Waverley Borough Council

TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 APPEALS

APPEAL Ref AP/R3650/W/25//3367393

by Mr Barney Doherty against the Council's non-determination of planning application for Pitch 1, LPA ref WA/25/00495.

AND

APPEAL Ref AP/R3650/W/25//3366387

By Mr Levi Williams against the Council's non-determination of planning application for Pitch 2, LPA ref WA/2025/00578.

Both sites are on Land north of Lydia Park, (west of) Stovolds Hill, Cranleigh, Surrey GU6 8LE.

PROOF OF EVIDENCE OF NICHOLAS SIBBETT CEcol CEnv MCIEEM ON BEHALF OF WAVERLEY BOROUGH COUNCIL

10th February 2026

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Appendices 5, 8, 11, 12 and 14 are big documents each with over 50 pages. Accordingly, for ease of document management, each of those are provided as a separate pdf file.

1 QUALIFICATIONS AND EXPERIENCE

1.1 My name is Mr Nicholas Edwin Sibbett. I hold an Honours degree in Ecology from the University of East Anglia and a Master of Science degree in Landscape Ecology, Design and Maintenance from Wye College, University of London.

1.2 I am a Chartered Ecologist (CEcol), a Chartered Environmentalist (CEnv) and a full member of the Chartered Institute of Ecology and Environmental Management (MCIEEM). I hold various licences from Natural England, including for bat survey (level 2, CL18), barn owl survey (CL29), great crested newt survey (CL08), and I have held mitigation licences for development projects where mitigation measures were required for badgers, bats and great crested newts.

1.3 I worked for English Nature, which became Natural England in 2006, in its Suffolk office for seventeen years from 1991 to 2008. I was responsible for providing evidence to support notification of new SSSIs, advising landowners on SSSI management, advising regulators such as Local Planning Authorities on applications made to them, and managing three National Nature Reserves. For part of that period I was Protected Species Officer, advising on legal and planning implications for great crested newts, badger, bats and others.

1.4 I have a wide range of experience in the field of ecology, and in particular in habitat survey and the conservation and management of designated sites; and my background is in Development Planning with respect to ecology, protected species, designated site management and Habitats Regulations Assessment. For many years I taught Phase 1 Habitat Survey for the Chartered Institute of Ecology and Environmental Management national workshops programme.

1.5 I was in practice as an ecologist with the multi-disciplinary consultancy The Landscape Partnership from March 2008, where I was promoted to Associate Director. I led the company's ecology team across the practice. In August 2024 I set up my own company, Sibbett Ecology Ltd, to deliver ecological consultancy. I have been

involved in providing ecological services for a wide range of developments, from major housing and infrastructure projects to minerals and waste schemes, across the UK; and have coordinated and undertaken vegetation surveys in a number of habitats, including woodland, parkland, heathland, and grassland, and for a number of rare and protected species including bats, great crested newts, badgers and reptiles.

1.6 I have given evidence to a number of Appeal Hearings and Public Inquiries, for Local Planning Authorities, developers, Rule 6 parties, and interested parties including Public Inquiries regarding enforcement appeals for gypsy/traveller sites.

1.7 The evidence I have prepared for this Inquiry is true and has been prepared, and is given in accordance with, the guidance of my professional institutions, and I confirm that the opinions expressed are my own professional opinions.

2 SCOPE OF EVIDENCE

2.1 I was appointed by Waverley Borough Council in 2025, to advise on ecological matters in connection with the unauthorised developments for this Appeal and to provide evidence at this Inquiry. My appointment was subsequent to my initial review of the evidence base, during which I was satisfied that I could support the Council's case that appeals should be dismissed due to ecological harm.

2.2 I visited adjacent appeal sites and some of the surrounding land on 3rd October 2024, facilitated and accompanied by John Bennett of Waverley Brough Council. Ian Dudley, the Council's landscape witness was also present. I gratefully acknowledge that Thomas Doherty and Simon Doherty kindly allowed us to enter their adjacent appeal sites. At that time I walked past Pitch 1 and Pitch 2 and saw their general condition although I did not enter them. I also visited the adjacent appeal sites on 3rd June 2025 and also saw Pitches 1 and 2, although again I did not enter them.

2.3 My Proof of Evidence describes

- Planning policy, case law and guidance
- Baseline conditions of the appeal sites prior to development, as far as can be ascertained from the limited evidence available; and shortfalls in the evidence
- Impacts of the development, both those which are certain and those which might have occurred if baseline evidence had been available
- The applicability of Biodiversity Net Gain

2.4 Each appeal is considered individually, although there are common themes. My proof makes it clear when I am discussing both appeals together, or each appeal individually. I conclude that each of the unauthorised developments have caused the loss of lowland mixed deciduous woodland which is a Priority Habitat, the loss of part of a

watercourse and have caused loss of habitat which was suitable for Wood White butterfly (a rare, declining and Priority species), great crested newts, reptiles, breeding birds, badger and bats. The lack of adequate survey work means that the impact on these species cannot be certain. The inadequate information to allow an informed understanding of the impacts of the unauthorised developments, the harm to habitats, and potential harm to species, means that each appeal should be dismissed.

3 PLANNING POLICY, CASE LAW, APPEALS AND PLANNING PRACTCE GUIDANCE

3.1 In this chapter I will describe the relevant planning policy, case law, some examples of appeals, and Planning Practice Guidance which are relevant to determining these appeals.

Local Planning Policy

3.2 There are two relevant policies from the Waverley Borough Local Plan Part 1: Strategic Policies and Sites February 2018. These are Policies NE1 and NE2. Extracts of these policies are below. Text in bold has been emboldened by me.

Policy NE1 – Biodiversity and Geological Conservation

Development will be permitted provided that it:

a. Retains, protects and enhances features of biodiversity and geological interest and ensures appropriate management of those features.

b. Ensures any adverse impacts are avoided, or if unavoidable, are appropriately mitigated.

Particular regard will be had to the following hierarchy of important sites and habitats within the Borough -

(i) Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites (international designations)

(ii) Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (national designations)

(iii) Sites of Nature Conservation Importance (SNCIs), Local Nature Reserves (LNRs), Local Geological Sites and other Ancient Woodland, Ancient and Veteran Trees; or ***any other Priority habitats not identified within (ii) above (local designations****)*

Within locally designated sites, development will not be

permitted *unless it is necessary for appropriate on site management measures or can demonstrate no adverse impact to the integrity of the nature conservation interest. Development adjacent to locally designated sites will not be permitted where it has an adverse impact on the integrity of the nature conservation interest*

The last sentences of Policy NE1 are

New development should make a positive contribution to biodiversity in the Borough, through provisions mentioned above. The Council will seek to retain and encourage the enhancement of significant features of nature conservation value on development sites.

Policy NE2 – Green and Blue Infrastructure

The Council will seek to protect and enhance benefits to the existing river corridor and canal network, including landscaping, water quality or habitat creation. This will be partially achieved, on development sites, by retaining or creating undeveloped ***buffer zones to all watercourses of 8 metres for main rivers and 5 metres for ordinary watercourses****. In accordance with the Water Framework Directive, development will not be permitted which will have a detrimental impact on the visual quality, water quality or ecological value of existing river corridors and canals.*

National Planning Policy Framework

3.3 The National Planning Policy Framework (NPPF) dated December 2024 provides Government Policy in relation to nature conservation and planning as well as other matters. I summarise relevant parts of policy here rather than quote large amounts of text.

3.4 Chapter 15 paragraph 187(d) of the NPPF says that planning policies and decisions should contribute to and enhance the natural and local

environment by minimising impacts on and providing net gains for biodiversity.

3.5 When determining planning applications Local Planning Authorities should apply the following principles (paragraph 193):

3.6 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.

Appeals

3.7 There are also a number of examples of situations where appeals have been dismissed because all relevant ecological information has not been provided. Four examples of this are provided below.

3.8 The appeal decision for case reference APP/D3505/W/18/3212219 (Vine Farm) is in Appendix 1. In paragraph 8, the Inspector says '*I am not satisfied that I have sufficient and up to date information on bats and great crested newts to conclude that there would be an acceptable impact on protected species. It would not be appropriate to leave this matter to a planning condition or a note informing the appellant of their responsibilities, as the information is needed to inform the planning decision*.'

3.9 The appeal decision for case reference APP/W3520/W/17/3174638 (Pooles Farm) is in Appendix 2. In paragraph 22, the Inspector states that '*Bearing in mind advice in the Circular and notwithstanding that it might well be possible to mitigate the impact on any protected species should they be present, without the requisite surveys, it is not possible to ascertain the effect of the development on a protected species and a precautionary approach should be adopted*'.

3.10 The appeal decision for case reference APP/Y1945/W/20/3261681 (Watford) is in Appendix 3. Buildings with potential to support bat roosts were present, no follow up surveys were carried out and the

Council did not advance the lack of proper information as a reason for refusal. The Inspector dismissed the appeal on the grounds of insufficient information to conclude that there would not be a harmful effect on protected species. Given the level of protection afforded to protected species, the Inspector considered this to be a high level of harm and attributed significant weight to it.

3.11 An appeal on a site east of Cransley Road, Loddington (Appeal reference APP/L2820/C/19/3240989 and APP/L2820/W/20/3249281, Appendix 4) has some similarities to this appeal case. There was a poor quality Preliminary Ecological followed by a second poor quality Preliminary Ecological Appraisal post-development. The Inspector attached limited weight to the appellant's poor-quality submissions and recognised that substantial harm was carried out.

Planning Practice Guidance

3.12 The Government publishes planning practice guidance on its website. On the web page https://www.gov.uk/guidance/natural-environment#biodiversity-geodiversity-and-ecosystems updated June 2025 there is a clear advice that '*Planning authorities need to consider the potential impacts of development on protected and priority species, and the scope to avoid or mitigate any impacts when considering site allocations or planning applications*.' (Paragraph 016 Reference ID: 8-016-20190721). Elsewhere on that page is says that '*Information on biodiversity and geodiversity impacts and opportunities needs to inform all stages of development (including site selection and design, pre-application consultation and the application itself). An ecological survey will be necessary in advance of a planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate* (Paragraph: 019 Reference ID: 8-018-20240214).

Government Circular 06/2005

3.13 Government circular 06/2005 provides administrative guidance on

the application of the law relating to planning and nature conservation as it applies in England. The circular has not been withdrawn and remains part of national policy. It requires surveys in advance of planning permission (Appendix 5). Paragraph 98 of Circular 06/2005 includes

> *The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat*

3.14 Paragraph 99 of the Circular includes

> *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*

3.15 Failure to properly survey, when there is a reasonable likelihood of a protected species being present, is a failure to meet the policy guidance on the application of the law in the Circular.

3.16 Screenprints from the Government website, which I took on 9th February 2026, confirms that the Circular is still presented on the Government's website as part of its guidance. See Appendix 6.

4 BASELINE CONDITIONS PRIOR TO THE DEVELOPMENTS

Understanding the baseline date

4.1 I consider that the part-retrospective development includes the clearance of land prior to laying of hardstanding, so that the baseline conditions are immediately prior to that date.

4.2 Figure 1 (a to f) is a series of Google Earth images, from a range of dates. On 15th April 2020, the land remained in its natural state, pre-development. The next Google Earth image is from 16th July 2021, which shows that both Pitches 1 and 2 had been cleared by that date, with mounds visible. The mounds remained visible on 8th March 2022, with little development progress in the preceding months. By 11th July 2022, hardstanding had been laid and one touring caravan was on each of Pitch 1 and Pitch 2. On 8th May 2024 there was further development in place and by 14th June 2025 the pitches were fenced.

4.3 To the west of the pitches, a second area being developed is the subject of a separate appeal. Two pitches to the north of Pitch 1 and Pitch 2 are also subject to a separate appeal.

4.4 Mr Barney Doherty's planning application form of 19th February 2025 (CD 1A.1) stated that works began for Pitch 1 on 21st June 2022. Mr Levi Williams' planning application form of 18th March 2025 (CD 1B.1) stated that works began for Pitch 2 also on 21st June 2022. That may have been the date at which Mr Doherty's and Mr Williams' involvement started, but the development was started in late May 2021 (CD 3A.4 and CD 3B.4).

4.5 A change of developer does not mean that all development prior to that change becomes lawful or separate to the whole development project.

4.6 The baseline for assessing ecological impacts of both developments is the time immediately before development commenced, which was in late May 2021.

4.7 Inspector D Hartley found, for an appeal at Hatch that the site baseline for a Preliminary Ecological Appraisal (PEA) used a baseline biodiversity position based on the post unauthorised development stage. The baseline should have been its original condition prior to vegetation clearance for the unauthorised development. The appeal decision is in Appendix 7, paragraphs 49 and 50. I consider that the ecology baseline issues in that appeal are similar to that in the case of Pitches 1 and 2.

Ecological Baseline for Pitch 1 as provided by Mr Barney Doherty

4.8 No Preliminary Ecological Impact Assessment nor Ecological Impact Assessment was provided with Mr Barney Doherty's planning application 25/00495, nor was one or other of those provided with the appellant's Appeal.

Waverley's standard Biodiversity Checklist (CD 1A.2) was provided with the planning application. The option 'No' was chosen in response to the presence of all ecological features mentioned on the checklist, and to all questions related to harm or impacts. For example, the checklist was filled in to state that the development would not affect deciduous woodland, was not within 200m of a pond, would not affect rough grassland, would not cause loss of damage to local watercourses, would not cause loss of damage to areas of ecological value, and would not cause significant harm to biodiversity. I cannot find any documentation to show that the appellant has made any attempt to describe the baseline conditions to justify the checklist response and it is not clear if the checklist was filled in by an ecologist. I show below that the checklist was filled in incorrectly and the answers to these questions should all have been 'Yes'.

Baseline for Pitch 2 as provided by Mr Levi Williams

4.9 An old and superseded version of Waverley's Biodiversity Checklist was provided with the planning application (CD 1B.3). The option 'No' was chosen in response to the presence of all ecological features

mentioned on the checklist, and to all questions related to harm or impacts. For example, the checklist was filled in to state that the development would not affect deciduous woodland, was not within 200m of a pond, would not affect rough grassland, would not cause loss of damage to local watercourses, would not cause loss of damage to areas of ecological value and would not cause significant harm to biodiversity. It is not clear if the checklist was filled in by an ecologist. I show below that the checklist was filled in incorrectly and the answers to these questions should all have been 'Yes'.

4.10 Also submitted with the planning application was a report by Darwin Ecology, July 2023 '*Ecological Impact Assessment Land at Stovolds Hill - Plot 4 Dunsfold Cranleigh GU6 8TB'* (CD 1B.10). The report remains valid for one year from date of issue according to its Quality Control box on its page 3. It was written to assess impacts of a nearby development, with the access to that development passing along the edge of Pitch 1 and adjacent to Pitch 2. In over thirty years of assessing ecological impacts of planning applications, this is the first time I have seen an out-of-date report for a different development submitted to inform a planning application.

Baseline Conditions for both Pitch 1 and Pitch 2 – documented evidence

4.11 A Preliminary Ecological Appraisal was provided for nearby 'Plot A' (planning reference WA-2022-02624) which is currently in the appeal process (PINS ref 3313865). The report is titled '*Preliminary Ecological Appraisal Land at Stovolds Hill Cranleigh, Waverley, Surrey GU6 8TX'* by Arbtech dated 24th April 2023 (Appendix 8). It was based on a survey in February 2023, after hardstandings had been laid on Plot A and also on the 2 current appeal sites'. The PEA recognised that the site previously contained lowland mixed deciduous woodland habitat of principal importance under Section 41 of the NERC Act 2006. The PEA (table 6, page 17 onwards and table 7 page 20 onwards) also recognised that

- The woodland may have supported protected plant species
- A pond approximately 110m to the south-west may have supported great crested newts
- The woodland formerly on site may have provided refuge for reptiles.
- Removal of trees may have resulted in the destruction of bat roosts, if present
- Removal of woodland and scrub will have resulted in a loss of foraging or commuting habitat for bats and lighting could deter bats from the areas.
- Clearance of woodland could have resulted in the destruction of badger setts, if present.
- The clearance of woodland could have resulted in a loss of suitable habitat for hedgehogs and may have resulted in the death and/or injury of hedgehogs during site clearance and works
- The removal of woodland will have resulted in the reduction of nesting opportunities
- The removal of woodland could have resulted in the loss of significant habitat for invertebrates

4.12 It was recognised that surveys for bat roosts of trees which had been lost was not possible. Reptiles were present in the local area and the site may have supported reptiles pre-development (page 17), but no survey was possible on the development site post-development.

4.13 A pond on the east of the appeal site and a ditch on the western side of the appeal site, both not reported by Arbtech, were subsequently found by eDNA testing or lack of water by Darwin Ecology dated 15th July 2024 to not contain great crested newts (Appendix 9).

4.14 The out-of-date Darwin Ecology report submitted with Mr Levi Williams' application dated July 2023 '*Ecological Impact Assessment Land at Stovolds Hill - Plot 4 Dunsfold Cranleigh GU6 8TB'* (CD 1B.10) was of very limited use in establishing the baseline conditions. The report assumed that the baseline was the hardstanding which was observed on the site survey post-development. In other words, the post-development hardstanding was treated as if it were the pre-development baseline. The very limited potential for protected species on the hardstanding, as described by Darwin Ecology, is therefore not representative of the pre-development baseline. No data was requested from the Local Environmental Records Centre on the incorrect assumption of baseline, so information may have been available but not considered.

4.15 Neither Arbtech nor Darwin Ecology recognised that a watercourse previously ran along the southern edge of the appeal sites, which had been covered over by the unauthorised developments. The ditch to the west of the site being studied was still present, and the 'pond' to the east of that study site A is believed to be a remnant of that ditch. The presence of the watercourse was described in a submission by Mr Hermann in 2023 (Appendix 10) in relation to an unauthorised development a few metres to the west of Pitches 1 and 2, but very relevant to Pitches 1 and 2.

4.16 The Government's Magic website at www.defra.magic.gov.uk shows the location of Priority Habitats, including lowland mixed deciduous woodland Priority Habitat. Figure 2 shows the location of this habitat as shown on Magic on 2nd October 2024, which I kept as a screenshot on that date. The woodland follows the line of the (former) watercourse including the southern edge of Pitch 1 and the access to Pitch 2. The watercourse does not show up well because the base map for Figure 2 is in black and white and the woodland colour obscures the watercourse line. The location of the woodland has now been updated on Magic and it is now absent on the southern edge of Pitch 1 / access to Pitch 2 (Figure 03). Figure 03 also shows a pond

around 120 metres slightly south of east away from the two pitches. This pond was formed by blocking the watercourse upstream of Pitches 1 and 2.

4.17 Figure 05 shows the location of the three ponds / water bodies and the results of great crested newt surveys from the Darwin Ecology report in Appendix 9 (where surveyed). The western pond at Thatched House Farm has not been surveyed and the 2024 surveys of other waterbodies is now out of date; great crested newts can colonise ponds in a short timescale.

4.18 Appendix 11 is the report of a Wood White conservation project, now complete, in the area. The 'Saving the Wood White Project' was initially a three-year project, funded by the HLF and focused around the area of Chiddingfold in Surrey, one of the last strongholds of the Wood White in the UK. The decline in the species has been due to removal of its habitat through development, expansion of forestry and intensive agriculture. The project area extended to cover land in the area of the appeal Pitches (my Figure 04, based on Figure 02 of the Project report, page 6). Figure 01 of report in Appendix 11 is a large-scale broad-brush indication of the project area boundary where the boundary is not sharp but fades away. It does not appear to be drawn to habitat boundaries, built boundaries such as roads, or to administrative boundaries. Figure 02 of the Appendix 11 Wood White Project report shows the Wood White habitat enhancement works at Thatched House Farm as a red dot the northern boundary line, north of the words 'High Billinghurst Farm'. To make my Figure 04, I used the Wood White Project report's plan and indicated the approximate location of the appeal Pitches subject to the imprecision of the map scale and line thickness. The exact project line is not an ecological barrier so appropriate habitat just inside or just outside the project boundary line is equally of value to the Wood White butterfly which can fly up to two kilometres.

4.19 The report specifically mentions the habitat creation at Thatched House Farm (table on page 22 of the report). It also says

that Wood White butterfly will occupy 'outlying areas' away from its stronghold in Chiddingfold Wood. Colonisation of the appeal site and surrounding land may have occurred in the past when the land became suitable through management or lack of management. If the appeal site contained Wood White butterflies, it would have met Surrey Wildlife Trust's criterion for selection as a Site of Importance for Nature Conservation (Appendix 12, page 57). Meadow vetchling and bird's-foot trefoil are food plants of the Wood White butterfly. The female butterfly lays her eggs on the foodplants, and when the caterpillars hatch the caterpillars eat the leaves of their foodplant. Wood White butterfly is a Priority Species under section 41 of the NERC Act 2006 because of its very limited distribution and abundance in the UK. It is also protected from being sold under the Wildlife and Countryside Act 1981 (as amended). A Factsheet on the species from Butterfly Conservation is included at Appendix 13. The Factsheet describes that Wood White butterfly lives in woodland rides and glades, or in mosaics of scrub and tall grassland and adjacent hedgerows.

Baseline Conditions for both Pitch 1 and Pitch 2 – evidence from my site visits

4.20 During my site visits on 3rd October 2023 and June 2025, I saw that the surroundings of Pitches 1 and 2, where undeveloped, consisted largely of unmanaged rough grassland dominated by fleabane with several other ruderal species, bramble scrub, other tree and shrub saplings, and some grasses. I saw a small amount of meadow vetchling *Lathyrus pratensis* on the western border of a nearby unauthorised development. I saw more of this plant species north of the appeal sites, on land south of Dunsfold Road. On land to the west, which was unmanaged but had been used for low-density pig-keeping in 2022 (as evidenced by reports for a nearby development, planning application WA/2022/02144) I also found meadow vetchling and bird's-foot trefoil *Lotus corniculatus*. These observations were not part of a formal survey and no estimate of their distribution across

the retained habitat was made. The retained rough grassland in the vicinity of Pitches 1 and 2 appeared to me to be suitable to support great crested newts, reptiles, breeding birds, invertebrates, hedgehogs, badgers, and bat foraging.

4.21 There was a narrow lowland mixed deciduous woodland along the track from the public road to the east leading to Pitches 1 and 2. I saw no watercourse along the southern edge of Pitch 1, including that the portion of Pitch 1 used to access Pitch 2. There were remnants of a previous watercourse to the west, and the watercourse was present to the east although with no water on either occasion.

Baseline conditions - conclusions

4.22 I conclude that baseline habitats present along the south of Pitch 1, and the access to Pitch 2, were a lowland mixed deciduous woodland Priority Habitat, and a watercourse in the form of a ditch. The habitats were suitable to support protected plant species of woodland, invertebrates, great crested newts, reptiles, breeding birds, hedgehogs, badgers, bat roosts, and bat foraging. There is no information to confirm the presence or absence of these species.

4.23 The remainder of Pitch 1, and all of Pitch 2, consisted largely of unmanaged rough grassland dominated by fleabane with several other ruderal species, bramble scrub, other tree and shrub saplings, some grasses and probably meadow vetchling *Lathyrus pratensis* and bird's-foot trefoil *Lotus corniculatus*. The presence of those species prior to vegetation clearance and laying hardstanding cannot be definite because the evidence was lost. Although the woodland was unsuitable in itself for foodplants of Wood White butterfly, it provided shelter and woodland edge to adjacent land to the north thus contributing to the capacity of the rough grassland to support Wood White. The rough grassland had potential to support great crested newts, reptiles, breeding birds including skylark, hedgehogs, badgers and bat foraging.

4.24 Had the Biodiversity Checklists been completed correctly, they would

have chosen ‘Yes’ to the development affecting deciduous woodland, was within 200m of a pond, would affect rough grassland, would cause loss or damage to local watercourses, would cause loss of damage to areas of ecological value, and would cause significant harm to biodiversity.

5 IMPACTS OF THE DEVELOPMENT

5.1 This chapter assesses impacts of the development. The policy implications are also assessed. There is some duplication in text for various appeal sites. This is because each appeal site has been assessed individually rather than simply as a collective assessment.

Methodology

5.2 The evaluation of the importance of ecological features and the impact assessment was undertaken in accordance with the Chartered Institute of Ecology and Environmental Management's Professional Guidance Series[1].

5.3 EcIA is a process of identifying, quantifying and evaluating potential effects of development-related or other proposed actions on habitats, species and ecosystems. Significance is a concept related to the weight that should be attached to effects when decisions are made. For the purposes of EcIA, 'significant effect' is an effect that either supports or undermines biodiversity conservation objectives for 'important ecological features' or for biodiversity in general. Conservation objectives may be specific (e.g. for a designated site) or broad (e.g. national/local nature conservation policy) or more wide-ranging (enhancement of biodiversity). Effects can be considered significant at a wide range of scales from international to local.

5.4 A key principle of assessment, leading to iterative design where relevant, is the mitigation hierarchy set within the National Planning Policy Framework.

Avoidance Seek options that avoid harm to ecological features (for example, by locating the proposed development on an alternative site or safeguarding on-site features within the site layout design).

[1] CIEEM (2024) *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal*, Version 1.3. Chartered Institute of Ecology and Environmental Management, Winchester.

Mitigation Adverse effects should be avoided or minimised through mitigation measures, either through the design of the project or subsequent measures that can be guaranteed – for example, through a condition or planning obligation.

Compensation Where there are significant residual adverse ecological effects despite the mitigation proposed, these should be offset by appropriate compensatory measures.

Enhancement Opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

5.5 A significant effect is an effect that is sufficiently important to require assessment and reporting so that the decision maker is adequately informed of the environmental consequences of permitting a project.

- International and European
- National
- Regional
- Metropolitan, County, Unitary authority
- Other local authority-wide area e.g Borough or District Council
- River Basin District
- Estuarine system/Coastal cell
- Local e.g Parish
- Site only – of negligible value outside the boundaries of the site itself.

5.6 When describing ecological impacts and effects, reference should be made to the following characteristics as required:

- positive or negative
- extent
- magnitude
- duration, if not permanent
- frequency and timing
- reversibility.

5.7 The assessment only needs to describe those characteristics relevant to understanding the ecological effect of the impacts and determining its significance. For example, timing of the removal of a hedgerow is unlikely to be of particular relevance to the assessment of the effect on hedgerows, although it may be relevant in assessing the effect on a species using the hedgerow, such as nesting birds. An ecological feature valued as being important at the Parish scale would in my opinion be a material consideration, and paragraphs 187a, 187d and 193a of the NPPF would apply. Harm to a feature valued at Parish scale is one that should be avoided, mitigated, or as a last resort compensated for.

Impacts on habitats – Pitches 1 and 2

5.8 Lowland mixed deciduous woodland Priority Habitat has been removed to construct the unauthorised development, in particular the major part of Pitch 1, and the track to Pitch 2. I measure the area of lost woodland as being 0.07ha. Lowland mixed deciduous woodland is defined as a Priority Habitat on Joint Nature Conservation Committee's website[2] as woodland growing on the full range of soil conditions, from very acidic to base-rich, and takes in most semi-natural woodland in southern and eastern England, and in parts of lowland Wales and Scotland. The weight given to Priority Habitats in the Local Plan indicates to me that the whole woodland was of

[2] https://jncc.gov.uk/our-work/uk-bap-priority-habitats/#list-of-uk-bap-priority-habitats accessed on 28th January 2026

Borough-wide importance, and the loss of part of the woodland is a significant negative impact at the Borough scale. A watercourse on the southern edge of the site has also been lost. The watercourse is of importance at least at the Parish scale, and its loss is a significant negative impact at that scale.

5.9 There appears to be no attempt to avoid the harm, nor to mitigate or compensate for the harm. I refer to the appeal decision at Loddington (Appendix 4) where the appellant proposed at Inquiry a range of solutions to a drainage issue. The Inspector was clear that (paragraph 139*) It is not uncommon in retrospective or part retrospective cases for conditions to be imposed requiring the submission of schemes for approval, with the ultimate sanction of cessation of the use should one not be approved and implemented*. He went on to say that (paragraph 141) *The evidence before me is insufficient to demonstrate that a system along the broad lines proposed by the appellant could manage the likely quantity of runoff. Moreover, I am not persuaded that the imposition of a condition requiring the submission of a scheme involving the very extensive operations outlined by Mr Brown for the first time at the inquiry would be reasonable*. In the absence of any strategy for a compensation and enhancement strategy before this Inquiry, a condition requiring the submission of a scheme involving the provision of lowland deciduous woodland Priority Habitat and watercourse on the Pitches with no space available would, similarly to the Loddington appeal, be unreasonable.

