, the proposed development is contrary to the development plan in several respects. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. If anything, the material considerations, including the Framework when read as a whole as a material consideration of critical importance, also point to planning permission being refused.

Temporary and/or personal planning permission

175. The PPG indicates the circumstances where a temporary permission may be appropriate. These include where it is expected that the planning circumstances will change in a particular way at the end of that period. I am mindful that the harms that I have identified above are reduced when considering a temporary planning permission, insofar as those harms can potentially be reversed at the end of the temporary period. This potentially changes the overall planning balance.

176. I have considered whether a temporary planning permission would be appropriate in this case, primarily to allow time for the Council to fully adopt

the emerging North Somerset Local Plan 2041 (Local Plan). I was advised that this is unlikely to take more than two years. This would suggest that a temporary permission of three years might be appropriate, to allow for any slippage, not least to ensure that the emerging Local Plan is consistent with the new Framework. The appellant argues that five years would be more appropriate.

177. I am not, however, persuaded that the emerging Local Plan will deliver additional suitable pitches that would be available to the appellant in anywhere near that timeframe. Policy DP44 of the emerging Local Plan (as it currently drafted) identifies two sites to meet the need for pitches in the short to medium term. These sites are Moorland Park (up to 40 pitches) and Heathfield Park (4 pitches). There is no definitive timescale for the delivery of either of those sites, albeit the Council indicated at the Hearing that the Moorland Park site may take "several months". There is, however, no firm evidence to support that.

178. There are no other reasons why a temporary permission might be appropriate in this case. I am mindful that the land safeguarded for improvements to Junction 19 of the M5 is perhaps unlikely to be required within the next five years but there is no evidence to that effect. In any event, that in itself does justify a temporary permission. Consequently, in the absence of any confirmed or likely timescale for the delivery of additional pitches proposed in the emerging Local Plan, I am not persuaded that a temporary permission of any duration would be appropriate.

179. In reaching that conclusion, I am mindful that the Inspector in the Emsworth appeal (APP/L3815/C/26/3377990) granted, exceptionally, a temporary planning permission for ten years. However, there were specific material considerations in that case which justified a temporary permission of a longer duration that do not apply in this case.

180. I have considered whether a personal planning permission would be appropriate in this case. The PPG explains that planning permission usually runs with the land and that it is rarely appropriate to provide otherwise. However, the PPG does indicate that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.

181. The personal circumstances of the appellant and the other occupiers of the site, as explained to me at the Hearing, do not reveal any imperative for them to remain on the site beyond providing a settled base from which to access education and health services. I have already considered that matter above in the context of a permanent position and have found that not be an overriding consideration.

182. I therefore conclude that the personal circumstances of the appellant and the other occupiers of the site do not constitute an exceptional reason as envisaged in the PPG, where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.

Conclusion

183. For the reasons set out above I conclude that the appeal should be dismissed.

Paul Freer
INSPECTOR

APPEARANCES

For the appellant

Mr Patrick Mullane	Appellant
Mr Alan Masters	Of Counsel
Mr Chris Saunders I Eng FIHE	Transport Consultant
Mr Matt Lavezzari MIOA MIOL	Acoustic Consultant
Mr Tony White	Planning Consultant

For the Local Planning Authority

Mr Timothy Leader	Of Counsel
Mr Neil Underhay MA	Planning Applications Manager
Mr Andrew Dearing	Planning Officer
Mr Jack Wyatt BA	Senior Transport Policy Officer
Ms Dee Mawn BSc MSc	Environmental Health Officer
Mr Tim Woods BSc (Hons) MSc QCIEEM	Ecology Officer
Ms Kate Hudson-McAulay BSc (Hons), MSc, PhD	Heritage Officer

Interested Persons

Mr Mike Phipps BSc CENG MIMechE	Local resident
Mr Steve Randall	Local resident

Documents submitted at the Hearing

1/ Copy of planning permission Ref: 2016/92 for a horse shelter on land to the north of High Street, Portbury (the appeal site)

2/ Copy of appeal decision APP/C3105/W/18/3219199 relating to a site on land west of the M40 adjacent to A4095, Kirtlington Road, Chesterton

3/ Copy of AD22, being Google Earth Imagery of the appeal site.

4/ Copy of Policy DP44 of the North Somerset Local Plan 2041

5/ List of conditions

6/ Reply by North Somerset District Council to the appellant's application for a partial award of costs

Documents submitted after the Hearing

1/ Comments by the Council's Ecology Officer

2/ Response by the Appellant's Ecology Consultant