5.10 Priority habitats are defined as 'locally designated sites' in Local Plan Policy NE1 (iii). The policy then goes on to state *Within locally designated sites, development will not be permitted unless it is necessary for appropriate on site management measures or can demonstrate no adverse impact to the integrity of the nature conservation interest'.* The absence of compensation means that there has been no demonstration of no adverse impact. The loss of 0.07ha lowland mixed deciduous woodland Priority Habitat is contrary

to Local Plan Policy NE1 (a), (b) and (iii).

5.11 Local Plan Policy NE2 requires an undeveloped buffer of 5 metres alongside ordinary watercourses such as the one present at baseline. As well as no 5m buffer being provided, the watercourse itself has been lost to the construction of Pitch 1 and the access track to Pitch 2. The lack of buffer and loss of the watercourse is contrary to Local Plan policy NE2.

5.12 All the other habitat which was lost to the unauthorised development was the rough grassland dominated by fleabane with several other ruderal species, bramble scrub, other tree and shrub saplings, some grasses and potentially some meadow vetchling *Lathyrus pratensis* and birds'-foot trefoil *Lotus corniculatus*. This was lost to the northern part of Pitch 1 and all of Pitch 2. I value this habitat at the Parish scale, and the impact is a significant negative impact at that scale. The loss fails the requirements of the last two sentences of Local Plan Policy NE1 *'New development should make a positive contribution to biodiversity in the Borough, through provisions mentioned above. The Council will seek to retain and encourage the enhancement of significant features of nature conservation value on development sites*.'

5.13 The significant harm to lowland mixed deciduous woodland, rough grassland and watercourse which has not been avoided, mitigated, nor at the last resort has been compensated for, is contrary to NPPF paragraphs 187(d) and 193(a). The appeals should be dismissed on both Local Plan and NPPF grounds.

5.14 No 'positive contribution to biodiversity' (Local Plan Policy NE1) nor 'net gains to biodiversity' (Framework para 187d) have been provided.

Impacts on species – Pitches 1 and 2

5.15 It is unknown which species were present in the lowland mixed deciduous woodland Priority Habitat prior to its removal. Protected

plant species, invertebrates, great crested newts, reptiles, hedgehogs, badgers and bats may have been present, and those present would have been lost. Any features such as fallen logs or brash which provided shelter for amphibians, reptiles, or hedgehogs would have been lost, any badger setts which might have been present would have been lost, and any bat roosts / potsnitla roost features in trees would have been lost. The ability of bats to forage along the woodland edge will have been lost. The woodland may have been providing shelter / woodland edge to improve habitat conditions on land to its north, benefitting its suitability for Wood White butterfly.

5.16 The rough grassland had potential to support great crested newts, reptiles, breeding birds including skylark, hedgehogs, badgers, bat foraging, and Wood White butterfly. There is a reasonable likelihood of some or all of these species being present prior to development. The combination of lowland mixed deciduous woodland and rough grassland provides additional benefit to species, because some species may utilise and benefit from both. For example, reptiles might shelter in the woodland and forage in the grassland. Bats typically forage along woodland edges for navigational purposes, and the rough grassland would have provided a good supply of flying invertebrates adjacent to the woodland. No surveys have been carried out to identify the distribution and abundance of any of these protected species. The cumulative impact of both pitches is a loss of around 0.12ha of habitat for these species.

5.17 Even if mobile species such as great crested newts were absent at the time of the development, for example some adults may have been at a breeding pond or the terrestrial population may have been widely dispersed, the loss of foraging habitat to the developments remains a concern.

5.18 There is a reasonable likelihood that Wood White butterfly may have been present on the appeal Pitches prior to vegetation clearance to facilitate the development. The rough grassland was suitable, and shelter provided by woodland enhanced the value of the grassland

habitat. Enhancements for the butterfly have been undertaken in the close vicinity, it is able to colonise areas of habitat with flight lengths of up to 2 kilometres, and it is on the periphery of a nationally important area for this rare species (see paragraph 4.18 and 4,19 above).

5.19 Although the 'Saving the Wood White' project was successful in the short term, insects of all types are declining rapidly. A House of Commons Select committee report, *Insect decline and UK food security* of March 2024 (Appendix 14) that '*However, there is a concerning trend of decreasing insect abundance, changes in distribution and reduction in the diversity of insect species in the UK. While there is variation among species and groups, overall, there is a downward trend and the consensus among experts is that in the UK insects are in decline*'.

5.20 A report by Buglife published recently (Appendix 15) found a 58.5% reduction in actively flying insects between 2004 and 2021. Buglife subsequently found an annual 20% decrease in actively flying insects between 2021 and 2025 (Appendix 16).

5.21 The insect decline is such that the 'Saving the Wood White' project success is not sufficient to consider the long-term survival of this species has been secured. Loss of existing habitat, or even of potential habitat, to development is an extra pressure on this species which would be unacceptable at development site scale but may also contribute to unacceptable impacts on the metapopulation in this part of Surrey.

5.22 The location on the edge of the priority area, the presence of meadow vetchling and bird's-foot trefoil in the near vicinity, and the range of ruderal flowering species in a mosaic with scrub suggests that the appeal sites Pitches 1 and 2 each appear to have been suitable to support Wood White butterfly. Neither of the appellants have provided any survey information to determine the distribution and abundance of this species.

5.23 Case law, appeal examples and Planning Practice Guidance all explain that there should be sufficient information available to make an informed decision on a planning determination. See paragraphs 3.6 – 3.13 above. The absence of sufficient species surveys means that it is not possible to make an informed decision with respect to harm to protected and Priority species on both Pitch 1 and Pitch 2. The appeals should be dismissed for this reason.

6 MITIGATION, COMPENSATION and ENHANCEMENT ARRANGEMENTS

Habitats – Pitch 1

6.1 The Block Plan (CD1A.5) shows 'Native Hedging' around the majority of the site boundary. The total area of hedge is a small proportion of the woodland, which was lost, making it very inadequate to compensate for woodland loss. It is also a different habitat to woodland and so in any case would not be compensation for loss of woodland. Incidentally, the 'Day Room' abuts up to the hedge, allowing no space for hedge management.

6.2 There is no compensation proposed for the loss of the watercourse or for the loss of rough grassland.

6.3 The 'Native Hedging' fails to compensate for loss of habitats and does not meet the Local Plan NE1 and Framework paragraph 187 / 193 requirements. There are no proposals for net gain or enhancements.

6.4 There is no evidence of any land elsewhere being available for provision of compensation, and there are no indicative proposals that demonstrate feasibility. I conclude that it would not be possible for compensation to be secured by Condition.

6.5 The appeal should be dismissed for this reason.

Habitats – Pitch 2

6.6 The Block Plan (SD1B.6) shows a green line around the pitch, not annotated. This might represent herbaceous planting, a hedgerow or possibly green paint on hardstanding. If one assumes that the green line is intended to represent a proposed native hedge, the total area of hedge is a small proportion of the grassland and woodland which was lost, making it very inadequate to compensate for grassland and woodland loss. It is also a different habitat to grassland and woodland and so in any case would not be compensation for loss of grassland and woodland. There is no compensation proposed for the loss of the

watercourse.

6.7 The green line, possibly 'Native Hedging' fails to compensate for loss of habitats and does not meet the Local Plan NE1 and Framework paragraph 187 / 193 requirements. There are no proposals for net gain or enhancements.

6.8 There is no evidence of any land elsewhere being available for provision of compensation, and there are no indicative proposals that demonstrate feasibility. I conclude that it would not be possible for compensation to be secured by Condition.

6.9 The appeal should be dismissed for this reason.

Species – Pitches 1 and 2

6.10 There is no evidence that any mitigation measures were carried out, such as woodland and vegetation clearance outside the bird nesting season, reptile translocation, badger sett closures, soft felling of trees with potential bat roosts, etc. The absence of surveys shows that with no knowledge of the presence of any protected species, any individual animals of those species present may have been killed or injured by vegetation clearance.

6.11 Close-cut hedges may provide some potential for nesting for some birds, but do not replace the quality and quantity of features present in the former woodland and rough grassland with scrub. For example, hole-nesting tree species or those of dense rural scrub will not be able to nest in a garden hedge.

6.12 There is no compensation designed for any of the species harmed by the development. It is now impossible to design compensation because it is not known what to design for e.g. what amount of planning is needed to support Wood White butterflies, what replacement bat roosts are required to replace potential bat roost in trees, and what / how much habitat is needed to replace foraging areas for foraging bats, reptiles and/or great crested newts.

6.13 The provision of one bat box and one bird box per pitch is considered to be entirely nominal. The likelihood of their use is low, and any use would be by common species tolerant of urban situations only, rather than species of woodland and rough grassland.

6.14 There is no evidence of any land elsewhere being available for provision of compensation for protected species, and there are no indicative proposals that demonstrate feasibility. I conclude that it would not be possible for compensation to be secured by Condition.

6.15 The appeal should be dismissed for this reason.

7 CONCLUSION

7.1 It is my professional opinion that the ecological harm caused is significant at the Borough scale with respect to loss of lowland mixed deciduous woodland Priority Habitat destroyed by Pitch 1 and destroyed by the access to Pitch 2. Ecological harm caused is significant at the Parish scale with respect to loss of watercourse destroyed by Pitch 1 and destroyed by the access to Pitch 2. Loss of rough grassland on Pitch 1 and Pitch 2 is significant ecological harm at the Parish scale.

7.2 There was potential for the lowland mixed deciduous woodland Priority Habitat to contain a range of species including protected plant species, invertebrates, great crested newts, reptiles, hedgehogs, badgers and bats may have been present, and those present would have been lost. This applies to both Pitches. Loss of rough grassland may have resulted in the loss of invertebrates including Wood White butterfly, reptiles, hedgehogs, badgers and bats, relevant to Appeal sites Pitch 1 and Pitch 2.

7.3 Case law, appeal examples and Planning Practice Guidance all explain that there should be sufficient information available to make an informed decision on a planning determination. See paragraphs 3.6 – 3.13 above. The absence of sufficient species surveys means that it is not possible to make an informed decision with respect to numerous protected species including Wood White butterfly on both Pitches.

7.4 The appeals should be dismissed for these reasons.

8 SUMMARY

8.1 I am appointed by Waverley Borough Council to advise on ecological matters in connection with these Appeals, and to provide evidence to this Inquiry.

8.2 Each appeal is considered individually, although there are numerous common themes.

8.3 There are two relevant policies from the Waverley Borough Local Plan Part 1: Strategic Policies and Sites February 2018. Policy NE1 permits development if it retains, protects and enhances features of biodiversity and geological interest and ensures appropriate management of those features, and ensures any adverse impacts are avoided, or if unavoidable, are appropriately mitigated. Policy NE2 requires a 5m undeveloped buffer zone to be provided beside ordinary watercourses.

8.4 The Council's biodiversity Checklists were completed for each planning application, although wrongly. For the Pitch 2 planning application, an out-of-date Preliminary Ecological Assessment prepared for a different development and using an incorrect baseline was submitted.

Ecological Baseline

8.5 I conclude that baseline habitats present along the south of Pitch 1, and the access to Pitch 2, were a lowland mixed deciduous woodland Priority Habitat, and a watercourse in the form of a ditch. The habitats were suitable to support protected plant species of woodland, invertebrates, reptiles, breeding birds, hedgehogs, badgers, bat roosts, and bat foraging. There is no information to confirm the presence or absence of these species. The remainder of Pitch 1, and all of Pitch 2, consisted largely of unmanaged rough grassland dominated by fleabane with several other ruderal species, bramble scrub, other tree and shrub saplings, some grasses and probably meadow vetchling *Lathyrus pratensis* and bird's-foot trefoil *Lotus*

corniculatus. Although the woodland was unsuitable in itself for foodplants of Wood White butterfly, it provided shelter and woodland edge to adjacent land to the north thus contributing to the capacity of the rough grassland to support Wood White. The rough grassland had potential to support reptiles, breeding birds including skylark, hedgehogs, badgers and bat foraging.

Impact on habitats

8.6 Lowland mixed deciduous woodland Priority Habitat has been removed to construct the unauthorised development, in particular the southern part of Pitch 1, and including the track to Pitch 2. The weight given to Priority Habitats in the Local Plan indicates to me that the whole woodland was of Borough-wide importance, and the loss of part of the woodland is a significant negative impact at the Borough scale. A watercourse on the southern edge of the site has also been lost. The watercourse is of importance at least at the Parish scale, and its loss is a significant negative impact at that scale.

8.7 There appears to be no attempt to avoid the harm, nor to mitigate or compensate for the harm. In the absence of any strategy for a compensation and enhancement strategy before this Inquiry, a condition requiring the submission of a scheme involving the provision of lowland deciduous woodland Priority Habitat and watercourse on the Pitches with no space available would be unreasonable.

8.8 Priority habitats are defined as 'locally designated sites' in Local Plan Policy NE1 (iii). The policy then goes on to state *Within locally designated sites, development will not be permitted unless it is necessary for appropriate on site management measures or can demonstrate no adverse impact to the integrity of the nature conservation interest'.* The absence of compensation means that there has been no demonstration of no adverse impact. The loss of lowland mixed deciduous woodland Priority Habitat is contrary to Local Plan Policy NE1 (a), (b) and (iii).

8.9 Local Plan Policy NE2 requires an undeveloped buffer of 5 metres

alongside ordinary watercourses such as the one present at baseline. As well as no 5m buffer being provided, the loss of the watercourse is contrary to Local Plan policy NE2.

8.10 All the other habitat which was lost to the unauthorised development was the rough grassland dominated by fleabane with several other ruderal species, bramble scrub, other tree and shrub saplings, some grasses and although the evidence has been lost there may well have been some meadow vetchling *Lathyrus pratensis* and birds'-foot trefoil *Lotus corniculatus*. I value this habitat at the Parish scale, and the impact is a significant negative impact at that scale.

8.11 The significant harm to lowland mixed deciduous woodland, rough grassland and watercourse which has not been avoided, mitigated, nor at the last report has been compensated for, is contrary to NPPF paragraphs 198(d) and 193(a). The appeals should be dismissed on both Local Plan and NPPF grounds with respect to habitat loss.

Impact on species

8.12 It is unknown which species were present in the lowland mixed deciduous woodland Priority Habitat prior to its removal. Protected plant species, invertebrates, reptiles, hedgehogs, badgers and bats may have been present, and those present would have been lost. The woodland may have been providing shelter / woodland edge to improve habitat conditions on land to its north, benefitting its suitability for Wood White butterfly.

8.13 The rough grassland had potential to support reptiles, breeding birds including skylark, hedgehogs, badgers and bat foraging, and Wood White butterfly. Those present on the site would have been lost. The combination of lowland mixed deciduous woodland and rough grassland provides additional benefit to species, because some species may utilise and benefit from both. For example, reptiles might shelter in the woodland and forage in the grassland. Bats typically forage along woodland edges for navigational purposes, and the rough grassland would have provided a good supply of flying

invertebrates adjacent to the woodland. No surveys have been carried out to identify the distribution and abundance of any of these protected species with a reasonable likelihood of presence prior to the development.

8.14 The location on the edge of the 'Saving the Wood White' project priority area, the presence of meadow vetchling and bird's-foot trefoil in the near vicinity, and the range of ruderal flowering species in a rough grassland with scrub suggests that the appeal sites Pitches 1 and 2 each appear to have been suitable to support Wood White butterfly. Neither of the appellants have provided any survey information to determine the distribution and abundance of this species.

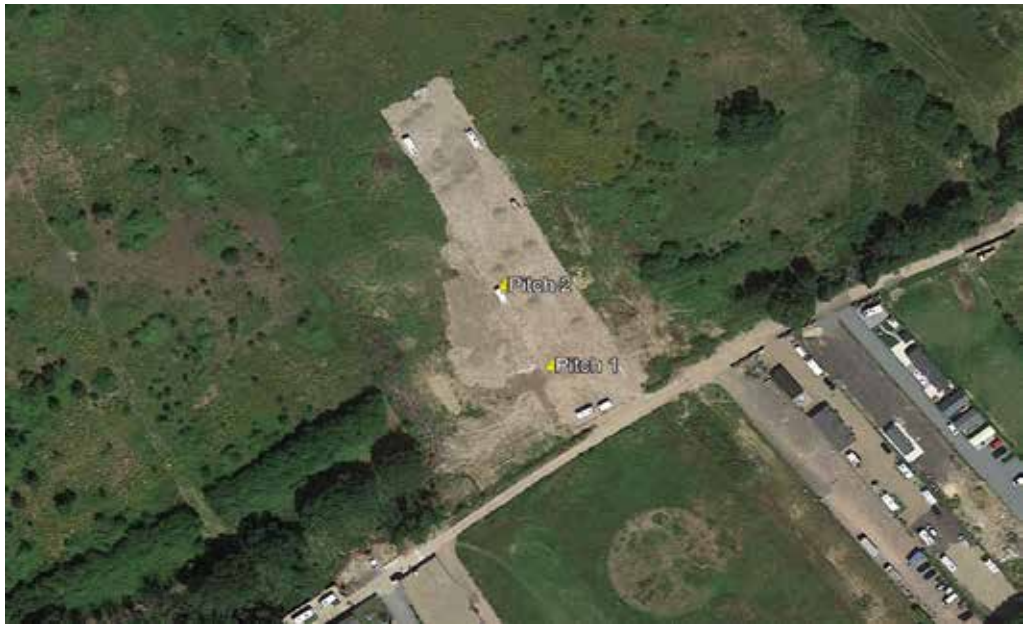
8.15 There is a reasonable likelihood that Wood White butterfly may have been present on the appeal Pitches prior to vegetation clearance to facilitate the development. It has been documented in the close vicinity, it is able to colonise areas of habitat, and it is on the periphery of a nationally important area for this rare species (see paragraph 4.15 above).

8.16 The ongoing national insect decline is such that the success of the 'Saving the Wood White' project in the vicinity is not sufficient to consider the long-term survival of this species has been secured. Loss of existing habitat, or even of potential habitat, to development is an extra pressure on this species which would be unacceptable at development site scale but may also contribute to unacceptable impacts on the metapopulation in this part of Surrey.

8.17 Case law, appeal examples and Planning Practice Guidance all explain that there should be sufficient information available to make an informed decision on a planning determination. The absence of sufficient species surveys means that it is not possible to make an informed decision with respect to the harm caused to protected and Priority species on both Pitch 1 and Pitch 2. The appeals should be dismissed for this reason.

Figures

(c) Google Earth. Image dated 15th April 2020



(c) Google Earth. Image dated 16th July 2021

(c) Google Earth. Image dated 8th March 2022

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Figure 01 - Google Earth Timeline Images

January 2026

(c) Google Earth. Image dated 11th July 2022

(c) Google Earth. Image dated 8th May 2024

(c) Google Earth. Image dated 14th June 2025

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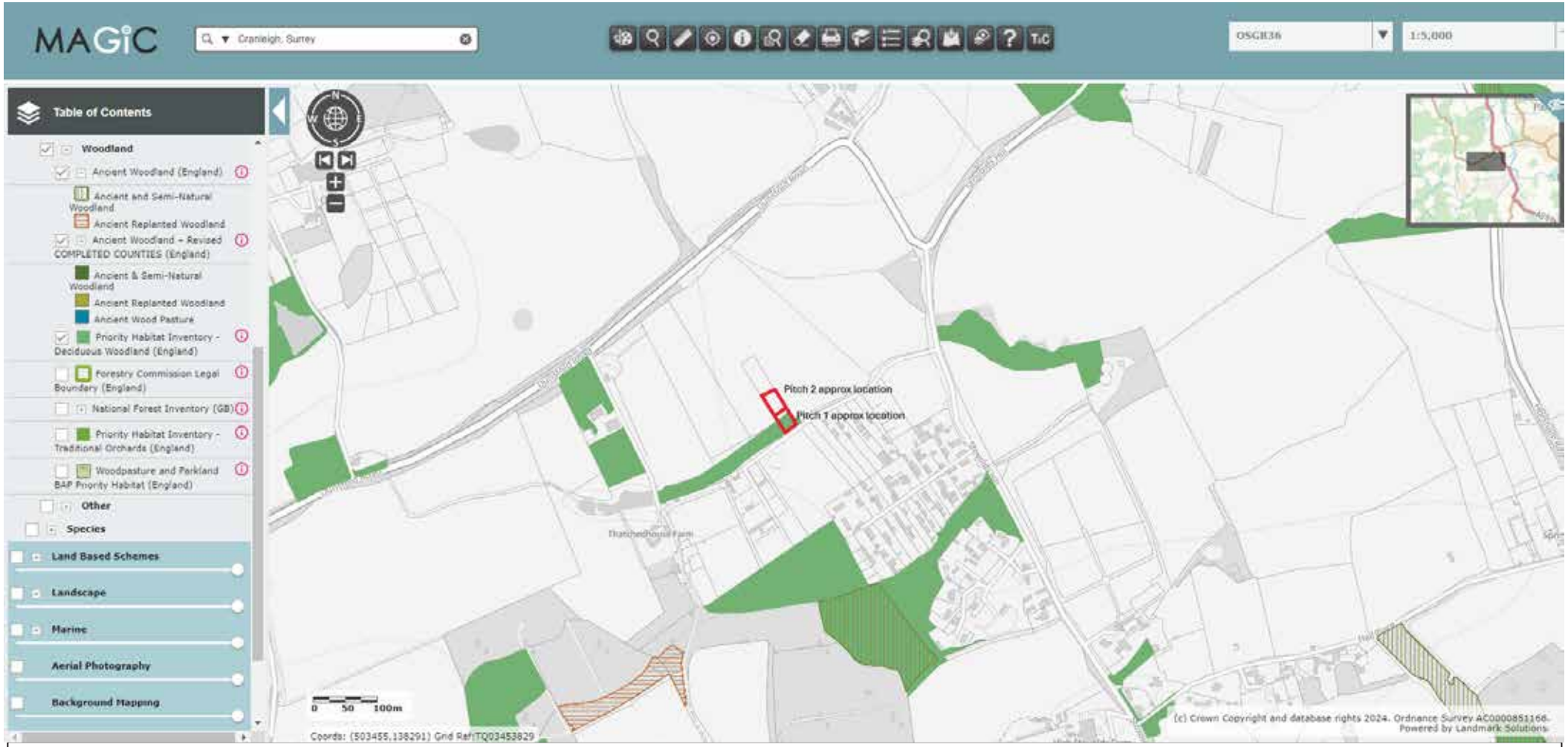
Figure 01b - Google Earth Timeline Images

January 2026



Screenshot from www.defra.magic.gov.uk. Taken on 22nd October 2024

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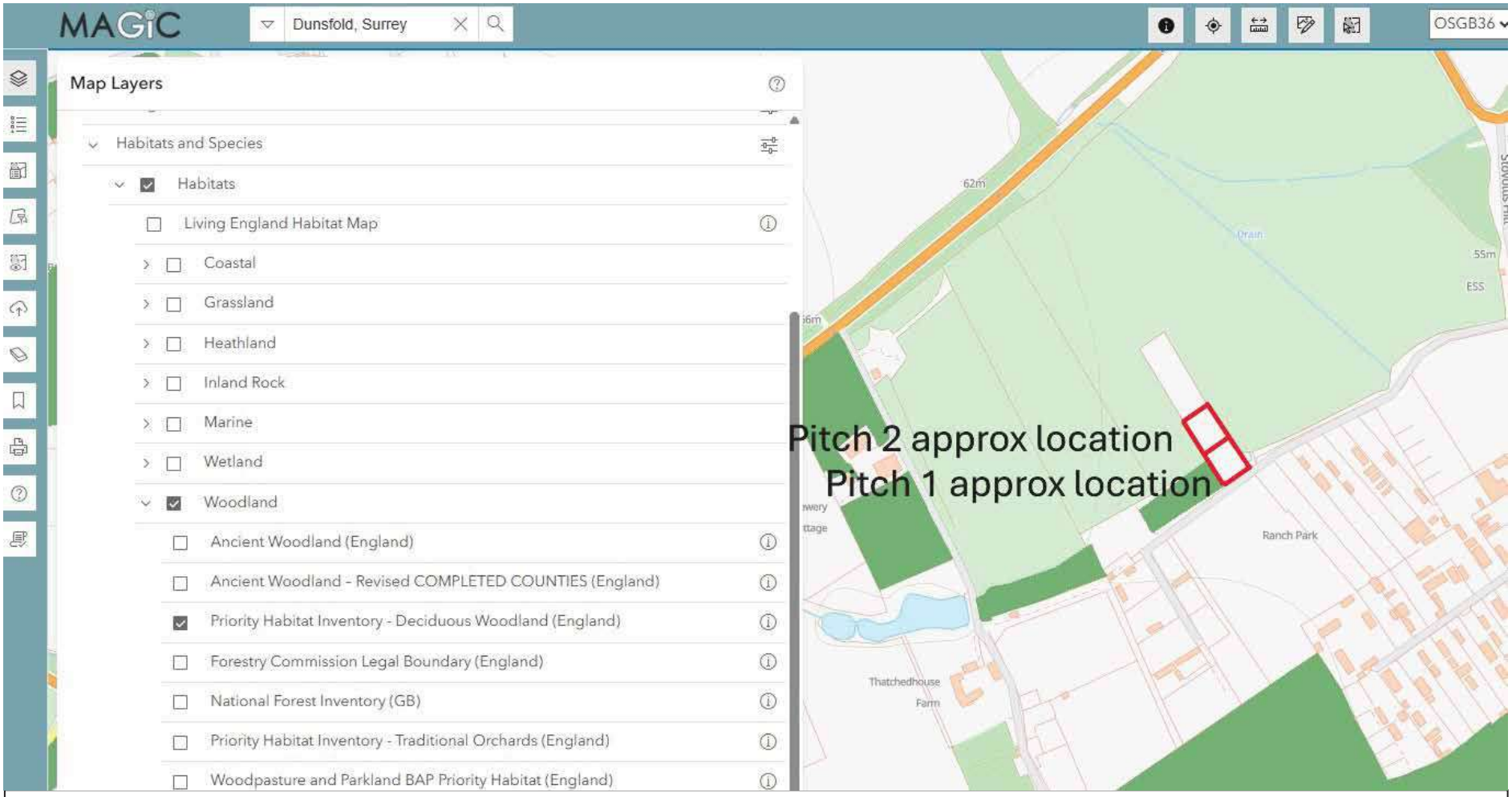
Figure 02- Location of lowland mixed deciduous woodland pre-development

January 2026



Screenshot from www.defra.magic.gov.uk. Taken on 27th January 2026

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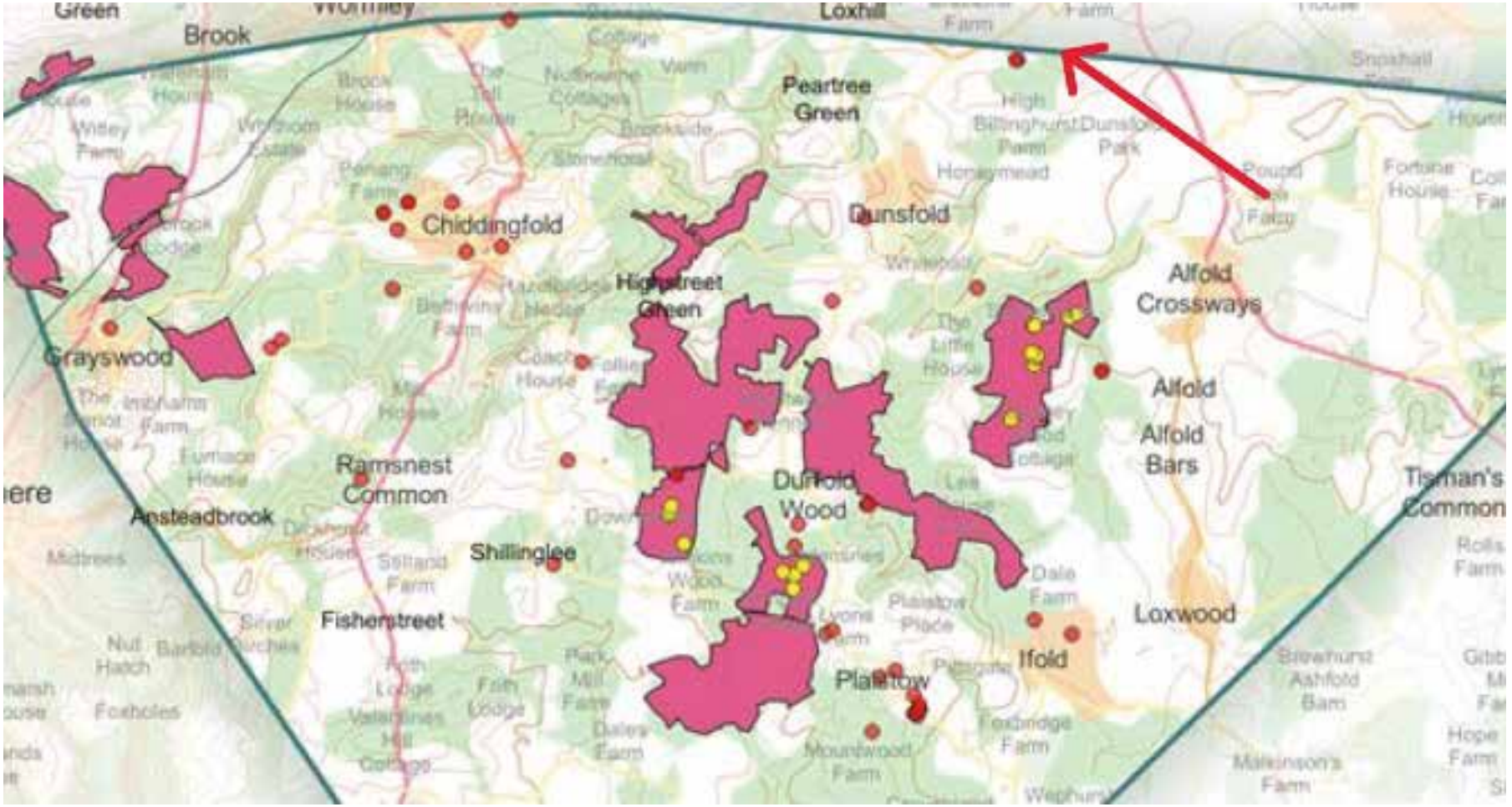
Figure 03- Location of lowland mixed deciduous woodland post-development

January 2026

Key

Arrow indicates approx. appeal site location



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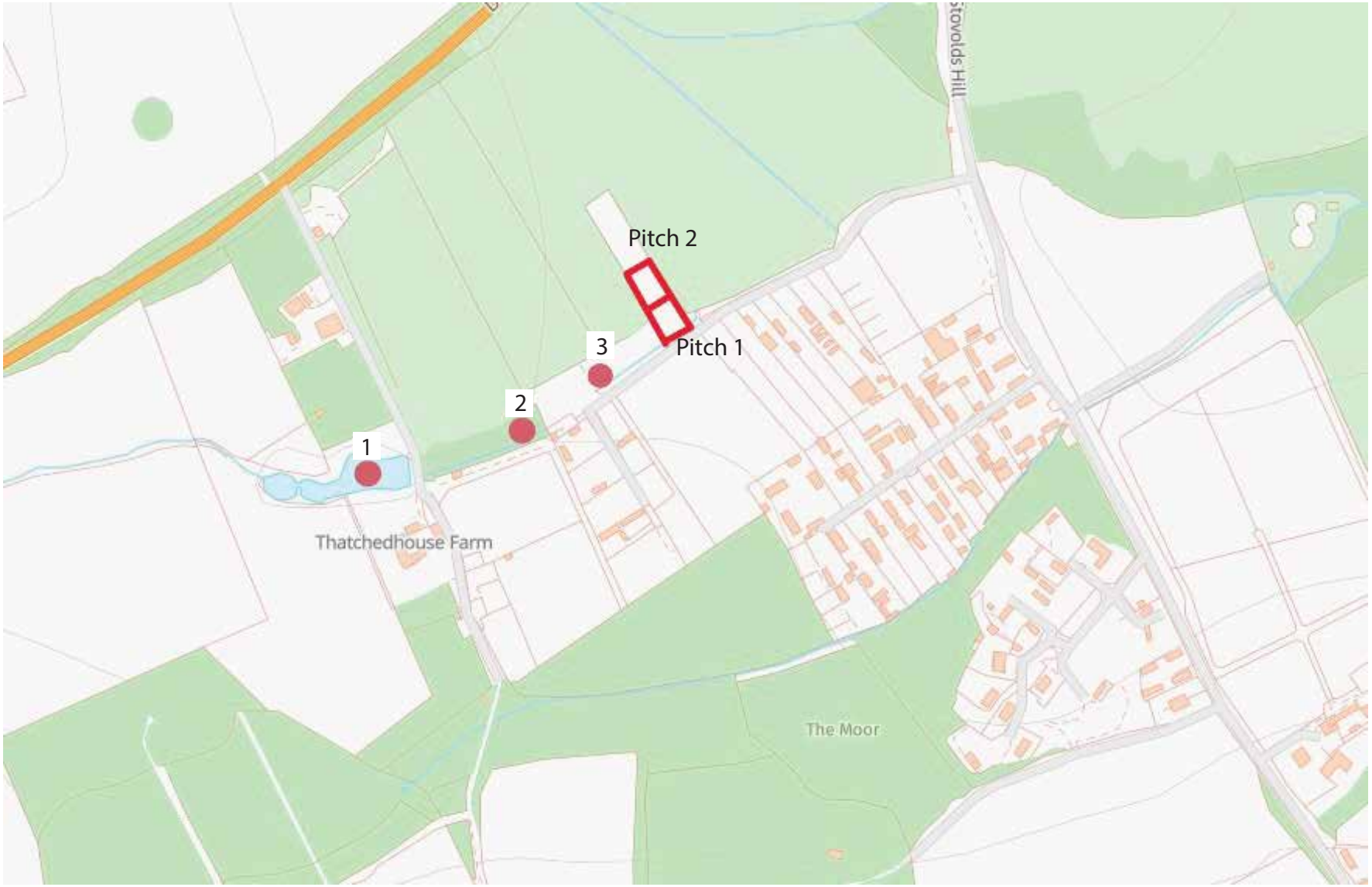
078 Stovolds Hill Appeal

Figure 04 - Wood white butterfly priority area

February 2026



Key

1 Pond at Thatched House Farm, Not sureyed

2 Pond formed by damming of watercourse, 'D1' of Dawin Ecology January 2024 and July 2025 letters. No great crested newts found

3 Dry remains of previous watercourse, 'P1' of Darwin Ecology January 2024 and July 2025 letters. Dry in 2024.

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078 Stovolds Hill Appeal

Figure 05 - Pond locations

February 2026

APPENDIX 1

Appeal APP/D3505/W/18/3212219

Vines Farm

The Planning Inspectorate

Appeal Decision

Site visit made on 23 July 2019

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Appeal Ref: APP/D3505/W/18/3212219
Vine Farm, Nedging Road, Nedging Tye, Ipswich IP7 7HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Ruth Kingsbury against the decision of Babergh District Council.
- The application Ref DC/17/06324, dated 22 December 2017, was refused by notice dated 6 April 2018.
- The development proposed is alterations and extension to a former farm building to create a new dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The postcode above is taken from the appeal form rather than the application form or decision notice, as this more accurately locates the site's address.

Main Issues

3. The main issues are:

   (a) the effect of the development on the use of rural buildings, including the effect on protected species;

   (b) whether the development would have acceptable access to everyday services and facilities; and

   (c) the effect of the development on the living conditions of occupiers of neighbouring properties.

Reasons

Use of rural buildings and the effect on protected species

4. The appeal site is located to the rear of the Grade II listed Vine Farmhouse on Nedging Road. The site contains a barn/workshop/cart lodge, along with a small pond and large area of green space. The building is within the curtilage of the listed farmhouse and, based on its age and function, is considered to form part of the listed building for control purposes. Listed building consent (ref DC/17/06325) has already been granted for the conversion of the building to residential use.

5. Policy CR19 of the Babergh Local Plan 2006 (LP) permits the conversion of barns or other redundant or under-used buildings in the countryside into dwellings or hotel accommodation provided that 8 criteria are met. The Council has raised concerns with the first, second and final criteria.

6. The first and second criteria relate to whether alternative uses for business, community and leisure have been thoroughly explored and discounted, and that the location makes it unsuitable for conversion to other uses. The condition of the appeal building is poor and needs renovation. While no marketing appears to have taken place, the appellant's evidence indicates that the market value of using the building for employment purposes would be significantly lower than the proposed cost of renovating and converting the building for such purposes. As such, it would not be viable. The evidence also highlights that the remote rural position of the building and its proximity to residential properties would not make it suitable for an employment related use. Therefore, I consider that the development would not conflict with the first and section criteria.

7. The final criterion relates to no material adverse impact on protected species, particularly bats and barn owls. Ecological survey work in 2015 revealed that great crested newts were present in both the on-site pond and a pond immediately adjacent to the site. Further great crested newt survey work in April-May 2017 concluded that any ground disturbance on the site is highly likely to impact on this species if precautions and mitigation are not implemented. The 2015 survey found little evidence of water voles although recommended further assessment prior to development commencing on site. The 2015 survey also found a reasonable likelihood of bat roosts occurring within the barn and recommended further survey work as impacts could not be ruled out.

8. I have not been provided with details of any further survey work relating to bats. I also note that the report for the 2017 great crested newt survey states on page 11 that if there is a delay of over two years before site works begin then an updated survey is recommended. As a consequence, I am not satisfied that I have sufficient and up to date information on bats and great crested newts to conclude that there would be an acceptable impact on protected species. It would not be appropriate to leave this matter to a planning condition or a note informing the appellant of their responsibilities, as the information is needed to inform the planning decision.

9. Concluding on this main issue, it has not been adequately demonstrated that the development would have an acceptable effect on the use of rural buildings having regard to the evidence before me on protected species. Therefore, the development would conflict with LP Policy CR19.

Access to services and facilities

10. The site is located within a small cluster of dwellings and agricultural buildings along Nedging Road. The settlements of Nedging and Nedging Tye at either end of the road are not large and contain few facilities. Bildeston to the north-west contains more everyday facilities, but Nedging Road has no pavement or street lighting with sections at the national speed limit, and it connects with busier B roads. In combination with the distance to Bildeston of approximately 1 mile, these conditions would not encourage future occupants of the development to walk or cycle. With no public transport nearby, occupants are likely to be

largely reliant on the private car to access services and facilities. The development would not be isolated given existing dwellings, while accessibility is only one part of sustainability. However, there would be negative social and environmental effects arising from the site's location.

11. Concluding on this main issue, the development would not have acceptable access to everyday services and facilities. Therefore, it would conflict with Policy CS2 of the Babergh Core Strategy 2014 (BCS) which seeks to direct development towards larger settlements, and criteria (xviii) of BCS Policy CS15 which seeks to minimise the need to travel by car. The development would also not meet the sustainable development objectives in paragraph 8 of the National Planning Policy Framework (NPPF) in terms of achieving accessible services and using natural resources prudently.

Living conditions

12. The site is to the rear of residential properties at Vine Farmhouse and Vine Farm Barn. The physical bulk of the development would largely follow the existing barn/workshop/cart lodge and so would have little effect on outlook. Window openings at first floor would be restricted or face away from the neighbouring properties to reduce impacts on privacy. There would be some increase in noise and disturbance and domestic paraphernalia arising from a residential use, but as Vine Farmhouse and Vine Farm Barn already experience this from each other, the increase would not be significant. Lighting from vehicle movements would likely be limited given the proposal only involves a single new dwelling.

13. Concluding on this main issue, the development would have an acceptable effect on the living conditions of occupiers of neighbouring properties. Therefore, it would accord with LP Policy CN01 which, amongst other things, requires development to pay particular attention to the scale, form and nature of adjacent development and the environment surrounding the site.

Planning balance

14. Although the Council's appeal statement asserts that it can now demonstrate a 5 year supply of housing land, evidence provided by the appellant indicates that there is no such supply. The appellant also argues that LP Policy CR19 is out of date due to inconsistencies with national legislation and policies that take a more flexible approach to the re-use of rural buildings for other purposes including housing. The appellant considers the BCS as a whole is now out of date due to the length of time since its adoption. However, national policy and regulation only stipulates a requirement to review a local plan every 5 years. The age of a policy does not automatically mean it is out of date.

15. A lack of 5 year housing land supply and/or LP Policy CR19 being out of date would trigger the 'tilted balance' in NPPF paragraph 11(d)(ii) which states that where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

16. In terms of adverse impacts, the proposal would not have acceptable access to everyday services and facilities. The fact that the proposal only involves a single dwelling moderates this adverse impact. However, it has also not been

adequately demonstrated that the proposal would have an acceptable effect on the use of rural buildings having regard to protected species. While LP Policy CR19 may not be consistent with the NPPF, the NPPF seeks to protect and enhance biodiversity in Section 15. As such, I attach significant weight to the overall adverse impacts and policy conflicts.

17. Turning to the benefits, the proposal would provide an additional dwelling to help boost local supply as well as help the local economy. However, as a single dwelling, the above benefits are modest. The proposal would also enhance a heritage asset by converting it to a new use and could result in biodiversity improvements. However, in the absence of adequate information on protected species, I can only give these benefits limited weight.

18. Therefore, even with the application of NPPF paragraph 11(d), the adverse impacts would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development would not apply which indicates that planning permission should not be granted in this instance.

Conclusion

19. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPENDIX 2

Appeal APP/W3520/W/17/3174638

Pooles Farm

The Planning Inspectorate

Appeal Decision

Site visit made on 29 August 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th September 2017

Appeal Ref: APP/W3520/W/17/3174638
Pooles Farm, Thorney Green Road, Stowupland IP14 4AJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Helen Brown against the decision of Mid Suffolk District Council.
- The application Ref: 0426/17, dated 30 January 2017, was refused by notice dated 7 April 2017.
- The development proposed is the erection of a new farmhouse style dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as this is more succinct than the version provided on the Application Forms.

3. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that, when considering development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting.

4. There is no dispute between the parties that the Council cannot demonstrate a 5 year supply of housing. In such situations paragraphs 47 and 49 of the "*National Planning Policy Framework"* (the Framework) state that the relevant policies for the supply of housing should not be considered up to date and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This balancing exercise will be returned to later in the decision.

Main Issues

5. The main issues are;
   (a) Whether the principle of development outside the settlement boundary is consistent with local and national policies on housing in the countryside;
   (b) The effect on the character and appearance of the countryside;
   (c) Whether the location of the development would be sustainable;
   (d) The effect on the setting of Pooles Farm (Grade II listed), and
   (e) Ecology.

Reasons

Suitable site for housing

6. The appeal site lies outside the defined settlement boundary of Stowupland in the CS. It is therefore in the countryside for planning purposes. Policy CS1 of the "*Mid Suffolk Core Strategy Development Plan Document 2008*" (the CS) seeks to direct the majority of new development to towns and key service centres. Policy CS2 strictly controls new residential development in the countryside which it states will only be permitted in exceptional circumstances. It is not part of the appellant's case that the proposal accords with any of the exceptions set out in Policy CS2 and therefore the development would conflict with the development plan in that regard.

7. However given the age of the CS and the Council's 5-year housing supply position, the matter clearly does not end there and it is necessary to consider the development against policies in the more recent Framework. The Framework does not stipulate a requirement for any 'exceptional' or 'special' circumstances to be met by all development in the countryside. The 'special circumstances' only apply to development which would be considered isolated (my emphasis). Moreover, the approach of controlling the principle of development beyond settlement boundaries is patently more restrictive than the balanced, cost/benefit approach set out in the Framework. Reflecting this, the Council states that it is more supportive of sites which are located outside settlement boundaries provided they are otherwise well related.

8. Based on the foregoing, being outside the settlement boundary is not the determinative factor in this appeal and other material considerations have to be weighed in the balance.

Character and appearance

9. The Council's reason for refusal and Statement of Case refer, albeit fleetingly, to the character and appearance of the countryside which Policies CS1 and CS2 seek to protect. The overarching aims of Policies CS1 and CS2 in seeking to protect the countryside for its own sake are generally consistent with the core planning principles at Paragraph 17 of the Framework.

10. The scheme involves the erection of a two-storey cottage style dwelling and creation of new driveway via an extension to the existing farm access. The dwelling would be sited in open countryside to the northern end of a rectangular field on the edge of the farmstead.

11. In my opinion, the scale and siting of the dwelling would seriously erode the character and appearance of the countryside. Its siting roughly equidistant between the farmstead and pair of cottages would relate poorly to both and it would be stranded in a proverbial 'no-man's land'. The erection of the dwelling along with associated driveways, attendant vehicles, residential curtilage with domestic paraphernalia therein and boundary treatments would completely change the open and green character of the land. I acknowledge that the existing landscaping would obscure, perhaps even conceal, views of the dwelling from the green. However, it would inevitably be visible in longer distance views from the north and west where it would appear, irrespective of its detailed design, as a stark visual intrusion into the open landscape on the periphery of Stowupland.

12. Based on the foregoing, I conclude that the development would harm the character and appearance of the countryside. It would thus conflict with Policies CS1 and CS2 of the CS as well as the Framework, a core planning policy of which is to recognise the intrinsic character and beauty of the countryside.

Accessibility

13. Paragraph 55 of the Framework states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. It also states that isolated homes in the countryside should be avoided unless there are special circumstances. This fits into the overall core planning principle of supporting thriving rural communities.

14. The pivotal issue is therefore whether the development would be isolated in the terms of the Framework and if so, are any of the special circumstances set out in paragraph 55 met. The Framework does not define what is meant by isolated. Clearly, the development site is not physically isolated, as it located on the edge of a small farmstead with other dwellings nearby. However, in the context of the guidance the assessment of isolation cannot only be a consideration of whether there are other properties near to the appeal site but rather how well the site relates to defined settlements, the level, proximity and accessibility of services and facilities and such things as whether the site has good access to public transport or is in a generally accessible location.

15. The appeal site is outside but adjacent to the settlement boundary of Stowupland which is defined as a Key Service Centre under Policy CS1. As I saw at the time of my visit, there is a petrol filling station including shop, fish & chip shop, public house, church, primary and high school and bus stops all within a 20 minute walk of the appeal site. The walk to these destinations for the most part benefits from either pedestrian footways or wide, user-friendly grass verges. While I recognise that the walk to those more distant destinations such as the primary school might be onerous for the less mobile, it is would not be beyond the scope of those who are normally fit and active and the route itself would not be off-putting.

16. While the number and range of services in the village is relatively modest, they would provide for some day-to-day essentials. It is also pertinent that the neighbouring town of Stowmarket, a short drive from the appeal site, contains a wide range of services including a train station, two supermarkets and a leisure centre. Although it is unlikely future residents would walk to the railway station and perhaps other facilities in Stowmarket on a daily basis, the relatively flat and short nature of the route would be conducive to cycling. I have noted the Council's view that bus services through the village are infrequent. However, as no bus timetables have been supplied I cannot discount the possibility that future residents could travel or commute by bus.

17. I am satisfied that there is a reasonable functional relationship between the appeal site and Stowupland, such that the development would help maintain the facilities within the village and those in Stowmarket nearby which would be accessible by public transport and cycling.

18. Notwithstanding the above, I accept that future occupants would still be reliant on a motor vehicle to access more distant destinations. However, the Framework recognises that the opportunities to maximise sustainable transport

solutions will vary from urban to rural areas. The fact that paragraph 55 highlights the potential for housing in one village to support services in another implies an acceptance that some travel in a rural area may be necessary. In my view, neither the number of vehicle movements nor the level of car dependency would be at a level where there would be conflict with the aims of the Framework in terms of the need to minimise travel and maximise the use of sustainable forms of transport. Taking all these matters in the round, I find that the development would be located in an accessible area in a rural context.

Effect on setting of Pooles Farmhouse

19. The dwelling would be sited some distance from the listed farmhouse to the south which is already tightly enclosed by existing development on three sides. I noted that several curtilage buildings of varying design have been erected to the north of the farmhouse. Given that the dwelling would be sited well beyond these structures, I am not persuaded that it would challenge the dominance of the farmhouse or affect one's appreciation of it particularly bearing in mind the landscaping along the eastern site boundary.

20. I therefore find no conflict with Policies GP1, SB2 and HB1 of the "*Mid Suffolk Local Plan 1998*" (the LP) and Policy CS5 of the CS insofar as they seek to safeguard the setting of listed buildings. There would also be no conflict with the statutory duty under the Act or with Section 11 of the Framework. In coming to that view I have noted the comments of the Parish Council regarding the access road. However, the section of access road adjacent to the farmhouse is already in situ. The new section of driveway would be located on the far side of the agricultural buildings to the north and would not therefore have a significant effect on the setting of the farmhouse.

Ecology

21. It is common ground that there is a strong probability of newts and possibly bats, both protected species, being present in the adjacent pond and Building A. Guidance on the conservation of protected species is given in ODPM Circular 06/2005. At paragraph 99 the Circular advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. However, 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 before the permission is granted.

22. Although an Ecological Report was submitted with the application, it did not include surveys to establish the presence of protected species. Bearing in mind advice in the Circular and notwithstanding that it might well be possible to mitigate the impact on any protected species should they be present, without the requisite surveys, it is not possible to ascertain the effect of the development on a protected species and a precautionary approach should be adopted. Consequently, I conclude that the scheme would conflict with Policies GP1 and SB2 of the LP, Policy CS5 of the CS and the aims of paragraphs 109 and 118 of the Framework which collectively seek to conserve and enhance biodiversity and the natural environment.

Other Matters

23. I have had regard to comments made by a neighbouring occupier regarding the vehicular access to the site. However, whether a right of access exists or not, is a private legal matter to be resolved between the various parties and not a material planning consideration to which I can attribute any degree of weight.

Overall Conclusions and Planning Balance

24. The starting point in weighing the various factors is that the proposal would conflict with various policies in the development plan concerned with landscape protection and ecology. As to whether material considerations indicate that the permission should be allowed, the Framework is one such consideration. This establishes that the purpose of the planning system is to contribute to the achievement of sustainable development, which includes economic, social and environmental dimensions.

25. Given the inconsistency of Policies CS1 and CS2 with the Framework and the Council's housing land supply position I consider them to be out-of-date, insofar as they seek to restrict housing to defined settlements. Not only does this reduce the weight that I can attach to these policies in the overall balance but it also engages the default position identified in paragraph 14 of the Framework and Policy FC 1 of the "*Mid-Suffolk Core Strategy Focused Review 2012*" (the CSFR) and the balance shifts in favour of the grant of consent. Only if the Council is able to demonstrate harm which "significantly and demonstrably" outweighs the benefits of the development should consent be refused.

26. The development would support the *economic* role through the purchase of materials and services in connection with the construction of the dwelling. The occupants of the dwelling would also provide some support for local facilities which would contribute to maintaining or enhancing the vitality of the rural community. Although, the economic gains would be limited, the Framework does not state that the support of local vitality must be significant, only that a development is capable of achieving this aim. The provision of one residential unit would provide some modest *social* benefits through the delivery of additional housing in an area of need. Given the scale of development, I attach moderate weight to this benefit.

27. In *environmental* terms, the erection of a large dwelling in the open countryside would be contrary to the Framework's aspirations for planning to recognise the intrinsic character and beauty of the countryside. There would also be some potential harm in terms of ecology. Collectively, I attach significant weight to these harms. The location of the development would be acceptable in accessibility terms and there would be no harm to the setting of Pooles Farmhouse. However, an absence of harm in these areas is only a neutral factor in the planning balance.

28. Taking all these considerations in the round, the development would deliver economic and social benefits consistent with the Framework and the CSFR. Nevertheless, either on their own or in combination, these considerations do not outweigh the significant *environmental* harm I have identified through the development's effect on the character and appearance of the area and the conflict with the development plan in that regard. I therefore find that the adverse impacts of the proposal would significantly and demonstrably out-

weigh the benefits and the scheme would not constitute sustainable development.

29. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector

APPENDIX 3

Appeal APP/Y1945/W/20/3261681

Watford

The Planning Inspectorate

Appeal Decision

Site Visit made on 9 August 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2021

Appeal Ref: APP/Y1945/W/20/3261681
9 - 19 Monmouth Road, Watford, WD17 1QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Santok Homes (Monmouth) Limited against the decision of Watford Borough Council.
- The application Ref 19/01471/FULM, dated 3 October 2019, was refused by notice dated 26 May 2020.
- The development proposed is the demolition of the existing buildings and erection of a part 3, part 5, part 7 storey building comprising 57 residential units (Use Class C3), landscaping, access and servicing, car parking and associated works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). The main parties have had the opportunity to provide comments on the revisions and I have taken these into account in reaching my decision. I have considered the appeal on the basis of the revised Framework.

Main Issues

3. The main issues are the effect of the development on (i) protected species, and (ii) the character and appearance of the area.

Reasons

Protected species

4. The appeal scheme would result in the demolition of six existing dwellings within the site in order to accommodate the proposed development. In support of the proposals, the appellant undertook an ecological survey of the existing buildings. This survey did not find any evidence of bats within the interior of the buildings.

5. However, the survey also identifies that a number of the buildings had features that were suitable for crevice dwelling bats, these included lifted lead flashing around chimneys, gaps in the roof along valleys and hips, uneven tiles, minor cracks, and crevices, render peeling away from walls, as well as gaps around rooflights, soffits and areas of missing mortar.

6. As a result of these findings, the recommendations of the survey include that further presence/likely absence surveys are required in respect of five of the existing buildings. While three of the buildings are considered to have low potential for bats to be present, two are considered to have moderate potential.

7. This matter has not been advanced as a reason for refusal by the Council and I note that in the event that the appeal is allowed, the Council recommend a planning condition, which requires the undertaking of the further survey work, together with details of any mitigation that may be required in respect of protected species, be submitted for approval before the buildings are demolished. The views of the main parties have been sought as to the acceptability of such a condition, were I minded to allow the appeal.

8. While I note comments provided by the parties that it is appropriate to deal with this matter by way of condition, I am also mindful of the guidance of Circular 06/2005 - Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system (the Circular). The presence of a protected species is a material planning consideration. The Circular clearly outlines that 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 planning permission is granted. Otherwise, all relevant considerations may not have been addressed in making the decision.

9. In light of the findings of the survey and the recommendations, I consider there to be a reasonable likelihood of protected species being present. Accordingly, detailed surveys establishing this, or otherwise, should be completed, and any necessary mitigation secured, before any permission is granted. The Circular further advises that the need to ensure that ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. I am not convinced that any such circumstances exist in this case.

10. I acknowledge that it has been suggested that to deal with the matter by condition is a pragmatic and reasonable approach. However, in light of the contents of the Circular I cannot agree with this approach.

11. Therefore, I have insufficient information to be able to be satisfied that the development would not have a harmful effect on protected species. Thus, I am unable to find that the proposal would accord with policy SE31 of the Watford District Plan (2000), insofar as it seeks to ensure that development does not have an adverse impact on protected species.

Character and appearance

12. The appeal site currently accommodates six dwellings, a mix of semi-detached and detached units. The dwellings are two-storey in height which is reflective of the remainder of the dwellings in the street as well as those located along the nearby Albert Road. The street along which the appeal site is located is a no-through road, truncated by the presence of a dual lane highway, Beechen Grove, to the south.

13. To the east of the appeal site, there are notably larger buildings present which provide a backdrop to views of the dwellings, albeit that this is somewhat

softened by the presence of large trees to the rear of the site. The transition between Monmouth Road and Beechen Grove is also softened by the presence of large trees, as well as other vegetation. As a result, the immediate vicinity of the site has a suburban character, but one that is influenced by large buildings and road infrastructure located nearby.

14. The site is located within Character Area 7H, which is defined within the Watford Character Area Study – Supplementary Planning Document (2011). This identifies areas within Character Type 7 comprising of pre-dominantly two storey heights, with narrow and deep plot sizes. There is also a typical use of yellow stock or red brick. Specifically, Area 7H is identified as a residential character area, which is bordered by larger scale development, that retains its Victorian character, due to amongst other things the scale of buildings being fairly consistent.

15. The Character Area within which the site is located is also directly bordered by two further areas, 30B and 36C. Area 30B is located directly to the rear of the site and is a mixed-use character area, that is dominated by buildings that are relatively large and modern. Area 36C lies to the south, which is separated from the site by Beechen Grove, and is also a mixed-use character area. The construction of the ring road necessitated the demolition of the part of Monmouth Road that once sat within this area.

16. The appeal site lies along Monmouth Road, which due to its alignment and layout, results in a large part of the site not being generally visible from the nearby Albert Road. Due to this, the site shares little affinity with the remainder of the Character Area. The buildings along Monmouth Road positioned close to Albert Road are more readily appreciated. That the site is located at the end of a no-through road with no pedestrian link through also reinforces the degree of disconnection with the surrounding area.

17. The appeal scheme proposes the erection of a new building within the site, that would rise to a height of 7 storeys at its highest extent. The massing of the building would be broken down into three distinct elements. To the north of the site would be two pitched roof blocks comprising one element, rising to three-storeys in height. Adjacent would be a five-storey block with the seven-storey element located to the southern extremity of the site, each of which would have a flat roof.

18. The three-storey element of the building would be visible in views to observers when passing the entrance to Monmouth Road and thus would share the closest relationship with the remainder of the Character Area. While this element would be a storey taller than the surrounding development, it would not appear out of proportion with the immediately surrounding built form.

19. The seven-storey element would be positioned such that it would be at the innermost extremity of Monmouth Road where there would be a reasonable degree of separation between it and the existing dwellings. The differentiation between the proposed and existing heights would be strengthened by the steps in the height of the building, which would successfully mediate the height of the proposed between that of the surrounding dwellings as well as that of the larger buildings nearby.

20. It is likely that there would be views of the taller elements above the existing buildings in Monmouth Road. However, they would be clearly distinct from the

existing buildings and would not appear overly dominant. The taller elements would be viewed as larger structures behind more modest development; a situation that is not uncommon in the surrounding area.

21. The elevations of the proposed building include appropriate articulation, in that they are broken down into differing elements, which through the use of materials and detailing, breaks down its massing and allows the elements to be appreciated individually. In this respect, the form of the building would be reminiscent of the urban grain found in the wider area. I acknowledge that the seven-storey part of the building would be viewed as a larger element, however, given its location at the end of Monmouth Road, it can be viewed as a feature distinct from the nearby two-storey units, including those in the wider area, and thus its presence would not be a discordant addition at this location. This is particularly so given the position at the very edge of the Character Area. Moreover, there would be little effect on the Victorian character of the remainder of the Character Area.

22. I accept that the varying heights of the proposed building would be above those seen in the Character Area within which the site lies. However, as is identified above, there are character areas adjacent which contain larger and more modern buildings. Given the position of the site at the end of a truncated road, which is somewhat distinct from the remainder of the two-storey development in the wider area, the increase in height at this location would be acceptable. That in the wider area I observed larger buildings positioned near to two-storey buildings reinforces my view that structures of a taller height can be assimilated into the area.

23. The larger elevation and massing of the building would be particularly visible from the adjacent ring road (Beechen Grove). However, this would be softened by the presence of substantial trees along the highway verge, as well as its setback from this road. Furthermore, from this vantage point the development would be viewed within the context of what is a key thoroughfare into Watford that is lined by larger buildings.

24. I note that the Council contend that there is no reason why the appeal site should act as a transitional area between the Character Areas. However, given my findings above, there is nothing before me that persuades me that it is incapable of performing as such. There is a level of distinction between the site and the remainder of the Character Area within which it lies, and there is a relationship in terms of proximity to the larger buildings within the nearby Character Areas.

25. In respect of the building line, I note that the front elevation is stepped, with the larger seven-storey element being positioned closest to the road. In light of the layout of the development and the separation from nearby buildings, this would be an appropriate element of the scheme.

26. I have had regard to the Character Area Study – Supplementary Planning Document, insofar as it seeks to describe the characteristics of the various areas. Nonetheless, as the Council highlights within its statement of case, the study does not set policy or guidance on how new development should respond to the specific character area within which it would sit. As I set out above, I find that the appeal proposal is an appropriate design response at this location, having regard to its context.

27. Accordingly, I find that the proposal would have an acceptable effect on the character and appearance of the area. Thus, it would accord with policy UD1 of Watford's Local Plan – Core Strategy (2013), insofar as it seeks to ensure that development respects local character. The scheme would also accord with the design aims of the Framework.

Planning Balance

28. Whilst I have found above that the proposal would not be harmful to the character and appearance of the area, there is insufficient information to conclude that there would not be a harmful effect on protected species. Given the level of protection afforded to protected species, I consider this to be a high level of harm and attribute significant weight to it.

29. There would be a range of social and economic benefits resulting from the proposal. These include the provision of jobs during the construction of the development, wider economic benefits through household expenditure and a small contribution towards the provision of affordable housing, together with a contribution to housing in general. These attract moderate weight.

30. Overall, I consider that the package of benefits that would result from the development should be given moderate weight in the planning balance. However, as I have identified above, I accord significant weight to the harm that would result. Accordingly, in my judgement the negative factors resulting from the proposals are sufficient to significantly and demonstrably outweigh the positive ones. Thus, the planning balance does not indicate that a decision should be taken other than in accordance with the development plan.

Other Matters

31. I note that a completed Unilateral Undertaking has been provided by the appellant, securing contributions towards the variation of a Controlled Parking Zone Order, the administration of the undertaking and monitoring of a Travel Plan. In addition, it secures the three units of affordable housing. While this is noted, given that I am dismissing the appeal I have no need to address this matter further.

32. Concerns have been raised by interested parties in respect of additional matters including, but not limited to, the effect of the proposal on living conditions of nearby occupiers, highway safety and parking, loss of family homes, low provision of affordable housing, lack of communal space, effect on trees and the setting of a precedent. I note that the Council raise no objection to the development on any grounds other than those stated in the reason for refusal. Nonetheless, as I am dismissing the appeal for reasons following from the main issues above, it is not necessary that I address these additional concerns.

33. It has been contended that the dwellings that are proposed to be demolished comprise non-designated heritage assets. However, the Council has not indicated that it considers them to be such. Furthermore, there is no evidence that convinces me that they should warrant such a classification. As such, this matter has little bearing on my decision.

Conclusion

34. I have found that there would be no harm to the character and appearance of the area. However, I am unable to find that there would be no harm to protected species; this matter is decisive.

35. For the reasons given above, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR

APPENDIX 4

Appeals APP/L2820/C/19/3240989 and APP/L2820/W/20/3249282

Loddington

The Planning Inspectorate

Appeal Decisions

Inquiry held on 9 - 11 November 2021, 17 – 20 and 24 – 27 May 2022

Site visit made on 26 May 2022

by J A Murray LLB(Hons) Dip.Plan.Env DMS Solicitor

an Inspector appointed by the Secretary of State

Decision date: 30 August 2022

Appeal A Ref: APP/L2820/C/19/3240989
Land east of Cransley Road, Loddington, Northamptonshire, NN14 1JX.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr James Delaney against an enforcement notice issued by Kettering Borough Council.
- The notice, numbered ENFO/2019/00160, was issued on 15 October 2019.
- The breach of planning control as alleged in the notice is, without planning permission, the making of a material change of use of the land from a use for agriculture to a use for the stationing and human habitation of caravans, the construction of an area of hard standing together with a hard standing means of access and erection of a breeze block building on the western side of the site adjacent to the point of access onto Cransley Road.
- The requirements of the notice are to:
  (1) Cease the use of the land for human habitation.
  (2) Permanently remove from the land all caravans, vehicles, buildings, portable toilets, machinery, equipment and personal items, and other items and works associated with human habitation.
  (3) Take up and permanently remove from the land all hard core, road planings and other such materials deposited in and on the land and forming areas of hard standing. Remove from the land all materials and rubble arising from this step.
  (4) Restore the land to its condition before the breach took place by re-seeding it with grass seed.
- The periods for compliance with the requirements are 7 days for each of requirements (1) to (3) and 14 days for requirement (4).
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Appeal B Ref: APP/L2820/W/20/3249281
Land east of Cransley Road, Loddington, Kettering, Northamptonshire, NN14 1JX, 482053, 278056

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.

- The appeal is made by Mr James Delaney against the decision of Kettering Borough Council.
- The application Ref KET/2019/0711, dated 10 October 2019, was refused by notice dated 26 February 2020.
- The development proposed is the change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans, including erection of 8 No. utility buildings, laying of hardstanding and improvement of access.

Decisions

Appeal A – Ref APP/L2820/C/19/3240989

1. It is directed that the enforcement notice is varied in section 5 by substituting the following periods for compliance:

   6 months in relation to Steps 1 and 2; and

   8 months in relation to steps 3 and 4.

2. Subject to these variations, the appeal is dismissed, and the enforcement notice is upheld.

Appeal B - Ref APP/L2820/W/20/3249281

3. The appeal is dismissed.

Procedural and preliminary matters

4. With effect from April 2021, Kettering Borough Council was superseded by North Northamptonshire Unitary Authority (the Council).

5. Although appeals A and B were lodged in November 2019 and March 2020 respectively, the start of the inquiry was delayed by the Covid-19 pandemic, as the appeals were deemed unsuitable for a 'virtual' inquiry. The inquiry opened on 9 November 2021 but was adjourned on 11 November, when one of the participants fell ill. I resumed on 17 May 2022 and sat during two consecutive weeks. Evidence and submissions were heard face to face, save that, with the agreement of the parties, closing submissions were made through a 'virtual' session on Microsoft Teams, but interested parties were able to observe.

6. I conducted an accompanied site inspection on 26 May 2022. I also carried out several unaccompanied inspections, namely on 8, 9 and 11 November 2021 and 26 May 2022. During those visits, I walked along public footpaths GG6, HC3, GR5 and bridleway GR10. I viewed from and drove along Cransley Road in both directions and viewed from Northfield Road to the southeast of the site. I also saw the location of the Northfield Farm caravan site on Northfield Road, Cransley, some 2 miles by road from the appeal site. In all, I spent about 3 hours in the area and on the site.

7. The appellant intended to appeal against the enforcement notice on grounds (a) and (g). Ground (a) is that planning permission should be granted for the matters alleged. However, he applied for planning permission for the development and the Council issued the enforcement notice before the time to determine the application had expired. Accordingly, by letter of 29 November 2019, the Planning Inspectorate confirmed that the appeal on ground (a) was barred under section 174(2A) of the 1990 Act.

8. The appeal against the enforcement notice (appeal A) therefore proceeds on ground (g) only. I will consider the appeal against refusal of planning permission (appeal B) first because, if permission is granted, the notice will cease to have effect in so far as it is inconsistent with that permission.

9. Given the nature of the issues, evidence was not taken under oath. Drainage, ecology, and need and supply were all addressed through 'round table' sessions

(RTS). The remaining matters were the subject of formal examination in chief, cross examination and, where necessary, re-examination.

10. The Council had initially requested amendments to the enforcement notice to require reinstatement of the original profile of the land.[1] However, for the R.6 party, Mr Hughes indicated that expanding the requirements in this way would probably cause injustice, and it would not be possible to protect any remaining archaeological remains. On 26 May 2022, Mr Lintott confirmed the Council no longer sought that amendment because of possible prejudice to archaeology.

APPEAL B

The description of the development

11. The description of the development in the application, refusal notice and appeal form, makes no reference to the terracing and reprofiling works that have taken place on site. A cut and fill operation has created terraces, namely 4 on each side of the central driveway, with a pitch on each. The soil and stone on the southern sides of each terrace is retained by timber walls, around 1m in height, with timber post and rail fencing above. Similar walls and fences retain each side of the central driveway, which slopes from north to south, down towards Cransley Reservoir.

12. It is not entirely clear when these works were carried out, but Mr Jupp says they appeared to have been recently undertaken when he visited the site on 4 June 2020, a few months after the refusal of the planning application. This is broadly consistent with the chronology at Mr Hughes' appendix 4. That refers to deliveries of stone and timber, and ongoing work, including the erection of fences and groundworks, at the end of May and beginning of June 2020.

13. These reprofiling and terracing works represent significant engineering operations. On the first day of the inquiry, Mr Brown said that, because of the terracing, it would be necessary to split the proposed utility buildings. These are shown on the plans as semi-detached blocks, each serving 2 pitches and straddling the east-west pitch boundaries. The appellant clearly intends the terracing works to remain, even though they were not indicated on the application plans.

14. The fact that the site, as developed does not accord with the refused site plan, because of the considerable terracing works and their implications for the utility buildings, is recorded in the Statement of Common Ground (SOCG)[2]. I am satisfied that all parties have had an opportunity to consider the implications of those works, and in the circumstances, the description of the development should be altered from that in the application to:

> "The material change of use of land to use as residential caravan site for 8 gypsy families, each with two caravans, including erection of 8 No. utility buildings, the reprofiling and terracing of the site, laying of hardstanding and improvement of access."

I have considered the appeal on that basis.

[1] Mr Jupp's proof paragraph 3.16 and Inquiry Document (ID) 3 paragraph 2.5.
[2] ID10

Main Issues

15. The main issues are:

- the effect of the development on the character and appearance of the landscape;
- whether the occupants of the site would have adequate access to services and facilities;
- the effect of the development on highway safety;
- whether the development will result in contaminated runoff impacting on the Cransley Reservoir Local Wildlife Site;
- the effect of the development on ecology, including protected species and the Cransley Reservoir Local Wildlife Site;
- the need for and supply of Gypsy and traveller pitches;
- the impact of the development on a potential non-designated heritage asset, namely potential below ground archaeology
- whether the development constitutes intentional unauthorised development and, if so, the weight to be attached to that; and
- the availability of alternative accommodation and other personal circumstances of the occupiers, including the best interests of any children, all in the context of Human Rights considerations and the Public Sector Equality Duty.

Reasons

The character and appearance of the landscape

16. As set out in the SOCG, the appeal site comprises 0.64 hectares of land located along the eastern side of Cransley Road, about 350 metres south of the village of Loddington. It is roughly rectangular in shape and bounded by a bridleway to the northwest (GR10) and by open fields to the east and northeast.

17. The site has hedgerows to all boundaries and is within a valley, whereby it slopes down towards the south. Access to the site is from Cransley Road via an entrance at the northern end of the road frontage, adjacent to the start of the bridleway. The northern end of the appeal site would remain as a grass paddock, with the access driveway running eastwards from the road, before turning south down the centre of the land, to serve 8 caravan pitches; 4 each side of the access road.

18. Although among the reasons for issuing the enforcement notice, the impact on the character and appearance of the landscape was not one of the original reasons for refusing the planning application. It was added by the Council's Planning Committee on 29 July 2020, after the appeals were lodged.

19. The appellant's planning consultant, Mr Brown, says Planning Policy for Traveller Sites (PPTS) acknowledges that some gypsy and traveller sites will be in rural areas and the countryside, and this has inevitable consequences. Caravans, hard standings, utility buildings and residential paraphernalia can be

atypical in the countryside, so some degree of visual harm must be accepted, if an adequate supply of gypsy sites is to be provided.

20. Policy 31(h) of the North Northamptonshire Joint Core Strategy 2011 – 2031 (JCS), adopted July 2016 requires that gypsy and traveller site development should not have "a significant adverse impact" on the character of the landscape. It should also take account of the Landscape Character Assessment of the area and provide appropriate landscaping and treatment to boundaries to mitigate any impact. This policy is compatible with the recognition that some harm is inevitable. Mr Brown says the test is whether unacceptable harm is caused, and he notes that paragraph 26 of PPTS makes clear soft landscaping can positively enhance the environment.

21. Whilst paragraph 174 of the National Planning Policy Framework (the Framework) says policies and decisions should recognise the intrinsic character and beauty of the countryside and valued landscapes should be protected and enhanced, Mr Brown draws attention to paragraph 175. This makes clear local plans should distinguish between the hierarchy of international, national, and locally designated sites. He acknowledged in oral evidence that the appeal site is in an attractive area of countryside, and the development will cause some harm. However, he said it is not nationally designated or identified in the development plan as being of any particular landscape quality; it is not really out of the ordinary and cannot be regarded as a valued landscape in terms of paragraph 174(a) of the Framework. I shall return to that issue.

22. In any event, the appellant says the site is only visible within short range views and any harm could be mitigated to some extent by hedgerow and tree planting carried out along the southern edge of the access driveway, between the proposed pitches and, in the south-western corner of the site. Mr Brown says the development is capable of assimilation into this part of the countryside without significant adverse effect on landscape character or visual amenity. Glimpses from Cransley Reservoir, the footpath, or road cannot have a significant adverse impact. He adds that PPTS places weight on sites not being so enclosed as to give the impression of being deliberately isolated from the rest of the community and CS31 places weight on landscape mitigation.

23. Mr Brown is not a landscape architect but said that some 40 years' experience as a planning consultant enables him to judge what will be acceptable in landscape and visual impact terms, which ultimately is a subjective judgement. In any event, the appellant draws support from the response to the planning application from the Council's landscape consultant.

24. The Council consulted Mr Dudley on landscape matters when the application was submitted. In short, his response[3] was that the development would be likely to result in some harmful effects upon the character and appearance of the local landscape, because of its incongruous appearance and the loss of characteristic grassland. It would not therefore entirely recognise the intrinsic character and beauty of this rural landscape, or accord with the Framework, PPTS and relevant development plan policies, including JCS Policy 31.

25. However, due to factors such as the restricted visual envelope of the site and the location of the development on the most sheltered part of the field, Mr Dudley's conclusion at the time was that the conflict with national and local

[3] Mr Brown's appendix 1

policies would be insufficient to make it unacceptable in landscape and visual terms.

26. However, in oral evidence, Mr Dudley explained that his initial consultation response was "a brief outline exercise based on information communicated", but it was "defective in terms of the baseline information relied on". He had used the field survey findings of the Council's planning officer, but his response would have been different had he personally undertaken a site visit. In cross examination, he said was not carrying out a full landscape and visual impact assessment (LVIA) at the consultation stage.

27. Ultimately, when the appeal was lodged, the Council revisited the issue of landscape character and visual impact, and Mr Dudley was instructed to prepare a full LVIA. I have that, in the form of his proof, along with a separate LVIA prepared by Ms Bolger on behalf of the R.6 party.

28. Both Mr Dudley and Ms Bolger are qualified landscape architects and explain that their LVIA's have been prepared in accordance with the third edition of the Guidelines for Landscape and Visual Impact Assessment (GLVIA), published by the Landscape Institute and Institute of Environmental Management and Assessment. That is the industry standard, generally regarded as best practice and it is a material consideration for me. In line with GLVIA, both landscape architects assess landscape and visual effects separately.

29. Mr Dudley's LVIA sets out the landscape and visual baseline context. Dealing first with **landscape impact**, in terms of Natural England's National Landscape Character Assessment, the site lies within the Northamptonshire Vales National Character Area (NCA). This is broadly described as a series of low-lying clay vales and river valleys, including those of the rivers Nene and Welland and their tributaries. However, it has several keys characteristics, of which Mr Dudley says the site and its landscape setting are highly representative, namely:

    - An open landscape of gently undulating clay ridges and valleys with occasional steep scarp slopes. There is an overall visual uniformity to the landscape and settlement pattern.
    - Diverse levels of tranquillity, from busy urban areas to some deeply rural parts.
    - A mixed agricultural regime of arable and pasture, with arable land tending to be on the broader, flat river terraces and smaller pastures on the slopes of many minor valleys and on more undulating ground.
    - Relatively little woodland cover but with a timbered character derived largely from spinneys and copses on the ridges and more undulating land, and from waterside and hedgerow trees and hedgerows, though the density, height and pattern of hedgerows are varied throughout.
    - A strong field pattern of predominantly 19th-century and, less frequently, Tudor enclosure.
    - Riverside meadows and waterside trees and shrubs are common, along with flooded gravel pits, open areas of winter flooded grassland, and wetland mosaics supporting large numbers of wetland birds and wildfowl.

- Frequent small towns and large villages often characterised by red brick buildings and attractive stone buildings in older village centres and eastern towns and villages. Frequent imposing spired churches are also characteristic, together with fine examples of individual historic buildings.

30. At the local level, Northamptonshire's current Landscape Character Assessment places the site within the Kettering and Wellingborough Slopes Character Area, associated with the Rolling Ironstone Valley Slopes Landscape Type. Among other things, that assessment says, "Despite urban influences having an impact on the character and perception of wide tracts of the landscape, much retains a quiet rural character." Mr Dudley says the following key characteristics are relevant to the site:

- Broad valley slopes dissected by numerous tributary streams.
- Ironstone geology expressed in local vernacular buildings and in rich red soils.
- Rolling landform, extensive views, and sense of exposure on some prominent locations.
- Steep slopes adjacent to more elevated landscapes.
- Numerous water bodies.
- Productive arable farmland in medium and large scale fields predominates on elevated land although sheep and cattle pastures are also prevalent, often in smaller fields adjacent to watercourses.
- Agricultural practices create a patchwork of contrasting colours and textures extending across valley slopes.
- Where broadleaved woodlands and mature hedgerow trees combine, these impart a sense of a well treed landscape.
- Building materials vary although vernacular architecture and churches display the local ironstone.

31. Mr Dudley concludes that the site and its setting are highly representative of the most positive characteristics of the Rolling Ironstone Valley Slopes. Detracting influences such as the presence of urban areas are notably absent, despite the proximity to Kettering. He says the site reflects the more positive and tranquil rural characteristics. The village of Loddington, on the ridgeline to the west, represents the only urbanising influence within this otherwise deeply rural valley landscape. However, it features a characteristic and imposing spired church and much of the village is covered by a Conservation Area designation

32. Mr Dudley says the valley is strongly characterised by the presence of the picturesque Cransley Reservoir, which the public can access and appreciate from public footpaths HC3 and GG6. The reservoir now has a tranquil, recreational character, with no motorised sports, and it supports sailing, paddleboarding and angling, as well as a Local Wildlife Site. The website of the sailing club based on the reservoir describes it as "one of the prettiest inland sailing areas in the county located in an idyllic valley", implying an associative value.

33. Mr Dudley notes that landscapes in Northamptonshire are not designated at local level. Nevertheless, he concludes in his proof and oral evidence that, having seen the area, the discrete rural valley landscape in which the appeal site is located is a "valued landscape", for the purposes of paragraph 174(a) of the Framework. In reaching that conclusion, he had regard to a range of factors including: landscape condition; scenic quality; representativeness; conservation interest; recreation value; and perceptual aspects, namely the tranquil deeply rural character.

34. Mr Dudley also had regard to the fact that Cransley Reservoir was protected by saved Policy 10 of the Local Plan for Kettering Borough, where development would not normally be permitted.[4] However, closer examination of the Proposals Map[5] in cross-examination of Ms Bolger, later established that the appeal side lay outside the defined area of the reservoir for the purposes of Policy 10. In any event, when the inquiry resumed on 17 May 2022 it was confirmed that Policy 10 was no longer saved, following the adoption of the Kettering Site Specific Part 2 Local Plan in December 2021.

35. Nevertheless, when cross-examined, Mr Dudley said his conclusion that this is a valued landscape was based on his full assessment, and the development plan requirement to have regard to the Landscape Character Assessment of the area, not just on the relationship with Cransley Reservoir or the former Policy 10 protection. I note that the Northamptonshire Landscape Character Assessment includes a statement that reservoirs are an important landscape feature.[6] I shall return to what is meant by "valued landscape."

36. Mr Dudley finds the landscape to be particularly sensitive to new development and says that, where it may be acceptable, development should contribute to local distinctiveness and reinforce vernacular styles. He conducted a site visit and identified the relevant landscape receptors, setting out a detailed analysis of their susceptibility to change; their value and overall sensitivity; the magnitude of change resulting from the proposed development; and the overall level of impact significance. His conclusions are summarised as follows:

Landscape receptor	**Overall level of impact significance**
Open, pastoral grassland typical of lower valley slopes	Major/Moderate Adverse.
Well-developed boundary hedgerows and trees	Moderate Adverse.
Adjacent Cransley Reservoir	Major Adverse.
Deeply rural character to surrounding landscape	Major/Moderate Adverse.
Overall character of the Site	Major/Moderate Adverse.
Overall character of the setting of the Site	Major Adverse

[4] Mr Dudley's proof paragraphs2.10 and 4.57.
[5] Inquiry document (ID) 6
[6] Ms Bolger's proof, paragraph 5.2.2.

37. On behalf of the R.6 Party, Ms Bolger also finds that the landscape surrounding the site is representative of several the key characteristics of the Northamptonshire Vales NCA. She particularly highlights the following, in broad agreement with Mr Dudley:

    - overall visual uniformity to the landscape;
    - diverse levels of tranquilly – the deeply rural character of the location, despite the proximity to the urban area of Kettering;
    - timbered character;
    - strong field pattern; and
    - frequent imposing spired churches, with the spire of the church at Loddington having a strong visual presence in landscape.

38. Ms Bolger similarly finds the landscape surrounding the site to be representative of the Kettering and Wellingborough Slopes Character Area, and the Rolling Ironstone Valley Slopes Landscape Type. She especially highlights the following factors, which again accords with Mr Dudley's assessment:

    - the rolling landform and extensive views;
    - the numerous waterbodies, in this case, Cransley Reservoir;
    - the patchwork of contrasting colours and textures extending across valley slopes; and
    - the sense of a well-treed landscape.

39. Ms Bolger finds that the ridge and valley formation is clear in the landscape surrounding the site and Cransley Reservoir is an important landscape feature lying between two ridges on which the villages of Loddington and Great Cransley are located. Cransley Road links those ridges, rising and falling with the rolling landform and, despite the proximity to the urban edge of Kettering the area has a well-managed rural character and a strong sense of place.

40. Ms Bolger finds that the value of the landscape in which the site is located is high. She undertakes a similar assessment to that of Mr Dudley and agrees that it should be considered a "valued landscape" for the purposes of paragraph 174(a) of the Framework. She describes the site as an integral part of the landscape that provides a setting to Cransley Reservoir. The previous character of the site, a small sloping hedged field of improved or semi improved grassland, was entirely in keeping with the rural nature and quality of this valley landscape and made a positive contribution to the setting of the reservoir.

41. In finding this to be a valued landscape, Ms Bolger also relied to some extent in her proof on her contention that the site was covered by Policy 10 of the Local Plan for Kettering Borough. However, when cross-examined, she accepted the site lay outside the Policy 10 area, and that policy is no longer saved anyway. Nevertheless, Ms Bolger maintained that a landscape does not have to be designated to be a valued landscape for the purposes of the Framework. This is consistent with advice in GLVIA and Technical Guidance Note 02/21 (Assessing

landscape value outside national designations), which is also published by the Landscape Institute and indeed Ms Bolger is one of its authors.

42. In any event, Ms Bolger said that, even if this is found not to be a valued landscape for the purposes of the Framework, that does not mean there would be no significant landscape harm, should the appeal proposals be allowed. It still contains many valued features which are an integral part of the intrinsic character and beauty of the countryside. Having regard to the distinctive qualities, she finds the following harm:

- The topography of the valley slope within the site has been altered and the overall integrity of the valley side harmed as a result of the ground levelling.
- There has been a loss of pasture, harm to the hedgerows and potential harm to hedgerow trees.
- The setting of the reservoir has been harmed by the introduction of visually intrusive and incongruous development.
- The impression of a well-wooded landscape has been interrupted.
- The settlement pattern has been diluted.
- The quiet, rural, and well managed character has been disrupted, particularly as experienced from Cransley Road.

43. Ms Bolger says the unauthorised and proposed works are not sensitive to the landscape setting and would harm rather than enhance the distinctive qualities of the Kettering and Wellingborough Slopes LCA. Whilst Mr Dudley looked at individual receptors, Ms Bolger explained in cross-examination that she takes a broader approach; there is no set procedure, but both approaches are consistent with GLVIA and require professional judgements. Her broad findings are that:

- the site has **medium/high** susceptibility to the change proposed due to the harm that would be caused to the distinctive qualities of the Kettering and Wellingborough Slopes LCA;
- considering the **high** value of the landscape in which the site is located and the **medium/high** susceptibility of the site to the development proposed, the sensitivity of the site to the proposed development is **medium/high;**
- the magnitude of change is **medium** and the nature of the change would be **adverse**. The overall effect on the landscape would be **moderate/major** adverse, the magnitude of change would be medium and the nature of the change would be adverse; and
- the overall effect on the landscape would be **moderate/major adverse**.

44. These conclusions are broadly in line with those of Mr Dudley and Ms Bolger confirmed that a moderate/major adverse effect amounts to a significant adverse impact in terms of JCS Policy 31(h).

45. Returning to the question of valued landscapes, on day 3 of the inquiry Mr Masters accepted that, having regard to *Nixon & East Herts DC v SSCHLG & Mahoney* [2020] EWHC 3036 (Admin)[7] a landscape does not have to be

[7] ID8.

designated to be a valued landscape for the purposes of the Framework; it is simply a matter of judgement. However, on resumption, Mr Masters reopened that question when taking Mr Brown through his evidence in chief. He ultimately submitted that, in *Nixon*, the court merely considered whether the Inspector had properly applied the test in *Forest of Dean DC v SSHCLG* [2016] EWHC 2429, the relevant passage from that judgment being quoted at paragraph 50 of *Nixon*, as follows:

> ""31. As I have indicated, it was common ground between the parties before the Inspector that the relevant landscape was not designated; and, following *Stroud*, the issue for the Inspector was whether the landscape was "valued" in the sense that it had physical attributes which took it out of the ordinary. On the basis of the submissions made to him, that was quite clearly an issue that required determination." [emphasis added]"

46. Mr Masters noted that both paragraph 174(a) in the current version of the Framework and paragraph 170(a) of the 2019 version, in force at the time of *Nixon*, stated as follows:

> "…Planning policies and decisions should contribute to and enhance the natural and local environment by:
>
> a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)…"

47. Mr Masters' point for the appellant is that, at the time of the judgment in *Forest of Dean*, the words in parenthesis were not included in the equivalent paragraph of the Framework. Mr Masters was one of the advocates in *Nixon* and says this point was never made to the court.

48. However, the question before the court in *Nixon* was, "whether the Inspector erred by finding that this was not a valued landscape within the meaning of [170] of the NPPF." Paragraph 170 was set out in full in the judgment, including the words in parenthesis. The court in *Nixon* was applying *Forest of Dean*, but nevertheless held in unequivocal terms that, "Ultimately the question of whether or not the area is a valued landscape is a matter of planning judgement. The Inspector applied paragraph 170 correctly by considering whether it was within a statutory designation and whether it had any particular qualities that took it out of the ordinary…"

49. I am unable to conclude that, having clearly stated the terms of paragraph 170, Mrs Justice Lieven simply misunderstood it. Where valued landscapes are designated, the Framework now requires their protection and enhancement in a manner commensurate with their designation. However, I am not driven to the conclusion that a landscape must be nationally or locally designated to be a valued landscape. Moreover, the requirements in JCS Policy 31(h) and 3 to take account of the Landscape Character Assessment of the area effectively necessitates protection commensurate with the identified quality of the landscape.

50. I am also mindful of Ms Bolger's evidence that, whilst a local landscape designation would indicate value, many planning authorities gave up on local designations, as they were encouraged by national policy to rely on criteria

based policies such as JCS Policy 3. It is unreasonable to assume all those local authorities no longer have valued landscapes outside national designations.

51. I respect Mr Brown's professional experience and judgement as a planner. However, I have summarised the more detailed, methodical, and rigorous analysis of the 2 landscape architects, in line with transparent criteria from GLVIA, and I find that more compelling. The proposed development, including extensive hard surfacing within the site, reprofiling and terracing, the alterations to the access, the proposed utility buildings, siting of mobile homes and caravans and erection of fences would effect a marked change in the character of the landscape.

52. Nothing from my own extensive inspection of the area leads me to depart from the landscape architects' conclusions. They clearly indicate that the development would be incongruous and have a significant and unacceptably adverse impact on the character of the landscape. I also accept their oral evidence that the harm to landscape character, as opposed to visual impact, could not be mitigated by planting. Mr Brown tended to talk as if landscape impact and visual impact were the same thing.

53. I also find that the landscape qualities identified mean the area is out of the ordinary. These include the deeply rural and tranquil character of the locality; its scenic quality and contribution to the setting of the very pretty Cransley Reservoir; and the degree to which the site and area are representative of key characteristics in the NCA & relevant Northamptonshire Landscape Character Assessment area. I am satisfied that it is valued landscape for the purposes of paragraph 174(a) of the Framework.

54. Turning to **visual impact**, Mr Dudley established a Zone of Theoretical Visibility to identify a list of visual receptors to guide his field survey and find representative viewpoints. These assisted my own unaccompanied inspections. The visual envelope is heavily influenced by the valley landform. Whilst no views are likely to be available beyond the ridges, the sloping nature of the site results in significant exposure across the valley slopes and reservoir, particularly in winter, given the deciduous nature of surrounding vegetation.

55. Mr Dudley considered the identified visual receptors in terms of their sensitivity to change, and the magnitude of change caused by the development, to form a view on the extent of any adverse impact. In the context of his belief that before the development of the site, there were no visually detracting features, Mr Dudley's conclusions can be summarised as follows:

Visual receptor	**Visual impact**
Users of Public Footpath GG6	Major/Moderate Adverse
Users of Cransley Reservoir	Major Adverse
Users of Public Bridleway GR10	Major/Moderate Adverse
Users of Cransley Road	Major/Moderate Adverse
Users of Public Footpath GR5	Moderate Adverse
Users of Northfield Road	Moderate Adverse

56. Ms Bolger similarly assesses visual effects as being a result of the sensitivity of visual receptors and the magnitude of change to existing views. She explains that the most sensitive receptors are residents at home; people engaged in outdoor activities whose attention is focused on the landscape and view; and visitors to heritage assets or other attractions, where views are an important part of the experience. The sensitivity of road users varies according to how busy or main the route is. Those on busy or main routes are considered to have medium or low sensitivity, whilst users of rural roads or scenic routes will have medium or even high sensitivity.

57. Having regard to the sensitivity of the visual receptors and the magnitude of change, Ms Bolger's conclusions in relation to what she identifies as the main receptors are as follows:

Visual receptor	**Visual impact**
Users of Public Footpath GR10	Moderate Adverse in summer Moderate/Major Adverse in winter
Users of Public Footpath GG6	Minor Adverse in summer Moderate Adverse in winter
Users of Cransley Road	Moderate Adverse in summer Moderate/Major Adverse in winter
Users of/visitors to Cransley Reservoir	Minor Adverse in winter Moderate Adverse in winter
Users of Public Footpath GR5	Minor Adverse

58. Mr Dudley and Ms Bolger therefore agree that the visual impact on users of the bridleway GR10 and Cransley Road would be moderate/major adverse, at least in winter, and this conforms with my own view. Whilst there were still leaves on the hedges and trees during my November site visits, it was clear that these vantage points afford more than the glimpsed views described by Mr Brown.

59. From the bridleway, even without the more urbanising effect of the proposed utility buildings and mobile homes, whatever their colour, the site represented quite a dense collection of caravans and vehicles. For those enjoying a walk or ride along the bridleway, this is a marked change from the previous pastoral field. The site appears incongruous in this tranquil valley, detracting from the rural setting of the reservoir and the area generally. Although some of the site residents said the site was untidy before they moved onto it, I have seen no evidence to indicate that its prior condition seriously diminished its value in visual amenity terms.

60. I note Mr Brown's contention that caravan sites are not unexpected in locations such as this. My attention was drawn to one Caravan Club Site at Northfield Farm, Northfield Road and, with the parties' agreement, I visited that location unaccompanied on 26 May 2022. However, that is some 2 miles by road from the appeal site and the caravan pitches are set back from

Northfield Road, with any views being screened by a roadside hedge and bank, and rising ground beyond those. Other than from signage, that caravan site was not apparent from the road, and I was not made aware of any public rights of way from which it might be viewed. The visual impact of that site is not comparable to that of the appeal site and its existence does not indicate that caravan sites are characteristic of this area.

61. From Cransley Road, there are views into the appeal site, which is now largely hard surfaced, with terracing and internal fencing and it is populated by caravans and vehicles. The proposal would add mobile homes and utility buildings and the alterations and increased hard surface at the access exacerbate the site's visual impact. That involves a prominent interruption to the former glimpsed views of the reservoir across a grassland site. Those views are clearly illustrated by photographs appended to Mr Dudley's and Ms Bolger's proofs. Whilst planting along the lines indicated on the site layout plan could partially mitigate the adverse visual impact, given the topography and extent of development, I am not persuaded that suitable planting would reduce it to an acceptable level.

62. Mr Dudley was more concerned than Ms Bolger about the impact on users of Cransley Reservoir, footpaths GG6 and GG5 and Northfield Road. Ms Bolger says the impact on users of and visitors to Cransley Reservoir is likely to be similar to that on the users of footpath GG6. I agree, save that those on the water will come closer to the site than those on GG6, which traverses the dam at the reservoir's eastern edge.

63. Mr Dudley's Zone of Theoretical Visibility plan indicates that this development on the lower valley side is likely to be visible across a significant proportion of the reservoir. The site was formerly an area of sloping pasture, which contributed to the attractive, rural backdrop to the reservoir; the "idyllic valley" setting referred to on the sailing club's website.

64. Being located on the ridge above the valley, the village of Loddington does not detract significantly from that setting. Notwithstanding that some of the village development may be recent, this is a historic settlement. Settlements on upper valley slopes are characteristic of the Kettering and Wellingborough Slopes Character Area, and St Leonards Church is an example of the imposing spired churches, which are among the key characteristics of the NCA.

65. Having regard to Ms Bolger's explanation of the sensitivity of receptors, the attention of people enjoying activity on and around the water will be focused on the landscape and views to a significant extent. The landscape and views will be important aspects of the experience of the reservoir, as an attraction in itself. Taking the evidence of Mr Dudley and Ms Bolger together with my own observations, I am satisfied that the visual impact of the development on users of Cransley Reservoir will be at least moderate/major adverse.

66. The attention of users of footpath GG6 will also be focussed on the landscape and view, but from further away than for some users of the reservoir. Caravans on the site were visible from that footpath when I visited, as was some lighting at dusk. I would chart a middle course between the evidence of Mr Dudley and Ms Bolger on this. I conclude the impact on those users would be moderate adverse, even though lighting, including from caravans, utility buildings and vehicles could exacerbate the impact after dark.

67. In reaching that conclusion, I have taken account of the fact that, as I walked south in failing light across the dam on footpath GG6, my eye was to some extent drawn to the extensive lighting around Nus Hill Lodge to the southeast of the appeal site, particularly that around the property's access road. Nus Hill Lodge appears on an 1884 Ordnance Survey map and, whilst it is probably largely residential now, it has obvious agricultural origins. That lighting does cause some harm, but Nus Hill Lodge is not on the same valley side as the appeal site, which was previously dark, between the reservoir and Loddington on the ridge.

68. The existence of lighting at Nus Hill Lodge does not justify its introduction at the appeal site location. External lighting could be controlled by condition to some extent, but there would be at least some light spillage from mobile homes, caravans, utility buildings and vehicles.

69. Though some distance from the appeal site, footpath GR5 affords panoramic views across the pastoral valley. It allows a good appreciation of the very attractive, tranquil, and largely undeveloped rural character of the area. Users of the footpath can see the Loddington Grange farm complex nearby to the east, and a barn to the northeast of the appeal site. However, these are expected features a rural setting and are not located in the valley bottom.

70. When I walked footpath GR5, I could see one white shape on the appeal site. However, the deciduous tree and hedge cover was still substantially in leaf. There would probably be more significant views in winter, and when the mobile homes and utility buildings were in place, along with attendant touring caravans and vehicles. This would be so, even if the mobile homes were finished in colours other than white, and even with further suitable planting on site. I am satisfied that the visual impact on this receptor would be moderate/adverse in winter.

71. From Northfield Road[8] too, I could see white shapes on the site, which I knew to be caravans. However, the distance is significantly greater than that from relevant parts of footpath GR5, and the buildings at Nus Hill Lodge are more prominent in the intervening ground. Drivers, and even vehicle passengers, are unlikely to notice the appeal site, given the distance and their probable speed of travel.

72. Furthermore, whilst this rural road may attract walkers, cyclists, and riders, unlike footpath GR5, its function is not primarily recreational walking, so peoples' attention would not be so focused on the landscape and view. Ms Bolger does not assess visual impact from Northfield Road itself and, in all the circumstances, I find that the impact on this receptor would be no more than minor/adverse.

73. For the reasons given, I find that the development would have a moderate/major adverse visual impact on the users of bridleway GR10, Cransley Reservoir and Cransley Road. It would have a moderate adverse impact on the users of footpath GG6 and GR5 and a minor impact on users of Northfield Road. All of these, save perhaps Northfield Road, are important vantage points.

[8] In particular, Mr Dudley's viewpoint 5, at his appendix 7.

Conclusions on the first main issue

74. Any gypsy caravan site is likely to detract from the character and/or appearance of the countryside in some way and it is clear from PPTS that such sites can be acceptable in the countryside. However, I have had regard to the scale, characteristics, and visual impact of this particular development in this specific, deeply rural, and tranquil valley landscape. I have been guided by the transparent assessments made by two highly experienced and qualified landscape architects.

75. Notwithstanding the deficiencies in the initial consultation response to the Council, the assessments now before me have been carried out in accordance with GLVIA. For all the reasons given, I conclude that, having regard to the Landscape Character Assessment of the Area, the proposal would have a significant adverse impact on the character of the landscape, and a significantly detrimental visual impact on the countryside. Neither of these impacts could be adequately mitigated by appropriate landscaping or boundary treatment. The advice in PPTS that traveller sites should not be enclosed with so much hard landscaping, high walls, or fences to create an impression of deliberate isolation does not mean these detrimental impacts should be tolerated.

76. The development therefore conflicts with JCS Policy 31(h), which is the most directly relevant one. However, I need to consider the most relevant policies; not just the single most relevant policy. As found in another recent appeal Ref APP/L28/W/20/3247096 in this Council's area,[9] and as ultimately accepted by Mr Brown in cross examination, JCS Policy 3 is also relevant in conjunction with Policy 31(h). This is so notwithstanding the Council's decision notice did not refer to Policy 3. The scheme also conflicts with that policy, which requires development to be located and designed in a way that is sensitive to its landscape setting, retaining and, where possible, enhancing the distinctive qualities of the landscape character area which it would affect.

77. At paragraph 174(b), the Framework requires decision makers to recognise the intrinsic character and beauty of the countryside. The significant adverse impact in this case means that a grant of planning permission would not recognise that. In addition, whilst the conflict with JCS Policies 31(h) and 3 does not depend on this, as the landscape is worthy of protection anyway, I have also found that the site lies within a valued landscape. Paragraph 174(a) of the Framework indicates that such landscapes should be protected and enhanced. The appeal scheme would fail to do so, and this breach of national policy exacerbates the conflict with the development plan policies.

78. Regardless of whether I am correct to conclude that the site lies within a valued landscape, the harm to the character and appearance of the landscape is significant and carries substantial weight.

Access to services and facilities

79. JCS Policy 31(a) requires gypsy and traveller sites to be closely linked to an existing settlement with an adequate range of services and facilities. The policy does not define "closely linked" or what amounts to an "adequate range of services and facilities." However, I am satisfied that the approach taken by the

[9] Mr Jupp's appendix 15.

Inspector in a recent appeal Ref APP/L2820/W/20/3247096[10] (the Bowd Field appeal) is reasonable.

80. Accordingly, reference can be made to advice in PPTS. Paragraph 25 says new traveller site development should be very strictly limited in the open countryside, away from existing settlements or outside areas allocated in the development plan. Paragraph 13 seeks to promote access to health services and schools and the provision of settled bases to reduce the need for long-distance travel.

81. The appellant contends paragraph 25 is aimed more at limiting encroachment into the open countryside but, like the Inspector in the Bowd Field appeal, I see no reason why it cannot also concern access to services and facilities. Although paragraph 13 is in the plan making section of PPTS, it follows from paragraph 4 in the general introductory section, which sets out the Government's aims in respect of traveller sites. These include enabling the provision of suitable accommodation from which travellers can access education, health, welfare, and employment infrastructure. It is appropriate to consider both the spatial and functional relationship with settlements.

82. Policy 31(a) does not explicitly say that for a site to be closely linked to a settlement, there must be access via sustainable transport modes. However, if access can only realistically be gained through private car journeys, that has a bearing on how close the link is in practice.

83. Furthermore, paragraph 105 of the Framework says significant development should be focussed on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. Mr Brown accepted in cross-examination that whether development is significant in this context is a matter of planning judgment. Given the number of pitches and the likely number of residents, this is a significant development in this rural location. That said, paragraph 105 acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be considered in both plan-making and decision-making.

84. The village boundary of Loddington is only about 350m north of the appeal site. However, Cransley Road is subject to the national, 60mph speed limit, and has no footways or lighting. From my own observations, conditions do not make walking an attractive proposition, particularly with young children, for example to get to school, and/or in poor light or weather. Pedestrians are highly likely to encounter cars and, having regard to the highway evidence, 85th percentile speeds are above 40mph. Less confident cyclists may also find this route into the village unattractive. The bridleway offers an alternative walking route but is longer and the surface will be muddy in wet weather. None of the site residents indicated that they use it to walk into Loddington.

85. In any event, Mr Brown accepted in cross-examination that it is the close links to services which count, rather than just the settlement boundary. Loddington offers only a limited range of services, namely a primary school, 1.05km away; a pub at 1.03km; a church, 1.3km away; a children's playground at 1.4km and

[10] Mr Jupp's appendix 15 and Mr Brown's appendix 9.

a village hall, 1.1km away. A post office is run from the village hall for 2 hours on a Monday.[11]

86. Mr Brown's proof indicated that, in the emerging Kettering Site Allocations Part 2 Local Plan, Loddington was among the "Category A" villages, which he described as being the most sustainable locations for small scale development. I am not aware that this categorisation changed when the plan was adopted, but the Local Plan Inspector's report, appended to Mr Brown's evidence, indicated that only infill sites would normally be permitted within the settlement boundaries of Category A villages.

87. Even if the appeal site could be said to be closely linked to Loddington, it is not within the settlement boundary and that village does not provide an adequate range of services and facilities sufficient to satisfy JCS Policy 31(a). The written evidence refers to a bus service and there is a bus stop/shelter in Loddington. However, oral evidence satisfied me the service was discontinued some years ago and I saw no indicators of an active service at the bus stop. There appears to be no bus service to Great Cransley either.

88. The written evidence was that there was a pub at Great Cransley, to the south of the site. However, I was told this has closed, and there are no facilities in Great Cransley, aside from a village hall.

89. Broughton has a primary school, convenience retail, hot food takeaway, village hall and public house. It is also a Category A village but, although it lacks a GP surgery, it might be said to provide an adequate range of services and facilities. Nevertheless, it is 2.9km by road from the site, being separated from it by fields and open countryside, Great Cransley and the A43. It is not a comfortable walk from the appeal site, either in terms of distance or the walking environment along much of the route. Although one site resident said his children cycle to the shops by road, there is no evidence that site residents often do so, and less confident cyclists may also find this route into Broughton unattractive. Other residents told me that they use their cars for shopping, and Mr Brown indicated cars are likely to be used for most journeys.

90. Broughton is not closely linked to the appeal site in spatial terms and access to it is likely to be by private car. Rothwell is categorised as a market town and has a wider range of services and facilities, including a GP surgery. However, it is further from the appeal site, and at 5km, Kettering Town centre is more distant still.

91. I note the Inspector's comments in the 2013 appeal Ref APP/J0405/C/13/2193601[12] (the Willows Park appeal). This concerned a site 800m from the nearest hamlet, 1.5km from the nearest village of Slapton, and 5km from facilities and services essential for day-to-day living. Albeit that the site was served by school buses, the Inspector found that the occupiers would rely on the private car and travel moderate distances to access shops and services. In the context of the Framework and PPTS at the time and, having regard to the fact that gypsies have a travelling way of life, the Inspector concluded that site would not be unacceptably unsustainable. It would be no less sustainable than

[11] Both the Council and R.6 party provide measurements. Where they differ, I have used the shortest measurement.
[12] Mr Brown's appendix 2.

a small housing scheme that the local plan would permit on the edge of Slapton.

92. However, the Willows Park decision concerned an extension to an existing site and was made in a different development plan context and specifically not against the background of any policy like JCS Policy 31(a). Furthermore, whilst the version of PPTS current at the time of the Willows Park appeal decision provided that local planning authorities should "strictly limit new traveller site development in open countryside", the word "very" has now been added. Mr Brown accepted in cross examination that the purpose of this must have been to "beef up" the limitation.

93. By contrast, appeal Ref APP/L2820/W/15/3131916[13] (The Braybrooke appeal) concerned a gypsy site at Braybrooke in this district, and the application of JCS Policy 31. The nearest settlement with an adequate range of services was the town of Desborough, some 3.5km away and the Inspector found that most journeys would be made by private car. In this case, the appellant says Rothwell provides a similar range of services to Desborough and, at 3.4km, it is a very similar distance from the appeal site.

94. However, in the Braybrooke appeal, several children from the site had attended school in Desborough for many years; the appellants were registered with doctors and dentists there; and some of the occupiers were employed in the town. The Inspector concluded that whilst the appeal site maybe physically detached, there were strong established economic and social links between the use of that site for gypsy and traveller purposes and the existing settlement. As a result of the existing patterns of travel and usage, the Inspector considered that the site would satisfy the requirements of Policy 31.

95. Although one resident said his children had made friends with others in the village, there is no evidence to show similar existing patterns and functional links in this case to enable me to identify a close link, in terms of Policy 31(a). Some residents keep horses 8 miles away and others keep them near Leicester, visiting once or twice per week. Some site occupants also make the 70 mile round trip to Leicester to attend their chosen church, 3 times per week. Other spend 4- 5 months of each year in Canada.

96. As a matter of judgment in this case and having regard to the most recent Bowd Field appeal decision, I conclude the appeal site is not closely linked, either spatially or functionally, to an existing settlement with an adequate range of services and facilities. There is therefore conflict in this case with JCS Policy 31(a) and PPTS paragraph 25.

97. I acknowledge that adequate services and facilities can be accessed through relatively short car journeys and sustainable transport solutions are inevitably more limited in rural areas. Nevertheless, there will be rural sites which, notwithstanding their spatial separation, have better access to services and facilities on foot or by other sustainable modes of transport.

98. I also acknowledge that the provision of a settled base could limit journeys for work, as well as to find places to stay, whilst also enabling access to health and education services in line with PPTS 4 and 13. These are material considerations, notwithstanding the conflict with JCS Policy 31(a), paragraph

[13] Mr Brown's appendix 6.

105 of the Framework, and PPTS paragraph 25 and I therefore attach limited weight to the harm arising from the lack of close links to services and facilities.

Highway safety

99. JCS Policy 31(e) and (f) together require, among other things, that gypsy and traveller sites should have satisfactory and safe access. JCS Policy 8(b) similarly seeks to ensure satisfactory access and avoid prejudice to highway safety. These policies are consistent with paragraph 111 of the Framework, which provides that development should be prevented where there would be an unacceptable impact on highway safety.

100. Cransley Road is an unclassified rural distributor road, and in the vicinity of the appeal site, it is subject to the national speed limit of 60mph. There is a slow bend to the south of the site access. In front of the site and to the north, the road is straight, but it rises, creating a crest. That crest restricts visibility to the north, whilst hedges limit it to the south.

101. The key difference between the parties is whether visibility splays should be provided in accordance with the Design Manual for Roads and Bridges (DMRB) or Manual for Streets (MfS or MfS1) and MfS2. I heard a great deal of evidence concerning this question.

102. The appellant's broad starting proposition is that the advice in DMRB is aimed at maintaining constant speed and indeed TD 41/95 said the aim was to ensure emerging traffic did not influence speeds on major roads. However, TD 41/95 has been superseded by CD123 & CD185 and there is no longer any reference to that purpose. I respect Mr Brown's extensive experience as a professional planner but am not persuaded that this fundamental statement of purpose was removed purely to "reduce verbiage", as he suggested. Both expert highway witnesses, namely those for the Council and R.6 party, expressed the view that DMRB advice concerning visibility splays is also aimed at ensuring vehicles can stop safely and that is probably correct.

103. The 'Status and application' section of MfS says:

> "MfS focuses on lightly-trafficked residential streets, but many of its key principles may be applicable to other types of street, for example high streets and lightly-trafficked lanes in rural areas. It is the responsibility of users of MfS to ensure that its application to the design of streets not specifically covered is appropriate. MfS does not apply to the trunk road network. The design requirements for trunk roads are set out in …DMRB."

104. MfS indicates that "streets" are highways which have "important public realm functions beyond the movement of traffic." They should have "a sense of place" and they also provide direct access to the buildings and spaces that line them. In these terms, Cransley Road is not a street and MfS focuses on residential streets. However, as indicated, it also applies to lightly-trafficked lanes in rural areas.

105. An automated traffic count (ATC) commissioned by the Highway Authority in June 2020 indicated 886 daily vehicle movements. For the appellant, Mr Brown drew attention to paragraph 7.9.3 of MfS which refers to "a relatively low limit on traffic flow (300 vehicles per peak hour or some 3,000 vehicles per day)." However, that relates to decisions about whether direct access is appropriate.

Mr Brown accepted it does not provide a definition of lightly trafficked for the purposes of MfS and I do not consider those figures directly relevant.

106. The expert highway witnesses did not consider Cransley Road to be a lightly trafficked rural lane and cautioned that the ATC was conducted during a period of Covid-19 restrictions. Travel restrictions were in place and working from home was encouraged[14]. Accordingly, the ATC will have revealed uncharacteristically low vehicle movements. This was accepted by Mr Brown who, in oral evidence, indicated that a more recent survey had revealed some 1,500 vehicle movements per day.[15]

107. In any event, Cransley Road is a rural distributor road which links Loddington to Great Cransley, Broughton and the A43. Notwithstanding the rural setting and having regard to my own observations and the evidence of a neighbouring resident, I see no reason to disagree with the view of the expert highway witnesses that it is not a lightly trafficked rural lane, in terms of MfS.

108. The 'Status and application' section of MfS2 says:

> "MfS2 builds on the guidance contained in MfS1, exploring in greater detail how and where its key principles can be applied to busier streets and non-trunk roads, thus helping to fill the perceived gap in design guidance between MfS1 and…DMRB.
>
> DMRB is the design standard for Trunk Roads and Motorways … The strict application of DMRB to non-trunk routes is rarely appropriate for highway design in built up areas, regardless of traffic volume."

109. The appeal site is not in a built up area, but para 1.3.2 of MfS2 says MfS should be the designer's starting point for any scheme affecting non-trunk roads. Paragraph 1.3.1 and table 1.1 indicate that key areas of advice, derived from principles contained in MfS can be applied, based on speed limits. Those areas of advice include stopping sight distance (SSD) but where, as here, the speed limit exceeds 40 mph, this is subject to local context.

110. Having regard to the evidence in this appeal, the local context is that there are no public realm features, or significant 'friction' associated with people crossing, children appearing from behind parked cars, or vehicles exiting from side roads. Paragraph 1.3.7 of MfS2 acknowledges that many parts of the highway network in rural areas are subject to the national speed limit but have traffic speeds significantly below 60mph. It provides that, in these situations MfS SSD parameters are recommended.

111. However, the appellant commissioned handheld radar speed surveys at one location to the north of the appeal site access and 1 to the south. These recorded average 85th percentile speeds of 40mph northbound, 41mph southbound and up to 42mph past the site. The Council's ATC survey was conducted at one point 100m to the north of the site access. That survey recorded 85th percentile speeds of 46.2mph southbound and 45.4mph northbound. The Council suggests the ATC results are more reliable as handheld radar guns can affect driver behaviour. There is logic in that position

[14] ID20.
[15] I have not seen that survey, because it was part of expert highway evidence which the appellant had attempted to introduce very late in the proceedings, shortly before resumption in May 2022. Having sought and considered written representations from the parties, I refused to accept that evidence.

and whilst, within DMRB, CA 185 indicates that handheld radar surveys are acceptable, it acknowledges that potential effect.

112. There was extensive debate about whether, when calculating SSDs under MfS it is necessary or appropriate to apply a wet-weather reduction to speeds ascertained through surveys undertaken in dry weather. Whatever the correct position in that context, I see no reason to make such an adjustment when taking account of actual speeds as part of my judgment of whether MfS or DMRB is appropriate.

113. Taken together, the survey evidence indicates that speeds on this section of Cransley Road exceed 40mph. In these circumstances, having regard to MfS2 paragraph 1.3.1 and table 1.1, and given the overall local context described, as a matter of judgement, I am not persuaded that the guidance in MfS is appropriate. I will look instead to DMRB. When applying DMRB, both highway experts confirmed there is no requirement to make a wet-weather adjustment to speeds recorded in dry weather; CA 185 only requires an adjustment from wet to dry.

114. In CD 109 and CD 123, DMRB indicates that visibility splays should be measured using a set back from the carriageway edge ('X distance') of 2m, a driver's eye height of 1.05m and an object height of 0.26m. By contrast, the object height specified in MfS and MfS2 is 0.6m. There was lengthy debate about the reasoning behind that 0.26m object height. Mr Brown said it would represent no more than a person lying in the road and Mr Dudley contended that it could cover a recumbent bike. I favour Mr Brazier's explanation that 0.26m is just a point at which you can see a vehicle travelling along the road; you can see part of a vehicle as it emerges over the crest of a hill. In any event, 0.26m is the height specified in DMRB.

115. For the appellant, Mr Brown only calculated visibility splays in accordance with MfS. For the Council and R.6, Mr Draper and Mr Brazier calculated them in accordance with DMRB. Their approaches differed in that Mr Draper used both the ATC and radar speed survey results. He also extracted different figures from the appellant's survey, which was conducted at two locations; one to the north of the appeal site access and one to the south. It was also conducted for 1 hour in the morning and 1 hour in the afternoon at each location and this enabled Mr Draper to determine both maximum and average 85th percentile figures from those results. To be more generous to the appellant, Mr Brazier relied entirely on the appellant's speed survey results.

116. Mr Draper's proof indicated that, under DMRB, the required visibility splay to the north would be 128-132m, based on the 45-46 mph ATC survey result; or 110m, based on 42mph, being the maximum 85th percentile radar survey speed southbound. He also provided a figure based on the 85th percentile speed in both directions north of the access. However, the relevant speed is that of southbound vehicles, towards the site access.

117. Mr Brazier's proof indicated that the required visibility splay to the north would be 103.2m. This is based on 40mph, being the average of the 85th percentile southbound vehicle speeds, as measured in the morning and afternoon radar surveys.

118. Turning to the required visibility splay to the south, Mr Draper's proof did not cover this, but Mr Brazier's indicated that it should be 108m, based on 41mph,

this being the average of the 85th percentile northbound vehicle speeds, as measured in the morning and afternoon radar surveys. The evidence regarding required visibility splays under DMRB was not challenged by the appellant, who relied on his contention that they should be determined in accordance with MfS, a contention which I have rejected.

119. Various figures were given for achievable splays in written and oral evidence, but it was agreed that these should be assessed on site. Those attending the site visit included Mr Brown for the appellant and Mr Draper for the Council. With their agreement, various measurements were taken and agreed using a measuring wheel. These included those based on the 2m X distance, 1.05m driver's eye height, and the 0.26m object height specified in DMRB.

120. On that basis, the agreed available visibility splay to the north is 81.2m. This is significantly short of even the lower requirement figure of 103.2m, suggested by Mr Brazier, based on the appellant's radar survey.

121. The agreed available visibility splay to the south is 69.9m. This is even further short of the 108m splay requirement identified by Mr Brazier, using the appellant's speed survey results.

122. I note that, leaving aside the possible detrimental impact on character and appearance, visibility to the south could be improved by cutting back the hedge. Furthermore, the 69.9m was measured to the nearside carriageway edge. Whilst there is nothing to stop vehicles crossing the centre line, it is only overtaking vehicles which are likely to be in that carriageway approaching the site access. Visibility of vehicles approaching in the far side carriageway is much better, until the road bends to the right beyond the southern extremity of the site. That said, even under MfS, the appellant's evidence is that a visibility splay of 79.2m would be required to the south. Bearing in mind that MfS recommends an X distance of 2.4m, the available splay measured on site was only 50m to the nearside carriageway edge.

123. I am mindful of the fact that there have been no recorded personal injury accidents on this stretch of road in the past 5 years. However, the current use of the site commenced less than 3 years ago. Before that, use of the site access would have been very limited. Moreover, for much of the time since the appellant's use commenced, traffic on Cransley Road will have been significantly reduced by Covid-19 restrictions. The lack of recorded accidents therefore provides insufficient reassurance.

124. I conclude on the evidence that, because of restricted visibility, there would not be satisfactory and safe access to the site, and there would be an unacceptable impact on highway safety. This concern is exacerbated by the likely frequent need for vehicles to enter and exit the site towing caravans. The possible scope for cutting back vegetation to the south would not overcome this, whilst potentially adding to the harm to character and appearance. For the reasons given, the development would conflict with JCS Policies 31(e) and (f) and 8(b), and with paragraph 111 of the Framework and I attach significant weight to that harm.

Whether the development will result in contaminated runoff impacting on the Cransley Reservoir Local Wildlife Site

125. This issue was considered at an RTS, in which the main participants were Ms Burnham and Mr Jupp for the Council, Mr Brown for the appellant and Mr Hughes for the R.6 party. Ms Burnham is the Senior Flood Water and Water Officer for West Northamptonshire Council, which currently provides Lead Local Flood Authority services to the Council. She was the only witness to give expert evidence on the drainage issue and the R.6 party adopted the Council's position. Comment in Mr Brown's proof was limited to a statement that the site is not located within an area shown on the Environment Agency's flood maps as being at high risk from flooding.

126. Ms Burnham confirmed there are no concerns regarding flooding on the site itself, but there is a risk of flooding from increased runoff from it. Surface vegetation has been removed and hardcore has been deposited across the central and southern parts, formed into terraces, to reduce the natural gradient.

127. Though not covered in their written evidence, two of the site residents said hardcore, comprising large stones, was deposited on site to a depth of about 1m. However, Mr Jupp said he went on site during construction and saw that brick rubble was being used, but with very small pieces and a lot of fines, rather than large lumps. Given the detail, I consider that the best evidence I have on the nature of the hard surface, below the top layer. I have no excavation survey evidence before me, and Mr Brown did not visit during construction.

128. Nevertheless, although this was not covered in his proof, Mr Brown indicated that the hardcore is permeable and said that, from information on the British Geological Survey (BGS) Website, the underlying geology is a weathered Northamptonshire Sand formation. Accordingly, he contended that surface water could discharge to the ground via infiltration. However, Ms Burnham said in her proof and confirmed at the RTS, BGS data indicates the site is likely to be underlain by Whitby Mudstone, which will have limited infiltration potential. Though gravel and sand layers may be present at shallow depths in the southern part of the site, which could allow some infiltration, she says the proximity of the water course and possible high groundwater levels at this location would likely preclude infiltration as an option for discharge of runoff.

129. Furthermore, Ms Burnham said, as the hard surface includes "MOT type 1" material comprising gravel, sand, and silt, this will compact down very hard to form an almost impermeable surface over time, regardless of the underlying geology. Even though water may pass quickly through upper layers of larger stone, and indeed one site resident says water never lies on the surface, this compaction is likely to greatly reduce permeability.

130. Following the conclusion of the RTS on drainage and indeed only at the end of the next RTS on ecology, both of which were on 19 May 2022, Mr Masters sought to submit a percolation test. When I asked why this had not been tendered before, I was told that it had been "set in motion" in January, but the expert had been ill, instructions had only been given in March and the report had only been received on 17 May. So, this exercise was not considered until 2 months after the November 2021 adjournment, and instructions were not

given until around 5 months after proofs were exchanged and more than 2 years after the refusal of planning permission. Mr Jupp also said, in any event, a percolation test should have been carried out carried out over longer period.

131. I was anxious to ensure the appellant had a proper opportunity to present his appeal. However, this evidence was extremely late, with no satisfactory explanation for this, and the drainage RTS had already been concluded without reference to the percolation test, even though the appellant apparently had the results. The other parties would have needed an opportunity to consider and comment on the evidence, necessitating a further, probably lengthy adjournment, given that the programme was already very tight. As the appeal had already been significantly delayed, I declined to accept the evidence, as to do so would not be fair to all parties or consistent with my responsibility to ensure the efficient progress of the inquiry.

132. Mr Masters suggested during the drainage RTS that I could work on the basis that the surface may not be permeable, but conditions could require a percolation test and Sustainable Drainage System (SuDS). On the balance of probabilities, the development, which would also include buildings, mobile homes, and caravans, as well as hard surfacing, would greatly reduce the permeability of the site and increase the volume and rate of runoff.

133. The Council's concern is the increased rate of runoff downhill towards the Cransley Reservoir Local Wildlife Site (LWS) to the south and that this could carry contaminants to that site. In terms of the quality of the runoff, the main concerns for the impact on the reservoir in this case relate to oils from vehicles, detergents, de-icers etc. In addition, there is a concern about contamination from sewage (nitrate, ammonia, and phosphate), given that connection to a main sewer is not feasible, though this aspect was discussed in more detail at the ecology RTS.

134. Mr Brown accepted there would be the potential for contaminated runoff but argued measures on site could delay the progress of water, so it would not exceed the greenfield runoff rate. Furthermore, he said membranes could be used to intercept pollutants before they reach the watercourse. He considers that water would infiltrate to the ground so that there would be no need for formal consent to discharge to the watercourse.

135. However, without a percolation test in line with BRE 365 methodology, I am not persuaded that infiltration is likely to be the solution. There are no surface water or combined sewers within the vicinity of the site to which it could be connected. Therefore, on the evidence before me, it is probable that discharge would be to the watercourse to the south. However, this is on land in separate ownership and there is no evidence that the owner would consent to the installation of the necessary drainage connection.

136. Having regard to the number of amenity buildings, mobile homes, caravans and hard surfacing, Ms Burman indicated in her proof that around 600m^3 of runoff may need to be stored near the southern boundary. Mr Brown advanced a much smaller figure during the RTS. It appears he did not take account of climate change, which undermines his calculation and, more importantly, his reduced figure was based on the view that the hard surface is permeable. I cannot accept that for the reasons already given. As Mr Jupp indicated, even if

the upper surface is permeable, it will not provide storage, as the water will simply run off the impermeable surface below, down towards the watercourse.

137. Ms Burnham's evidence is that 600m^3 of storage could not be accommodated on the southern part of the site. Though none was mentioned in his proof, Mr Brown suggested a range of storage solutions, including permeable paving for the access road, with storage tanks below; platforms for caravans with linear drains to the southern edges; additional linear drains, filled with gravel and lined with membranes to intercept water as it passes down the site and to catch pollutants; below ground storage containers within the pitches themselves, with the tanks releasing water at the greenfield rate; and rainwater harvesting.

138. The Council was not satisfied that such a scheme is capable of being designed for this site and Mr Jupp and Mr Hughes said they would have expected a design to be submitted, even if only during the appeal. Mr Hughes said a strategy is normally submitted with an application, at least to address geology and enable decision makers to be safe in imposing conditions. On the best evidence available to me, I am not satisfied that a solution could be presented to store the likely volumes of water prior to infiltration.

139. It is not uncommon in retrospective or part retrospective cases for conditions to be imposed requiring the submission of schemes for approval, with the ultimate sanction of cessation of the use should one not be approved and implemented. However, though Mr Brown only put these various options to Ms Burnham for the first time at the RTS, she had various concerns. She said filter drains are not considered to be standard practise or appropriate in residential areas in the CIRIA SuDS Manual because of sedimentation and the resulting need for constant maintenance. A secondary system would be required to capture sediment solids and space is needed for the tanks and for maintenance.

140. Ms Burnham explained that, even with tanks within pitches, given that discharge to the ground is unlikely to be the solution, the controlled release of water to the watercourse would need to be via a hydro-brake. It is therefore likely that a piped connection to the watercourse would be required, and there is no evidence of owner consent for this.

141. The evidence before me is insufficient to demonstrate that a system along the broad lines proposed by the appellant could manage the likely quantity of runoff. Moreover, I am not persuaded that the imposition of a condition requiring the submission of a scheme involving the very extensive operations outlined by Mr Brown for the first time at the inquiry would be reasonable. This concern would apply with even greater force to a temporary permission. In any event, any effective scheme would probably depend on consent for a connection to the watercourse, and there is no evidence this would be forthcoming.

142. I conclude on this issue that the development will result in contaminated runoff impacting on the Cransley Reservoir Local Wildlife site. This may include contamination from sewage because, as emphasised by the Council in closing, any sewage system would also rely on infiltration to be effective. Rather than carrying separate weight, this conclusion feeds into and informs consideration of the next main issue.

The effect of the development on ecology, including protected species and the Cransley Reservoir Local Wildlife Site

143. The main participants in the RTS on this issue were Ms Webb for the Council, Mr Sibbett for the R.6 party and Mr Brown for the appellant. Mr Jupp and Mr Hughes also contributed, but expert evidence was given by Ms Webb and Mr Sibbett. In giving evidence for the appellant, Mr Brown relied on a Preliminary Ecological Assessment (PEA) prepared by an ecologist in September 2019 and then revised in January 2020, together with a clarification note dated 6 November 2021. A signed copy of that note was submitted during the inquiry.[16]

144. The appellant's ecologist produced the PEA and revision following a site survey undertaken on 26 September 2019, shortly before the unauthorised works began. Whilst acknowledging that the site abuts the Cransley Reservoir Local Wildlife Site (LWS) to the south, the updated PEA indicated that, apart from the boundary hedgerows, the site would not contain or abut any Biodiversity Action plan priority habitats or other habitats of particular ecological interest. It found no use of the site by protected species other than some use of the hedgerows by badgers, and concluded the site had moderate potential suitability for foraging/commuting bats, with two trees providing low and moderate bat roost potential.

145. Among other things, the PEA recommended as large a buffer as reasonably possible be retained between the construction footprint and the southern site boundary, adjacent to the LWS. It also recommended that the scheme should incorporate sufficient drainage/sewerage to prevent any contamination of the LWS, including the stream corridor.

146. The appellant's ecologist appears to have been very experienced, but both Ms Webb and Mr Sibbett say his PEA and update were seriously substandard. In short, they maintain the reports: were severely deficient in their understanding of the site's ecological features prior to development; contained unachieved and unachievable mitigation measures; and failed to recognise the harm that has already occurred as a result of the development.

147. Mr Sibbett made an official complaint to the Chartered Institute of Ecology and Environmental Management (CIEEM), as the appellant's ecologist was then a member. The Institute's magazine reported that, following a hearing on 20 May 2020, the appellant's ecologist was formally reprimanded with conditions for "having failed to meet the required standard of ecological survey, assessment and reporting."[17] When Mr Sibbett checked in March and October 2021, the ecologist was no longer listed as a member of the CIEEM.

148. The appellant's ecologist's clarification note of 6 November 2021 suggests any criticism of their September 2019 PEA should be disregarded, as it was superseded by the January 2020 revision. However, Mr Sibbett confirmed what was said in his proof, namely that the complaint was made following the second report and related to both. In any event, the hearing was some 4 months after the second report.

149. In closing, Mr Masters emphasised that the appellant's ecologist was the only ecologist to have seen the site prior to the commencement of works and no

[16] ID22
[17] Mr Sibbett's proof paragraph 4.7 and appendix 2.

criticism is made of the fact that no protected species were identified as being on the site. However, the findings of the CIEEM professional conduct panel included failure to meet the required standard of ecological survey. In addition, I have Ms Webb's and Mr Sibbett's criticisms and neither the author, nor any other ecologist attended to support, or enable testing of the contents of the PEA and update. These factors lead me to attach limited weight to them and the clarification note, where their conclusions differ from those of Ms Webb and Mr Sibbett.

150. Ms Webb and Mr Sibbett were able to substantially agree the ecological baseline for the site, having regard to: post development site visits; Google Earth imagery; historical aerial photography; the LWS citation for Cransley Reservoir; Northants Bat Group data; highway accident data concerning collisions with badgers; the appellant's PEA and update, in so far as they assist; and their own professional expert judgement. I am satisfied on the evidence that the baseline is as follows:

- The site comprised semi-improved tussocky grassland, dating back to at least 1945. That continuity is indicative of quality, along with the variety of plant species listed in the LWS citation, on the "small field adjacent to the north-west corner of the reservoir." Mr Brown and Mr Masters sought to cast doubt on whether this was the appeal site, but 'Target note 1' in the revised PEA assumed it was. There is no significant doubt in my mind, and no basis on which to conclude the plant species referred to were restricted to the small undeveloped area at the southern end of the appeal site.

- The grassland would have provided a high quality habitat for reptiles such as grass snake, slow worm, and common lizard. Mr Sibbett said there was a reasonable likelihood that reptiles had been present on the site prior to development, and it was extremely likely that grass snakes at Cransley Reservoir would have used the appeal site for at least part of the year.

- The grassland would have provided a very good foraging area for bats and their boundary hedge would have been a source of flying insects, as well as a physical feature for bats to fly along. Data from the Northants Bat Group indicated that six different species of bat were known to use the reservoir area. Whilst I acknowledge Mr Brown's point that there will be many other areas suitable for foraging, the appeal site lies on a direct route for commuting and foraging between two habitats of great value to bats, namely Cransley Reservoir and Thorpe Malsor Reservoir, less than 1km away.

- Having regard to mammal tracks seen in aerial imagery, accident data indicating badger activity in the vicinity, and Mr Sibbett's finding of a sett nearby in April 2021, there would have been badger activity on the appeal site.

151. Ms Webb sits on the county Local Sites Panel. She said, "with some certainty", that the appeal site would have been designated as a Local Wildlife Site, had it been surveyed before development had taken place. Mr Masters' submitted in closing that, in contrast to the appellant's ecologist, Ms Webb and Mr Sibbett could only "speculate" on what flora and fauna may have been present on the site. This undervalues their professional judgement, informed by the factors referred to above.

152. Turning to the impact of the development:

- Most of the grassland has gone, together with the species growing within it.
- Most of the foraging habitat for bats on the site has gone and their commuting route between reservoirs has been interrupted. Although there was already an access, one of the site residents, Mr Quinn, acknowledged when cross examined that some hedgerow had been removed around the altered site access. Mitigation for this would require establishing a 5m dark corridor. I am not satisfied that this could be accommodated by the site layout and a lighting condition would not control light spill from caravans, vehicles etc on what was a previously dark site. Furthermore, if the development were permitted, highway visibility to the south would need to be improved, probably necessitating further reduction in hedgerow.
- Reptiles were likely killed or injured during the development works, which have also resulted in a large loss of reptile habitat. In the words of Mr Sibbett, there is "no scope whatsoever to provide meaningful habitat" as part of the development.
- Most of the foraging ground for badgers has now been developed.
- As noted above, even the appellant's updated PEA recommended the scheme should incorporate sufficient drainage/sewerage to prevent any contamination of the LWS, including the stream corridor. From consideration of the previous main issue, I am not persuaded that it can. The development is therefore likely to result in contaminated water running off into the Cransley Reservoir, and Mr Sibbett said, "this will end up with plants and aquatic life being damaged."

153. For the avoidance of doubt. Whilst Ms Webb's proof referred to potential impacts on the Loddington Verge Potential Wildlife Site and Protected Wildflower Verge, this is on the opposite side of Cransley Road. It was agreed at the RTS that there would be no significant impact on that.

154. In closing, Mr Master's emphasised the point made in the appellant's ecologist's clarification note that the landowner could have ploughed, mowed, or intensively grazed the site. This would also have degraded it in terms of biodiversity. On dismissal of the s78 appeal, the enforcement notice would only require the removal of the hard surface, caravans, and vehicles, followed by re-seeding with grass. This would not immediately, and might never, result in restoration of a high quality habitat of, semi-improved grassland. It would nevertheless eliminate other harms, including that of contaminated runoff into Cransley Reservoir and disturbance to bats through unavoidable light spillage.

155. In any event, it was agreed that JCS Policy 4 is the most important policy for this issue. Together with the Biodiversity Supplementary Planning Document for Northamptonshire (SPD), adopted August 2015, and consistent with paragraph 174(d) of the Framework, this seeks a net gain in biodiversity. The SPD and paragraph 3.37 of the supporting text of Policy 4 say "where possible." However, and in any event, Policy 4, the SPD, and paragraph 180(a) of the Framework say proposals should be refused where significant harm cannot be avoided, mitigated, or as a last resort, compensated. JCS Policy 5 also requires development to protect and improve the quality of the water environment.

156. I am persuaded by Mr Sibbett's assessment of the harm from this development as substantial in relation to grassland of value; moderate to substantial in respect of protected species (reptiles and bats); and moderate to substantial in relation to Cransley Reservoir.

157. In the absence of detailed proposals, I am not persuaded that there is scope for adequate mitigation by providing buffer zones. This is so, even if the area to the north of the s78 appeal site were utilised for landscaping, and regardless of the scope for requiring the provision of bat and bird boxes, as part of an ecological management plan, along with lighting controls. No compensation is proposed, and I conclude that the development would be harmful to ecology, including protected species, and the Cransley Reservoir LWS, contrary to JCS Policies 4 & 5, the SPD, and the Framework. I attach significant weight to this harm, but some of the harm can be undone if permission is refused.

The need for and supply of Gypsy and traveller pitches

158. Notwithstanding the creation of the new unitary authority, the parties accepted that, in this case, need and supply should be assessed in relation to the Kettering Borough Council area, and the RTS proceeded on that basis. The principal participants in that RTS were Mr Jarman and Mr Jupp for the Council, and Mr Brown for the appellant. The R.6 party was content to rely on the Council's evidence. The discussion followed an agreed agenda, though further comments were made by Mr Brown and Mr Jupp when they later gave formal evidence on planning matters.

159. The latest North Northamptonshire Gypsy and Traveller Accommodation Assessment (the GTAA)[18] was produced by Opinion Research Services (ORS) and published in March 2019. This covered 4 Councils in North Northamptonshire, including Kettering.

160. The appellant suggests the GTAA methodology is not robust. The first concern is that it only assesses need for households that meet the definition of gypsies and travellers in PPTS.

161. Paragraph 62 of the Framework says the size, type and tenure of housing needed for different groups, including travellers, should be assessed, and reflected in planning policies. However, footnote 27 says PPTS "sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document."

162. Paragraph 74 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement. However, footnote 38 indicates that, "For the avoidance of doubt, a five year supply of deliverable sites for travellers - as defined in Annex 1 to Planning Policy for Traveller Sites - should be assessed separately, in line with the policy in that document."

163. It will still be necessary to assess the needs of those who do not meet the PPTS definition, and they will also require a suitable supply of caravan sites. However, I agree with the conclusion in another appeal[19] where the Inspector said, "for the purposes of considering whether the Council has a 5 year supply

[18] Mr Brown's appendix 8
[19] Appeal Ref APP/P0240/C/18/3213822 (Mr Jarman's appendix 1), at paragraph 31.

of sites for travellers that meet the PPTS definition… it should be assumed that numbers for 'non-travelling' gypsies will be provided for in other parts of the LP", and that "the criticism of the GTAA in this respect is unfounded."

164. If the Council cannot demonstrate an up-to-date 5 year supply of deliverable sites, PPTS indicates this should be a significant material consideration when assessing an application for temporary planning permission. I am satisfied that it will also be a material consideration in relation to a permanent permission, but I would have to determine the weight.

165. During the RTS there was lengthy discussion of the appellant's various criticisms of the GTAA methodology and assumptions. However, given my later conclusions on the issue of supply, I need not consider that debate in detail.

166. ORS' judgements will not be infallible, and the fact that the GTAA has not been subject to independent scrutiny through a local plan examination in public necessitates caution. However, ORS' general approach has been considered sound by numerous Inspectors[20], and I have seen no evidence of systematic defects. In any event, Mr Jarman's evidence, based on the GTAA, constitutes the best available to me about need. Mr Brown did not put forward an alternative number of pitches needed specifically for those who meet the PPTS definition.

167. The JCS had identified a need for 13 pitches in Kettering for the period 2011 – 2022, from figures identified in the 2011 GTA. For the period 2018 – 2033, the 2019 GTAA identified a need for 23 pitches for households that meet the PPTS definition, plus 4 pitches for undetermined households, who may meet the definition.[21] In his proof, and from the 2019 GTAA, Mr Jarman indicated that, for households that meet the PPTS definition, the Council needs to deliver 15 pitches over the 5-year period 2021/22 – 2015/26, based on a residual current need for 14 pitches and a future need for 1 pitch. During the RTS, he confirmed this had been revised to 16 pitches[22], including the 30% allowance for undetermined households.

168. Ultimately, Mr Brown said he would be happy for me to proceed on the basis that the figures in the GTAA represent the minimum level of those who meet the PPTS definition. I shall work on the basis that there is an identified need for 16 pitches over the relevant 5-year period.

169. Turning to supply, there are no new gypsy and traveller sites allocated in the current development plan. This is to be addressed in a separate Gypsy and Traveller Site Allocations Development Plan Document. However, as of 23 March 2022, the Local Development Scheme anticipated early engagement in June 2023; the production of a draft for internal consultation by April 2023; formal public consultation by September 2023; submission to the Secretary of State in February 2024; and adoption by December 2024.

170. For now, Mr Jarman indicated in his proof that the Council has a 5-year deliverable supply of 18 pitches, based on sites which have planning permission, but have not yet been delivered. At footnote 4, PPTS says:

[20] See Mar Jarman's appendices 1 – 6.
[21] In addition, the GTAA identified a need for 21 pitches for households who do not meet the definition.
[22] This figure is set out in the SOCG, albeit it was not agreed by the appellant.

> "To be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within five years. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans."

171. The first site relied upon is at Land off Stoke Albany Road, where planning permission was granted for 10 pitches on 1 July 2009[23]. There was no dispute that this permission is still extant. I will come back to what has happened following the grant of that permission but will first consider the implications of a condition on it. The GTAA deals separately with the needs of those who meet the PPTS definition and those who do not, and I have been persuaded that I must consider whether there is a 5 year supply of sites for those who meet that definition. Condition 2 of the Stoke Albany Road decision states:

> "The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006."

As discussed during the RTS, that definition included "…persons who on grounds only of their own or their family's or dependents' educational or health needs or old age have ceased to travel temporarily or permanently…" So, any or all the pitches could be occupied by persons who do not meet the PPTS definition, which now excludes people who have ceased to travel permanently. The relevant part of the current PPTS definition of gypsies and travellers is:

> "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily..."

I cannot therefore be satisfied of the site's deliverability as one for gypsies and travellers as defined in PPTS.

172. In addition to the fundamental problem posed by condition 2, the history of the Stoke Albany Road permission is problematic. The site owner made no progress with the development and the Council understood the owner did not intend to bring the site forward for development themselves.[24] So, in September 2020, the Kettering Borough Council authorised, 'in principle', the use of its compulsory purchase order (CPO) powers. Local government reorganisation paused the CPO process, as the new unitary authority would have had to resolve to proceed. New dialogue then started with the landowner in April 2021.

173. In May 2021, the Bowd Field appeal decision, referred to above, was issued following a site visit in April. In that case, the Inspector said:

> "39… The Stoke Albany Road site was approved in July 2009 and the permission is apparently live because a lawful commencement has taken place… but, in this instance, implementation has stalled. The site is still not operational over a decade after being granted permission. It would also seem that a Compulsory Purchase Order is likely to be required to deliver

[23] Planning permission Ref KET/2009/0155 at Mr Jupp's appendix 21 and ID19(e).
[24] Mr Jupp's appendix 22.

this site. If CPO proceedings have commenced, they would be at the very early stages and the outcome cannot be assumed.

40. The fact that the site is not operational more than ten years after being granted permission is clear evidence that the site should not currently be treated as being deliverable. I stress that this is a finding based on the evidence available to me. Moreover, as things stand, I do not consider the site can be considered deliverable until the CPO proceedings have concluded in the Council's favour…."

174. Things have moved on in that, whilst the Council has taken no further steps towards a CPO, Mr Jupp indicated that the landowner has now agreed, in principle, to sell. However, he said they are still at the negotiation stage; contracts have not been exchanged and it would appear no price has been agreed. Mr Jupp said the Council was getting a valuation and suggested it might be possible to provide a letter confirming the position before the inquiry closed. No such letter was forthcoming, and I have seen nothing from the landowner.

175. Although, in terms of PPTS footnote 4, there may not be clear evidence that this 10 pitch scheme will not be implemented within five years, there remains considerable doubt. It is hard to be confident that a CPO will not be required. The position is not so very different to that facing the Bowd Field Inspector, and this adds to the fundamental problem posed by condition 2. In all the circumstances, but primarily because of the terms of condition 2, the Stoke Albany Road site cannot count towards the 5-year supply of deliverable sites for those who meet the PPTS definition.

176. The Council also relies on a site at Woodside, for which they say planning permission was granted for 8 pitches. There are in fact 2 permissions, one granted on 23 January 2015[25], and the other on 20 December 2018.[26] The 2015 permission was in fact for 5 pitches and a single dwelling to replace a mobile home. Condition 5 of that permission states:

"The site shall not be occupied by any persons other than gypsies and travellers defined in paragraph 15 of ODPM Circular 01/2006; the single dwelling hereby approved should not be occupied by any persons other than by gypsies and travellers for the purpose of managing the site."

177. Though this permission is 7 years old, and no pitches have been made available under it, I am told that the concrete base for the dwelling has been laid and I have no reason to believe the permission is not extant. The Council suggested the dwelling was for a household which formed part of the need identified in the GTAA, so it would reduce the need element. However, as the dwelling was to replace a mobile home, and there is no indication this was not lawfully sited and occupied, the occupiers would not previously have been in need. I accept Mr Brown's analysis that the 2015 Woodside permission results in a net gain of just 4 pitches.

178. In any event, condition 5 of the 2015 permission presents the same problem as condition 2 on the Stoke Albany Road permission. I cannot accept that even the 4 new pitches, can be counted as part of the supply of deliverable sites for

[25] Permission Ref KET/2014/0532 (ID19(g)).
[26] Permission Ref KET/2018/0531 (ID19(k)).

those who meet the PPTS definition; any or all of them could be occupied by people who do not meet that definition.

179. Condition 3 of the 2018 permission for Woodside limits occupation to those who meet the definition of gypsies and travellers in the August 2015 PPTS, "or its equivalent replacement in national policy." There appears to be no dispute that the planning permission is extant, and it would be for persons who meet the PPTS definition. However, condition 4 restricts the development to no more than 1 family pitch and no more than 2 traveller caravans.

180. For the reasons given, the Stoke Albany Road and 2015 Woodside permissions cannot be considered to contribute to the 5-year supply of pitches for gypsies and travellers who meet the PPTS definition. The 2018 Woodside permission can contribute to the supply, but it is only for 1 pitch. Even if all these permissions could be counted, they would together only represent 14 pitches against the Council's identified need for 16.

181. The Council contended that I could also take account of 5 pitches at The Old Willows and 9 at The Old Northampton Road, as these are occupied by people who do not meet the PPTS definition and enforcement action could be taken to make them available.[27] Mr Jarman said he believed the pitches were rented to non-travellers and that, on the morning of the RTS, he had discussed with Council staff the service of a Planning Contravention Notice (PCN) to identify those who do not meet the PPTS definition and enable enforcement action. However, I note this issue is addressed in Mr Jupp's proof[28] and despite an Executive Committee resolution in September 2020 to "…support on-going work to identify pitches with non-defined Gypsy and Traveller residents…", no action had been taken by the time of my inquiry.

182. Whether successful enforcement action can be taken to make additional pitches at The Old Willows and The Old Northampton Road available to people who meet the PPTS definition depends on a range of factors, including:

- the terms of the conditions attached to the planning permissions;
- the status of the occupiers;
- whether any breaches of condition have become immune from enforcement action;
- whether it would be expedient to take enforcement action;
- whether planning permission to use the land without complying with the relevant conditions might be forthcoming in any appeals against enforcement action;
- whether the service of a breach of condition notice would secure compliance; and
- whether the court would grant an injunction.

Clearly, I cannot formally determine any of those questions, but I must nevertheless consider some of the issues arising from the first bullet point above.

[27] Mr Jarman's proof, paragraph 59.
[28] Paragraph 5.108 and 5.109 and appendix 24 and 25.

183. Mr Jupp began his evidence in chief on planning matters at the start of 25 May 2022. Immediately before that, Mr Masters said he needed copies of the planning permissions concerning The Old Willows and The Old Northampton Road to cross-examine Mr Jupp. I confirmed I wished to see those permissions. In the event, the Council provided them at the end of 25 May, after Mr Jupp had given his evidence, and the day before Mr Brown gave his planning evidence.

184. Mr Jupp was cross examined on those planning permissions, even though copies were not available to me at the time. I had indicated it might be possible to deal with any further matters arising through submissions, once hard copies of the permissions were available but, if not, I would allow the Council to recall Mr Jupp. The Council did not cross-examine Mr Brown on his evidence relating to those permissions and did not seek to recall Mr Jupp.

185. In closing for the Council, Mr Lintott reiterated the view that enforcement action could be taken in respect of The Old Willows and The Old Northampton Road to make those pitches available to travellers as defined in PPTS. When pressed by me, he said the condition imposed in the past was more onerous and the occupiers do not meet it. Furthermore, he said there is no evidence that any occupiers will have gained immunity, so there is nothing to displace the presumption in footnote 4 of PPTS that sites with planning permission are deliverable.

186. The position is a little confusing because of the different site descriptions used in the various permissions but, regarding the site at The Old Willows, temporary planning permission was initially granted on appeal on 11 July 1994[29]. Condition 2 stated that it would be "restricted to use by no more than 7 families who are gypsies as defined in section 16 of the Caravan Sites Act 1968." Mr Brown explained in evidence that this included persons of a nomadic habit of life but, unlike the current PPTS definition, it did not include people who had ceased to travel temporarily.

187. On 11 March 1997, permanent planning permission[30] was then granted for that site. Condition 2 said that the permission was for "…the provision of a total of 9 units of residential accommodation on the site (in the form of residential caravans or mobile homes)…" and condition 7 also allowed for up to 9 touring caravans. Accordingly, 9 pitches were permitted. Condition 3 said, "The occupation of the residential caravan/mobile home shall be limited to persons defined as gypsies by Section 80 of the Criminal Justice and Public Order Act 1994. Again, that definition included persons of a nomadic habit of life but did not include people who had ceased to travel temporarily. Mr Brown explained people were found not to be gypsies if they ceased to travel for any reason.

188. That condition on the 1997 Old Willows permission was therefore more onerous than a condition linked to the current PPTS definition. Anyone who satisfies that 1997 condition will meet the PPTS definition. On the face of things, 5 of those 9 pitches, which the Council believes are not occupied by people who meet the PPTS definition, could count towards the supply of sites for those who do.

[29] Appeal Ref T/APP/L280/A/93/231264/P2 (ID19(c)).
[30] Permission Ref KE/97/0068 (ID19(d)).

189. I take Mr Brown's point that the onerous nature of this condition makes it more likely that it has been breached during the 25 years since it was imposed. However, I simply cannot tell, and have no jurisdiction to determine in this appeal whether any breach has become immune from enforcement action.

190. Turning to The Old Northampton Road site, which was an extension of The Old Willows site, planning permission was granted for 3 pitches on 20 June 2012[31]. On 3 July 2015, permission was then granted[32] for a total of 6 pitches on that same site. Conditions 1 and 2 on the 2012 and 2015 permissions respectively said, "The site shall not be occupied by persons other than Gypsies and Travellers as defined in Annex 1 of Planning Policy for Traveller Sites (CLG March 2012)." Like the definition in Circular 01/2006, that definition included "…persons who on grounds only of their own or their family's or dependents' educational or health needs or old age have ceased to travel temporarily or permanently…"

191. However, a new permission was then granted for The Old Northampton Road site on 13 April 2018[33]. This was for a total of 8 pitches, namely the 6 previously authorised, plus 2 for named households, subject to a personal condition. All 8 pitches were subject to condition 1, which restricted occupation to persons who meet the current PPTS definition of gypsies and travellers. On the face of things therefore, 6 pitches on The Old Northampton Road could be available to accommodate any persons who meet the current PPTS definition of gypsies and travellers.

192. If the 5 pitches at The Old Willows, alleged to be occupied by people who do not meet the PPTS definition, and the 6 pitches at the Old Northampton Road were added to the 1 pitch I have found available under the 2018 Woodside permission, then the supply would be just 12 pitches against the identified need for 16 pitches.

193. Moreover, leaving aside the terms of the conditions, I cannot form a view on any of the other factors bulleted at paragraph 182 above. Most significantly, that includes the question of the status of the current occupiers; namely whether they meet the current PPTS definition of gypsies and travellers or not. Notwithstanding the confidence of Mr Jarman and Mr Jupp on this point, the Council apparently intends to serve PCNs to clarify the position, which may have changed since they reached that view.

194. Footnote 4 of PPTS creates a presumption that sites with planning permission are deliverable, rebuttable only on clear evidence, that the permission will not be "implemented within five years." This is not apt to deal with cases where a site not only has planning permission, but the development has been implemented, in the sense of carried out, and the pitches are occupied.

195. I cannot pre-empt the outcome of any enforcement proceedings. Even *if* all the current occupiers of the Old Willows and The Old Northampton Road site do not meet the PPTS definition, my experience of planning enforcement proceedings over many years does not leave me confident on the balance of probability that all, or even most of those pitches can be made available to

[31] Permission Ref KE/2011/0363 (ID19(f)).
[32] Permission Ref KE/2014/00695 (ID19(h)).
[33] Permission Ref KET/2017/0980 (ID19(j)).

people who do meet the PPTS definition within 5 years. It is significant that no action had been taken by the time of the inquiry.

196. In all the circumstances and for all the reasons given, I am not satisfied on the balance of probability that the Council can demonstrate it has a five year supply of deliverable sites for travellers, as defined in Annex 1 to PPTS and there has been a failure of policy. In May 2021, the Inspector in the Bowd Field appeal attributed moderate weight to the lack of a five year supply, increasing this from the small amount of weight found in a 2017 appeal, and having regard to the on-going policy failure. In the circumstances of this case, and in view of the further passage of time and on-going policy failure, I attach significant weight to this factor. Like Mr Hughes, I consider significant weight appropriate whether in the context of considering permanent or temporary permission.

The impact of the development on a potential non-designated heritage asset, namely potential below ground archaeology

197. This matter was raised by the R.6 party, not the Council, and Mr Brown did not address it in his proof. Dr Dawson was the only witness to give expert evidence on this subject.

198. JCS Pol 2(d) says: "Proposals should demonstrate an appreciation and understanding of the impact of development on heritage assets and their setting in order to minimise harm to these assets and their setting. Where loss of historic features or archaeological remains is unavoidable and justified, provision should be made for recording and the production of a suitable archive and report."

199. Paragraph 194 of the Framework says: "Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

200. Dr Dawson's evidence was that, having regard to the fact that the East Midlands is rich in archaeological remains of the first Millennium BC; the geology and topography of the site and surrounding area; and, most importantly, aerial photographs showing crop marks very near the site and in the surrounding area, the appeal site has the potential to include heritage assets with archaeological interest. Indeed, in answer to questions from me, Dr Dawson said it was more likely than not that the site contained such assets. That evidence was compelling and unchallenged, and I accept it.

201. The planning application was not submitted until after development had commenced and the reasons for refusal did not refer to archaeology. Neither did the reasons for issuing the enforcement notice. I cannot be sure what the Council would have required if this had not been a retrospective case. When cross examined by Mr Masters, Dr Dawson said he would have expected an archaeological investigation in relation to works at nearby Nus Hill Lodge, but it was put to him that one had been required.

202. However, I note that in September 2020, the Northamptonshire County Council Archaeological Advisor[34] said, had this been an application in advance

[34] Dr Dawson's appendix 4.

which included proposals for terracing, they would "definitely have expected some assessment up front and probably trial trenching pre-determination." In retrospective cases where, had there been the opportunity, they would have wanted archaeological work done in advance, they said:

> "I usually ask for some trenching around the area affected to clarify the ground conditions and try to pick up anything which may survive, but obviously that depends on the extent of the works - if a large area has been terraced then it's entirely possible there is nothing left."

203. Whilst Dr Dawson indicated the terracing is likely to have destroyed most of any archaeological assets, he was confident that some fragments will have survived, and it would be possible to carry out investigations to recover the vestiges. If the appeal were allowed, conditions could be imposed to achieve this. It would complicate drainage works, which the appellant suggests would involve further trenches and the installation of underground tanks, but I have already concluded that conditions requiring such works would not be appropriate anyway.

204. Having regard to paragraphs 203 and 205 of the Framework, it is impossible to judge the significance of what would have been discovered. I cannot therefore know what measures would have been appropriate, had an investigation been carried out before development commenced. It might even be that planning permission would have been refused, because of unjustified harm to heritage assets. The carrying out of the works in advance of obtaining permission removed the opportunity for any such assessment.

205. Accepting it was more likely than not that the site contained heritage assets with archaeological interest, JCS Policy 2(d) has been breached. If I find the issue of "intentional unauthorised development" to be material in this appeal, this will influence the weight to be attached to that consideration.

Whether the development constitutes intentional unauthorised development and, if so, the weight to be attached to that.

206. On 31 August 2015 the Chief Planner at the Department for Communities and Local Government wrote to all Chief Planning Officers enclosing a planning policy statement which included the following:

> "The government is concerned 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 no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.
>
> For these reasons, this statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received from 31 August 2015.
>
> The government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt.
>
> …

After six months we will review the situation to see whether it is delivering our objective of protecting land from intentional unauthorised development."

207. This was repeated in a Written Ministerial Statement (WMS) on 17 December 2015. Although this issue was not addressed in Mr Brown's proof, or Mr Masters' opening submissions, the SOCG recorded agreement that this development constitutes intentional unauthorised development (IUD).

208. It was nevertheless put to Mr Jupp and Mr Hughes in cross-examination that no weight could be given to the WMS, as the situation had not been reviewed after 6 months and no policy on IUD has been included in the Framework, even though it has been revised since 2015. Mr Jupp had no warning of this point and was unable to comment. In his evidence in chief, Mr Hughes said the WMS has not been withdrawn or amended and Inspectors have continued to treat it as a material consideration, including in a recent gypsy and traveller appeal where Mr Brown acted for the appellant.

209. In his oral evidence, Mr Brown said there was "some doubt" over whether the WMS still applies and that the 1990 Act allows for retrospective applications. He said the WMS was primarily aimed at development in the Green Belt. Moreover, even if it still applies, I must take account of other factors in attributing weight, for example that the alternative was for the site occupants to be on the roadside. When cross-examined, he acknowledged IUD has been treated as a material consideration in recent appeal decisions and it is likely that it still is material.

210. Nonetheless, whilst noting that a further announcement was made through a member's question in the House of Commons in 2019 that the WMS still applied, Mr Masters pressed his point that, as matter of law, it should not be treated as material consideration. In any event he said if it is material, it should carry limited weight.

211. Although the situation should have been reviewed after 6 months and it appears it was not, the WMS was not expressed as applying for 6 months only. It has not been withdrawn and has continued to be treated as material. I am satisfied that it is a material consideration and, whilst there was particular concern about the Green Belt, IUD is relevant in areas outside the Green Belt.

212. The occupiers purchased the site in April 2019. Mr Brown says he was instructed sometime after that, probably in the summer. In August, he advised that a speed survey and PEA were needed to support a planning application. These were done in the last week of September 2019. The planning application was dated 10 October 2019 and marked received on 14 October.

213. The occupation began over the weekend of 12 October 2019. An excavator was delivered to the site on Friday 11 October and, from around 0700 on the Saturday, lorries were delivering large quantities of hardcore. Indeed, a local resident described "hundreds of lorry movements to and from the site, removing earth and delivering hardcore and other materials" and the work continued until later that afternoon, with Cransley Road being awash with mud from the site.[35] By 0900 on the Saturday, several caravans had arrived.

214. The timing of the incursion at the weekend was no doubt intended to make it harder for the Council to react quickly, but a temporary Stop Notice was issued

[35] ID24.

on Saturday 12 October and served on 13 October 2019. This related to the formation of hardstanding and engineering works to level and regrade the land. The Enforcement Notice and Stop Notices were then issued on 15 October. The Stop Notice required cessation of human habitation, removal of all caravans etc and cessation of all works for the formation of hardstanding and excavation.

215. Habitation continued. In addition, by reference to photographs in Mr Hughes' proof, Mr Brown accepted in cross-examination, that excavation and works to form the hardstanding continued into the summer of 2020, notwithstanding the refusal of the planning application on 26 February 2020.

216. Clearly, the appellant knew planning permission was required and this is not a case of a few caravans moving onto a vacant site. Substantial works have been carried out over a significant area to facilitate the occupation, and arguably went well beyond what was necessary to establish a temporary home pending determination of a planning application and appeal. A temporary Stop Notice and subsequent Stop Notice have been ignored. The occupation was planned and executed very quickly over a weekend.

217. Whilst it is true that retrospective planning applications are lawful, and the appellant submitted one, the primary reason for the WMS is the lack of opportunity to appropriately limit or mitigate the harm that has already taken place. I have found that some harm in relation to ecology and archaeology is irreversible. Other harms, though reversible, have endured for some considerable time.

218. I accept that the WMS has not been incorporated into the Framework, but it remains a material consideration. In all the circumstances, including the implications for archaeology, and notwithstanding that the site is not within the Green Belt, I conclude that the fact this was IUD should carry significant weight against the appeal. The lack of alternative accommodation and the likelihood of having to resort to the roadside would carry weight in favour of the appeal on their own account, but I am not convinced this should also reduce the weight attached to IUD, as that would represent double counting.

219. I note that only moderate harm was attributed to IUD in the Bowd Field appeal but, in this case, there is clear harm in relation to ecology and archaeology. Furthermore, "great weight" was attached to a finding of IUD in another recent appeal, to which I was referred.[36]

The availability of alternative accommodation and other personal circumstances of the occupiers, including the best interests of any children, all in the context of Human Rights considerations and the Public Sector Equality Duty (PSED)

220. It is agreed in the SOCG that the site residents fall within the definition of gypsies and travellers in PPTS. There is no evidence that any other suitable sites are available to the occupants or that they could live in bricks and mortar housing. Mr Jupp accepted in evidence that, if evicted, the residents are likely to have to live at the roadside.

221. I heard in evidence that the site residents are a group of close family members. The may "do their own thing" in the summer, but like to stay together in the winter, and it is hard to find a site big enough for all the family.

[36] ID7, at paragraph 48.

They wish to have a site for themselves as a group, so they can provide mutual care and support to each other. They have lived in the area for many years but have never had a settled base.

222. However, I also heard that there are more households on the site than can be accommodated by the permission sought. Mr Brown confirmed that, although the proposed 8 pitches, would still be enough, several would need to accommodate more than 1 household. There could be a need for 12 mobile homes, and 8 tourers, rather than 8 of each, as envisaged in both the application and the conditions suggested during the appeal.

223. All the evidence, for example in relation to landscape and visual impact and drainage[37], was based on the application proposal and the amendment would be too substantial to make by condition.[38] Mr Brown acknowledged that this would need to be the subject of further applications. This reduces the extent to which the appeal proposal would meet the needs of the site residents and the degree to which the personal circumstances of all the existing residents are relevant. Accordingly, the weight carried by those factors is diminished.

224. 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 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.

225. Dismissing the appeal would give rise to an interference with the occupants' Article 8 rights. Any such interference must be in accordance with the law, necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

226. As Irish travellers, the site occupants are in an ethnic minority and have a protected characteristic under the Equality Act 2010. The 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.

227. There are 21 children on the site, including at least 9 under the age of 5, and I heard that at least one resident is pregnant. None of the children is in school, though that is what the residents would like. Two of the children were previously living with their mother in Leicestershire in a caravan on her grandfather's driveway. They attended school there but, since their parents reunited, they have moved onto the appeal site and no longer go to school.

[37] See in particular Ms Burnham's proof, paragraph 6.15, and appendix B.
[38] Having regard to *Bernard Wheatcroft Ltd v SSE* [1982] JPL 37, to which I referred during the conditions session of the inquiry.

Several of the children were taken to Canada during part of the last academic year.

228. Covid-19 disrupted children's education generally for some time, but schools have been open for the whole of the last academic year and for some time before that. I heard evidence from the residents that school places have not been available locally and that finding places for the children has been made more difficult by the fact that they would like them to be kept together, in the same school. A written statement from one resident says one child with learning difficulties, who was 3 when the statement was submitted in October 2021, has had a place at a local nursery school. That resident's statement said the authorities were helping to find a place for their child at a special school. However, they were unable to attend to give oral evidence, so I am not aware of any success on that score, and the child's time at nursery school is likely to come to an end in the next year or so.

229. Having a settled base would increase the chances of eventually getting the children into school. That would clearly be in their best interests, along with avoiding the general hardships and perils of a roadside existence and reinforcing their cultural traditions within an extended family group. However, having to leave this site would not disrupt any child's education by forcing them to leave a school in which they are settled. Over the years the children have had some home tutoring, and this could continue.

230. Several of the site residents have health problems which, in some cases are quite serious and probably give rise to a protected characteristic under the Equality Act. They have been able to register with local doctors whilst living at the site and a roadside existence would make access to healthcare more difficult for everyone on the site, including the children. However, there is no evidence that a particular medical facility or specialist close to the site is essential to the health of any of the site occupiers.

231. In all the circumstances, I nevertheless attach substantial weight to the fact that no other accommodation is available to the site residents, together with all their other personal circumstances, including the best interests of the children.

Other matters

232. The appellant suggested two fallback positions, namely use of the appeal site for grazing or keeping horses and use as a caravan site in accordance with permitted development (PD) rights. As far as grazing is concerned, there would be a realistic prospect of this, but its impact would not be remotely comparable to the proposed development. In terms of keeping horses, several of the site residents said that if planning permission is refused, they may wish to keep their horses on the site. However, given its size, this would only apply to a small number of horses. There have been stables there in the past but, even if permitted, they would be small-scale, and the impact would not be comparable to the appeal scheme. I attach very little weight to this fallback position.

233. There are PD rights for the use of land as a caravan site for up to 5 caravans, if it is supervised by an exempted organisation, and for meetings organised by exempted organisations and lasting no more than 5 days.[39] However, none of the site residents mentioned this as a possibility and it would

[39] ID21.

conflict with the stated intention of several to keep or graze their horses on the land. I am not persuaded that this is anything more than a theoretical possibility and, even if it were to happen, the impact would be far less than that of the proposal; as I pointed out during the inquiry, the PD rights do not extend to operational development. I attach no significant weight to this fallback position. Indeed, neither fallback position was mentioned by Mr Masters in closing for the appellant.

Planning balance

234. In weighting the various factors, I adopt Mr Hughes' hierarchy, namely substantial, significant, moderate, and limited/little.

235. I find harm in relation to landscape character and appearance to which I attach substantial weight. I identified harm in terms of highway safety, which carries significant weight. The harm caused to ecology also carries significant weight and I attribute significant weight to the fact that this is intentional unauthorised development. This last factor is exacerbated by those elements of harm to ecology and archaeology which are irreversible. I also attach limited weight to the harm arising from the lack of close links to services and facilities. I am not persuaded that these harms could be adequately addressed by any reasonable conditions.

236. As a result of the above, I find the development to be in breach of JCS Policies 2(d), 3, 4, 5, 8(b), 31(a), (e) and (f) and conclude that it conflicts with the development plan as a whole. It also conflicts with the Biodiversity SPD, paragraphs 105, 111 and 174 of the Framework, paragraph 25 of PPTS and the WMS on intentional unauthorised development.

237. Against this, I have determined that the Council cannot demonstrate a five year supply of deliverable sites for travellers, as defined in Annex 1 to PPTS and there has been a failure of policy. Together, these factors this carry significant weight in favour of the appeal, whether in the context of considering permanent or temporary permission.

238. I have found that it would be in the best interests of the children on the site to allow the appeal and this factor carries substantial weight. To this I add the significant weight attached to the site residents' overall personal circumstances and the lack of alternative accommodation, all in the context of human rights considerations and the PSED. On the other hand, I have attached no significant weight to any fallback position.

239. In relation to Article 8 of the ECHR, safeguarding the environment, the countryside and its appearance are relevant to both the economic well-being of the country and the rights and freedoms of others. Under the PSED, eliminating discrimination and advancing equality of opportunity, in terms of providing decent places to live, may often necessitate treating gypsies and travellers more favourably than the settled community. However, the harms associated with the occupation of this site and the objections raised by the Parish Council mean its continued occupation would be unlikely to foster good relations. Human rights and PSED considerations will nevertheless be relevant to my consideration of ground (g) in the enforcement appeal.

240. I conclude that material considerations do not indicate planning permission should be granted, despite the conflict with the development plan and dismissal

of the appeal is a proportionate response, subject to my consideration of ground (g). (For the avoidance of doubt, if a percolation test demonstrated scope for infiltration, this would reduce the harm to ecology from significant to moderate, but that would not change the overall balance).

241. The appellant seeks a permanent permission but, failing that a temporary one. Mr Brown suggested 3 ½ years but, in closing, Mr Masters said for 4 years would be more appropriate.

242. The Planning Practice Guidance indicates that circumstances in which a temporary permission may be appropriate include where a trial run is needed to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. This is not a case where a trial run is needed, but circumstances are expected to change with the adoption of a Traveller Site Allocations Development Plan Document, currently not anticipated until December 2024.

243. Given slippage in the past, I cannot be confident that there will not be further delays in the timetable for adoption. It could also take some time for any allocated site to become available thereafter. On this basis, the appellant's suggestion of 3 ½ to 4 years is not unrealistic.

244. However, in this case in addition to the continuing harm to landscape character and appearance, I have found significant risk to highway safety and ongoing ecological harm. In these circumstances, it would not be appropriate or proportionate to sanction the continuation of that harm for a period of years added to the harm and risk which has already existed since October 2019. Even if conditions could be applied, for example in relation to drainage measures, they would be even more unduly onerous in connection with a temporary permission.

245. I conclude that temporary planning permission should not be granted.

Conclusion on appeal B

246. For the reasons given above, I conclude that the appeal should not succeed.

APPEAL A

Ground (g)

247. This is the only ground of appeal, and it is that the period allowed for compliance with the enforcement notice is unreasonably short. In summary, from the time the notice takes effect, namely the date of this decision, the notice allows 7 days for cessation of the use for human habitation, removal of the caravans and other items and hard standing and 14 days for restoration by re-seeding with grass.

248. Mr Brown suggested a period of 12 months would be appropriate. The Council acknowledges that the periods specified in the notice are too short. In his proof, Mr Jupp merely suggested adding 7 days to the periods for compliance with each requirement except cessation of the use, which he contended should remain at 7 days.[40] However, having reflected on the matter, he said in chief that, where people are settled on a site, a period of 6 months is

[40] Mr Jupp's proof, paragraph 8.4, bearing in mind requirement 4 of the notice is not to be amended.

normally allowed. In his oral evidence, Mr Hughes suggested 3 months for the occupants to leave, with a further 2 months for the remedial works.

249. I acknowledge that the incursion and much of the hard surfacing work occurred very quickly, albeit that it may have been some months in the planning and organising. I also acknowledge that the site has been unlawfully occupied for more than 2 ½ years and I have had due regard to points made by the local resident who gave evidence on their own account.

250. However, the public interest in resolving this matter quickly must be balanced against the interests of the site residents, including 21 children. Though the children are not in school, having to leave a site which has been their home base for so long will involve significant disruption, even for those used to a travelling lifestyle. Whilst the site residents say they have nowhere to go anyway, Mr Brown said a period of 12 months would give them a better chance to make arrangements.

251. Balancing the personal circumstances of the site residents against the public interest in putting an end to on-going harms, requiring the cessation of occupation within 6 months and the completion of remedial works within a further 2 months would be a proportionate response. This has regard to rights under Art 8 of the ECHR, the best interests of the children on the site and the PSED.

252. I will therefore vary the periods for compliance in the notice. Ground (g) succeeds to that extent, but the notice will be upheld.

J A Murray

INSPECTOR

Appendix 1
List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/L2820/C/19/3240989	Mr James Delaney
Appeal B	APP/L2820/W/20/3249281	Mr James Delaney

APPEARANCES

FOR THE APPELLANT: Alan Masters of counsel

He called:

Philip Brown BA(Hons)
Patrick Quinn
Alex White
Michael Collins
Michael White
John White
James Quinn

FOR THE LOCAL PLANNING AUTHORITY: David Lintott of counsel

He called:

Ian Dudley BSc(Hons), MICFor, CEnv, CMLI
Martin Draper BEng(Hons)
Heather Webb BSc(Hons), CEnv Conservation, MSc, MCIEEM
Ruth Burnham MCIWEM C.WEM
Steve Jarman BSc, DipTP, PGCert Sust Leadership
Stephen Jupp BA, LLM, MRTPI

FOR THE LODDINGTON PARISH COUNCIL as RULE 6 PARTY: Edward Grant of counsel

He called:

Michelle Bolger CMLI, Dip.LA, BA, PGCE, BA (Landscape & visual)
Ian Brazier BEng(Hons,) CEng, MICE (Highways)
Nick Sibbett BSc, MSc, CEcol, MCIEEM, CMLI, CEnv
Dr Michael Dawson DPhil, MPhil, BA(Hons), BA (Heritage)
Philip Hughes BA(Hons), MRTPI, FRGS, Dip Man, MCMI (Planning)

INTERESTED PARTIES:

Hannah Reneerkens

DOCUMENTS SUBMITTED DURING THE INQUIRY

1	Guidelines for Landscape & Visual Impact Assessment 3rd Ed (up to page 68)
2	Preliminary Ecological Appraisal – revised January 2020
3	Council's opening submissions
4	R.6 party's opening submissions
5	Pages 69 – 118 of Guidelines for Landscape & Visual Impact Assessment 3rd Ed
6	Saved Local Plan Policy 10 & extract from Proposals Map & key (clearer copy of map substituted on day 2)
7	Appeal Decision APP/J1915/W/19/3234671 re Land at Chapel Lane, Letty Green
8	*Nixon & E Herts DC v SSHCLG & Mahoney* [2020] EWHC 3036 (Admin)
9	Council's suggested conditions
10	Statement of Common Ground dated 11 May 2022
11	Extracts from Manual for Streets 1 & 2
12	Agendas for: (a)Drainage; and (b) Ecology Round Table Sessions
13	Local Highway Authority Standing Advice for Planning Authorities (Domestic Vehicle Accesses Serving 1 to 5 Dwellings) June 2016
14	Extract from TD 42/95
15	Extract from CD 123 Version 2.1.0
16	Photographs 1 – 4 taken by Philip Brown at the site access November 2021
17	Unsigned clarification note in the name of Dr Peter Webb dated 6 November 2021
18	Email from Philip Brown dated 4 November 2021 commenting on his November 2021 photographs (ID 16)
19	Bundle of planning decision notices comprising: (a) KE/91/0526 dated 17 September 1991 Field No 6578, Broughton (b) KE/93/0217 dated 25 March 1993 Land adjacent Northampton Rd/A43, Broughton (c) Appeal decision T/APP/L2820/A/93/231264/P2 dated 11 July 1994 re application KE/93/0217 dated 25 March 1993 Land adjacent Northampton Rd/A43, Broughton (d) KE/97/0068 dated 7 February 1997 The old caravan site, Broughton

	(e) KET/2009/0155 dated 1 July 2009 Land at Stoke Albany Rd, Desborough (f) KET/2011/0363 dated 20 June 2012 The Old Willows, Unit 10, Old Northampton Rd, Broughton (g) KET/2014/0532 dated 23 January 2015 Woodside (NE of) Stoke Albany Rd, Desborough (h) KET/2014/0695 dated 3 July 2015 The Old Willows, 10 Old Northampton Rd, Broughton (i) KET/2016/0847 dated 24 July 2017 The Old Willows, 10 Northampton Rd, Broughton (j) KET/2017/0980 dated 13 April 2018 The Old Willows, 10 Northampton Rd, Broughton (k) KET/2018/0531 dated 20 December 2018 Land adjacent to Woodside, Stoke Albany Rd, Desborough (l) KET/2020/0318 dated 17 February 2021 The Old Willows, 10 Northampton Rd, Broughton
20	Agreed summary of restrictions on travel as of 23 June 2020
21	Mr Brown's note regarding permitted development rights, agreed by all parties (save that the Council indicated it did not fully agree the final paragraph)
22	The appellant's ecologist's clarification note (ID17) as signed by him on 26 May 2022
23	Extracts from the North Northamptonshire Joint Core Strategy 2011 – 2031 including paragraph 3.37 of the supporting text
24	Statement of Hannah Reneerkens
25	Additional suggested conditions
26	R.6 Closing submissions
27	Council's closing submissions
28	Appellant's closing submissions
29	*Smith v FSS & Mid-Bedfordshire DC* [2005] EWCA 859[41]

[41] This was submitted by the appellant by email at 10:45 on 30 May 2022, after the close of the inquiry, by agreement with the Council and R.6 party.

APPENDIX 5

Government circular 06/2005

See separate document

APPENDIX 6

Current applicability of Government circular 06/2005

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Collection

Planning circulars

This collection brings together all documents relating to planning circulars.

From: **Ministry of Housing, Communities and Local Government (/government/organisations/ministry-of-housing-communities-local-government)**, **Ministry of Housing, Communities & Local Government (2018 to 2021) (/government/organisations/ministry-of-housing-communities-and-local-government-2018-2021)** and **Department for Levelling Up, Housing and Communities (/government/organisations/department-for-levelling-up-housing-and-communities)**

Published 29 June 2011

Last updated 21 April 2021 —

Contents

Planning circulars provide non-statutory advice and guidance on particular issues to expand on subjects referred to in legislation.

They are used to explain policy and regulation more fully. Many circulars are quasi-legislative and include a direction or requirement to take specific action or provide guidance on implementation of aspects of planning policy.

Documents

The Town and Country Planning (Consultation) (England) Direction 2024
(/government/publications/the-town-and-country-planning-consultation-england-direction-2024)
26 January 2024 Correspondence

Arrangements for handling heritage applications Direction 2021
(/government/publications/arrangements-for-handling-heritage-applications-direction-2021)
21 April 2021 Correspondence

The Town and Country Planning (Demolition – Description of Buildings) Direction 2021
(/government/publications/the-town-and-country-planning-demolition-description-of-buildings-direction-2021)
21 April 2021 Correspondence

The Conservation Areas Direction 2015
(/government/publications/the-conservation-areas-direction-2015)
24 March 2015 Correspondence

Biodiversity and geological conservation: circular 06/2005
(/government/publications/biodiversity-and-geological-conservation-circular-06 2005)
16 August 2005 Correspondence

Disposal of land for less than the best consideration that can reasonably be obtained: circular 06/2003
(/government/publications/disposal-of-land-for-less-than-the-best-consideration-that-can-reasonably-be-obtained-circular-06-2003)
4 August 2003 Correspondence

Planning appeals procedures: circular 05/2000
(/government/publications/planning-appeals-procedures-circular-05-2000)
28 June 2000 Correspondence

The use of conditions in planning permissions: circular 11/1995
(/government/publications/the-use-of-conditions-in-planning-permissions-circular-11-1995)
20 July 1995 Correspondence

Published 29 June 2011
Last updated 21 April 2021 + show all updates

GOV·UK

Correspondence

Biodiversity and geological conservation: circular 06/2005

This circular provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England…

From: **Ministry of Housing, Communities & Local Government (2018 to 2021) (/government/organisations/ministry-of-housing-communities-and-local-government-2018-2021)**

Published 16 August 2005

Applies to England

Documents

Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System (https://assets.publishing.service.gov.uk/media/5a78c5e7ed915d04220653ab/147570.pdf

Ref: ISBN 9780117539518
PDF, 751 KB, 88 pages

This file may not be suitable for users of assistive technology.

▶ Request an accessible format.

Details

This circular provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It complements the national planning policy in the National Planning Policy Framework and the Planning Practice Guidance.

Although this circular outlines the impact of statutory obligations on the planning system, in some cases the legislation will have an equal bearing on other regimes, for example the Transport and Works Act 1992.

This circular should be read in conjunction with the National Planning Policy Framework (https://www.gov.uk/government/publications/national-planning-policy-framework--2) and the Planning Practice Guidance. (http://planningguidance.planningportal.gov.uk/)

Published 16 August 2005

APPENDIX 7

Appeal APP/P0240/W/22/3291001

Hatch

The Planning Inspectorate

Appeal Decisions

Hearing held on 7 November 2024

Site visit made on 8 November 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH NOVEMBER 2024

Appeal A Ref: APP/P0240/W/22/3291001
The Huts, Thorncote Road, Hatch, SG19 1PU

- 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 Joseph Robb against the decision of Central Bedfordshire Council.
- The application Ref is CB/21/01019/FULL.
- The development proposed is part retrospective change of use of land for the creation of a two pitch Traveller site, comprising the siting of 2 mobile homes, 2 touring caravans, erection of 2 dayrooms, erection of CCTV camera with post, and associated works.

Appeal B - APP/P0240/C/24/3346787
The Huts, Thorncote Road, Hatch, Sandy, SG19 1PU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Joseph Robb against an enforcement notice issued by Central Bedfordshire Council.
- The notice was issued on 11 June 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of Land from mixed use of agriculture and the storage and maintenance of one commercial vehicle for hobby purposes to a residential Gypsy and Traveller site with the siting of 2 static caravans and 3 touring caravans.
- The requirements of the notice are to (1) cease the use of the Land as a residential Gypsy and Traveller site, (2) to remove the static and touring caravans from the Land, associated with the use of the Land, and (3) return the land to its previous authorised use.
- The period for compliance with the requirements is 12 calendar months.
  The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal C - APP/P0240/C/24/3346788
The Huts, Thorncote Road, Hatch, Sandy, SG19 1PU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Joseph Robb against an enforcement notice issued by Central Bedfordshire Council.
- The notice was issued on 11 June 2024.
- The breach of planning control as alleged in the notice is without planning permission, operational development including the laying of hardstanding and installation of foul water/sewage drainage. The erection of pole mounted CCTV system and the development associated with the material change of use of the Land to the residential Gypsy and Traveller site.
- The requirements of the notice are to (1) remove foul water/sewage drainage installation, (2) remove the CCTV system, (3) remove hardstanding area outlined in blue on the attached map and re-instate grassed areas, (4) remove any debris created by steps (1)-(2), and (5) restore the Land to its previous condition.

- The period for compliance with the requirements is six calendar months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decisions

Appeal A Ref: APP/P0240/W/22/3291001

1. The appeal is dismissed.

Appeal B - APP/P0240/C/24/3346787

It is directed that the enforcement notice is varied by the deletion of the words in section 5(3). Subject to the variation, the appeal is allowed insofar as it relates to land hatched black on the plan appended to this decision. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for a residential Gypsy and Traveller site with the siting of two static caravans and three touring caravans at land shown hatched black on the plan appended to this decision, and subject to the conditions in schedule A to this Decision. The appeal is dismissed, and the enforcement notice is upheld as varied insofar as it relates to a residential Gypsy and Traveller site with the siting of two static caravans and three touring caravans shown on land edged black on the plan appended to this decision, where permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Appeal C - APP/P0240/C/24/3346788

2. It is directed that the enforcement notice be varied by (i) deleting the words in section 5(3) and substituting them for '*remove the hardstanding area outlined in blue on the attached map and reinstate grassed areas by grading and levelling the soil and by the sowing of an MG5 grass mix to that area',* and (ii) deleting the words in section 5(5). Subject to these variations, the appeal is dismissed, and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for Costs

3. In respect of Appeal A, an application for costs was made by Mr Joseph Robb against Central Bedfordshire Council. This application is the subject of a separate Decision.

Preliminary Matters

4. The description of the development (Appeal A) in the banner heading above differs from that in planning application form. In particular, it includes the erection of a CCTV camera on a post and one on a gate. This was agreed between the main parties prior to the planning application being determined. This description of development reflects what was considered by the Council when it refused planning permission. I have therefore determined the appeal based on the description of development on the banner heading above.

5. As part of the appeal, the appellant submitted drawing No. J003824-DD-03 Revision B (as proposed site plan). The Council states that this was not considered by it when it refused planning permission. It states that the relevant 'as proposed site plan' that was considered by it when it refused planning permission was drawing No. J003824-DD-03 Revision A. Notwithstanding the Council's view about this matter, the evidence is that the appellant did submit drawing No. J003824-DD-03 Revision B to the Council prior to it deciding to refuse planning permission. This drawing includes additional landscaping. It was agreed at the hearing that no injustice would be caused to any interested party by accepting drawing No. J003824-DD-03 Revision B for decision making purposes. I have therefore determined this appeal accordingly.

The Notices

6. The appellant has referred to section 171B(4)(b) of the Act. This is a matter that has been raised by the appellant in his accompanying letter dated 20 June 2024. I am aware that similar enforcement notices were withdrawn prior to the subject enforcement notices being issued. For the avoidance of doubt, section 171B(4) does not refer to so-called 'second bite'. Section 171B(4)(b) does not impose a limit on the number of times that a local planning authority (LPA) can issue a notice against the same breach. Indeed, section 171B(4) does not prevent the LPA '*taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach'*. I acknowledge that the operational development notice under appeal C also includes CCTV. In this regard, the Council is not relying on section 171B(4) of the Act. The breach of planning control differs from that contained within a previously withdrawn notice.

7. The appellant acknowledged at the hearing that he was not suggesting that the notices were invalid or null. He confirmed that he was simply making a technical point. In this case, he accepted that the technical point did not make a difference to the outcome of the appeals because no claim was being made about any development being immune from enforcement action, i.e., no ground (d) appeal has been pursued in respect of either Appeal B or Appeal C.

The Notice – appeal B

8. The appellant claims that the notice is invalid as paragraph 5(3) states '*return the land to its previous authorised use'*. There is no power to restore or reinstate a use in sections 173(3) and 173(4) of the Act. To this extent, the notice is flawed and hence invalid. However, I shall vary the requirements of the notice by deleting requirement 5(3) and, in doing so, am satisfied that no injustice would be caused to the main parties. This variation was agreed by the main parties at the hearing and does not make the requirements of the notice more onerous.

The Notice – appeal C

9. The appellant considers that the notice is imprecise as it does not distinguish between areas of authorised and unauthorised hardstanding on the site. However, the appellant does not dispute that an area of unauthorised hardstanding has been formed on the 'land' (i.e., within the land falling within

the red edged line on the plan attached to the notice). It is notable that there are no appeals pleaded on grounds (b) or (d) of section 174(2) of the Act. The notice requires hardstanding, as depicted within the blue edged land of the site as shown on the plan attached to the notice, to be removed. In response to the appellant's concern about requirement 5(5) leading to confusing and conflicting requirements, the Council considers that this requirement could be deleted. I shall vary the requirements of the notice by deleting requirement 5(5) of the notice and, in doing so, find that injustice would not be caused to the main parties.

10. Requirement 5(3) of the notice states *'remove hardstanding area outlined in blue on the attached map and reinstate grassed areas'*. In the interests of precision, and without injustice being caused to the main parties, I shall vary requirement 5(3) of the notice so that it reads *'remove the hardstanding area outlined in blue on the attached map and reinstate grassed areas by grading and levelling the soil and by the sowing of an MG5 grass mix to that area'.* This variation was agreed by the main parties at the hearing.

Ground (a) appeals and s.78 appeal

Main Issues

11. While the development which is the subject of appeals A, B and C are not identical, they are nonetheless interrelated and relate to the same site. The main issues for appeals A, B and C are therefore (i) the effect of the developments on the character and appearance of the area including landscape character and trees, (ii) whether the developments amount to intentional unauthorised development, (iii) the effect of the developments on biodiversity including the extent to which biodiversity net gain can be delivered, (iv) whether the site is sustainably located for a Gypsy and Traveller residential caravan site use, and (v) if any planning harm is identified, whether that harm is outweighed by other material considerations.

Preliminary Matters

12. The appeal site falls within an area of designated countryside and is located to the west of the settlement of Hatch. To the east is open pastureland, to the west is 'Westwinds' which is a detached dwellinghouse, and on the opposite side of Thorncote Road there are some semi-detached dwellinghouses. Much of the site is surrounded by mature trees and vegetation. There is, however, a vegetation gap along part of the eastern boundary and hence part of the existing development on the land, including mobile homes, can be seen from views from Hatch Common.

13. The planning application is made on a partly retrospective basis in so far that an area of hardstanding has been formed, and as the site it is being used by two families who are living in two mobile homes. There is no dispute between the main parties that the two families meet the definition of Gypsies/Travellers as outlined in Annex 1 of the Government's Planning Policy for Traveller Sites, as updated in December 2023 (PPTS). I have no reason to disagree with the position of the main parties about this matter.

14. For the avoidance of doubt, I am determining the planning application based on the submitted plans and not based on current site conditions. Indeed, the site

is not currently laid out as per the submitted plans. It includes solid boundary fencing and substantial frontage gates/fencing. The submitted plans show two mobile homes, two touring caravans, four car parking spaces, an area of hardstanding, a CCTV camera mounted on a pole, a CCTV camera mounted on a gate (no details of gate(s) are submitted) and some internal grassed/planting areas. A storm drainage strategy plan accompanies the planning application.

15. Prior to the unauthorised material change of use of the land taking place, the evidence is that it comprised a mixed agricultural and storage/maintenance of one commercial vehicle for hobby use on that part of the appeal site between the rear of the workshop building and the road, as confirmed by means of a lawful development certificate[1]. The evidence is that the site included a building prior to the site being used for unauthorised residential purposes. I was able to see that building on my site visit. The evidence is that vegetation was removed on the eastern boundary of the site and along its frontage with Thorncote Road to facilitate unauthorised residential use, the construction of hardstanding, and to create a widened vehicular access.

Character and appearance including landscape character and effect on trees

16. The wider area is characterised by small rural dispersed settlements connected by roads which are generally without lights and pavements. This part of the countryside includes a scattering of agricultural and residential development. However, and overall, this part of the countryside includes a limited amount of built development and is rural in character. The nearest hamlet to the site is Thorncote Green which is not defined by a settlement envelope.

17. The site was, at least in part, previously developed and is closely related to surrounding buildings. In that sense, it could not reasonably be said that it is experienced as being very remote or isolated from other development.

18. In respect of Policy C of the PPTS, I acknowledge that there is an existing Gypsy/Traveller site to the east of the small hamlet of Thatch. I understand that it has about seven pitches. This Gypsy/Traveller site is spatially separated from the appeal site. Furthermore, the appeal proposal is for only two pitches. In this case, I do not find that the scale of the site and the number of pitches proposed would dominate the nearest settled community, even accounting for the existing Gypsy/Traveller site to the east of the hamlet of Hatch. Moreover, there is no reasonable or objective evidence before me to indicate that the proposal would put undue pressure on local infrastructure when considered alone, or in combination with the other nearby pitches.

19. The site falls within the Lower Ivel Clay Valley Landscape Character area in the Central Bedfordshire Landscape Character Assessment (LCA). This explains that the disused nurseries and the A1 are locally dominant, but the wooded slopes and the Greensand Ridge to the north provide containment and a rural backdrop. The landscape strategy for the area is to renew elements that have become degraded or lost and to create new features to enhance and strengthen landscape character.

[1] CB/13/00320/LDCE and associated appeal ref APP/P0240/X/14/2215181

20. The evidence is that prior to the unauthorised development taking place on the site, it included a building and part of it was previously developed land. Nonetheless, photographic evidence demonstrates that the site previously had a more rural character and appearance and did not include the extent of hardstanding which is the subject of the appeals. Notwithstanding the site's baseline position prior to unauthorised development taking place, much of the land nonetheless continues to be largely screened from longer distance views owing to the existence of mature boundary trees and planting and intervening surrounding development. I find that the effect of the proposed development on the landscape character of the area is a more localised one. Indeed, the mobile homes and touring caravans can be seen from parts of the nearby Hatch Common to the east. Moreover, when the unauthorised frontage gates are open, the development on the site is now more conspicuous owing to the loss of some frontage vegetation.

21. While the unauthorised fencing and gates on the site do not form part of the planning application which is the subject of this appeal, I agree with the Council's Landscape Officer that this form of development has had an unacceptably urbanising effect on this part of the countryside when experienced from Thorncote Road and from surrounding dwellinghouses. The appellant agreed at the hearing that he would be content to replace the gates/fencing and that it would be possible to erect smaller and more in-keeping frontage gates/boundary treatment combined with enhanced frontage planting along Thorncote Road. He also commented that he would plant additional trees and hedges on the site. I am satisfied that this could be controlled by means of the imposition of a planning condition in respect of the Appeal A and Appeal B developments.

22. In addition to the above, the appellant confirmed at the hearing that additional tree and hedgerow planting would be undertaken along the eastern boundary of the site in respect of appeals A and B. This vegetation gap affords views of the site from Hatch Common. The caravans are clearly visible and prominent from this area as well as from the adjacent menage. Owing to their colour, height, and position, I find that the absence of boundary screening along this boundary means that the development does not assimilate well into the surrounding landscape.

23. I agree with the Council that the proposed planting along the eastern boundary would not amount to an immediate screening of the buildings/caravans on the site. I find that it would likely take several years for the gap in the boundary landscaping to reach maturity and, in the meantime, some of the buildings, caravans and chattels on the site would continue to be seen from public views. Moreover, and, in any event, it cannot be guaranteed that the new planting would endure forever. In this regard, I find that some limited harm has been/would be caused to the landscape character of the area. For this reason, the appeal developments would detrimentally affect the character and appearance of the wider landscape at odds with the requirements of policy H7 of the adopted 2021 Central Bedfordshire Local Plan 2015-2035 (LP).

24. I am mindful of concern raised about the effect of the position of the existing unauthorised hardstanding on the boundary trees. In respect of Appeal C, the hardstanding is positioned within the root protection areas as shown to be provided in respect of the development proposed under Appeal A. The

unauthorised hardstanding has indeed had the effect of undermining the appellant's own Tree Protection Strategy. On the evidence that is before me, I find that there is a possibility that the unauthorised hardstanding may have caused harm to the health and longevity of existing boundary trees/landscaping. In this regard, it remains possible that such trees/landscaping may die. Their loss would exacerbate my concern in respect of the identified harm caused to the landscape character of the area should even more of the site become exposed to public views from Hatch Common.

25. In the absence of any persuasive and objective evidence from the appellant that the existing boundary trees/landscaping on the perimeter of the land has not been materially harmed, I cannot conclude that it would continue to offer the same level of screening of the appeal developments in the future. Moreover, given this finding, I cannot conclude with any certainty that the appellant's Tree Protection Strategy that accompanies Appeal A would be sufficient to ensure that such trees/landscaping remain. In other words, an unauthorised hardstanding has been formed and it is not clear from the evidence whether existing boundary trees/landscaping would endure even if the unauthorised hardstanding were to be removed and a new hardstanding formed as per the plans submitted as part of Appeal A. The boundary trees/landscaping add positively and distinctively to the character and appearance of the area and hence this is an important consideration.

26. While I acknowledge the need for some hardstanding on the land in connection with the siting of caravans and vehicles, the amount that exists on the land (Appeal C), and is proposed as part of Appeal A, is very significant in the context of the landscape character of the area. The frontage gates do not form part of the ground (a) or section 78 appeals. The appellant confirmed at the hearing that the frontage gates/fencing would be replaced by condition with smaller entrance gates/fencing. Nonetheless, there would be times when gates would be open. Passers-by would be able to see into the site when any such gates were open. I appreciate that these would be intermittent occurrences and that views into the site would likely be fleeting. Nonetheless, the extent of the existing and proposed hardstanding is very significant in the context of this rural location, and it is not the case that the hardstanding would never be seen by passers-by.

27. In my judgement, and, when considered as a whole, neither the existing nor proposed hardstanding can be reasonably said to represent a sensitive and in-keeping form of development in this location. In respect of Appeal A, the appellant has missed an opportunity to soften the harsh impact of the proposed hardstanding (coupled with caravans, day rooms and parked cars) by breaking it up with a greater amount of soft landscaping. Moreover, the hardstanding which is the subject of Appeal C extends to the outer limits of the appeal site. I find that either hardstanding is unacceptably extensive and intrusive in the context of the landscape character of the area. In terms of this matter, I also find that the evidence is that the unauthorised hardstanding may have caused harm to the longevity and health of existing boundary landscaping.

28. In reaching the above conclusions about the hardstanding areas, I am mindful that the notice which is the subject of Appeal C requires only the removal of the hardstanding within the blue edged land on the appended plan and its reinstatement to grass. The notice does not attack the hardstanding on the

northern part of the site and therefore the effect of section 173(11) of the Act is that deemed planning permission would be approved for it if the notice was to be upheld. This is a point raised by the appellant which I also address as part of the associated ground (f) appeal. This is a fallback material consideration of considerable weight to weigh in the overall planning balance.

29. However, the notice fallback position does not alter or outweigh my finding in respect of the harmful cumulative impact of the existing and proposed hardstanding as whole on the character and appearance of the area. The land within the blue edge of the plan appended to the notice for Appeal C represents a significant enlargement and incursion into what the evidence indicates was otherwise an undeveloped and essentially landscaped part of the land. There would be cumulative harm caused to the character and appearance of the area arising from the laying of hardstanding (existing or proposed) to the south of the site in conjunction with the hardstanding to the north of the site.

30. In respect of Appeal C, I find that the above level of harm to the character and appearance of this countryside location is exacerbated owing to the erection of an existing pole mounted CCTV system. This is prominent and intrusive when experienced by passers-by on Thorncote Road and has an industrial appearance which is incongruous in this rural setting.

31. The appellant asserts that in respect of the ground (a) appeal under Appeal B, I could consider an alternative layout which effectively confines the two Gyspy and Traveller pitches to the area of hardstanding which would have deemed planning permission if the notice under Appeal C were upheld and complied with. Given this deemed planning permission fallback position, I shall consider whether under the ground (a) appeal for Appeal B, there would be justification in planning terms to grant planning permission for a residential Gypsy and Traveller site on only the hardstanding which constitutes the deemed planning permission fallback position. It is necessary that I consider this option as part of the ground (a) appeal for Appeal B, given section 174(2) (a) of the Act. Indeed, the development arising from an alternative scheme would form part of the matters alleged in the breach of planning control.

32. As detailed below, I find that there is justification to approve an alternative scheme relating to the provision of two pitches on a smaller site and which would relate solely to the hardstanding which would constitute the fallback deemed planning permission.

33. Prior to the unauthorised development occurring, the evidence is that the above land (i.e., the northern part of the site) included a building and was, at least in part, PDL. Confining the caravans, vehicles and associated domestic paraphernalia to the northern part of the land would not lead to the same level of harm to the landscape character and appearance of the area. In this context, the caravans would not be overly conspicuous in view from Hatch Common as they would be positioned away from the vegetation gap which is to the south of the land and along its eastern boundary.

34. In order to soften the impacts of the development on the character and appearance of the area, the grant of planning permission for two pitches on a reduced site area basis would provide scope to impose conditions relating to additional landscaping within the site and the submission of a scheme of boundary treatment/landscaping including that area fronting Thorncote Road. A

layout for the reduced site could be secured and controlled by planning condition. Given the uncertainty about the position of the hardstanding and its effect on boundary trees, it would be necessary to impose a condition requiring the replacement of existing boundary trees/vegetation (e.g., if they die, are damaged or become diseased) within a thirty-year period rather than the normal five-year period. This was agreed at the hearing between the main parties and would go hand in hand with the suggested BNG condition which would include a thirty-year maintenance programme. Such a condition would offer more certainty in terms of ensuring that boundary landscaping continued to soften/screen the caravans and vehicles from surrounding views for many years to come.

35. I find that the siting of caravans and vehicles on the hardstanding area would not in itself give rise to any adverse impacts from a biodiversity or existing boundary trees point of view. These are matters that arise because of the hardstanding that has been formed on the land. However, the LPA has decided that the hardstanding outside of the blue edged land, but within the red edged land on the plan appended to the notice, which is the subject of Appeal C, can ultimately be retained. This is a material planning consideration of significant weight when considering the alternative scheme.

36. For the reasons outlined above, I cannot conclude that when the existing and proposed developments (Appeal A and C) are considered as a whole, they accord with the landscape character, distinctiveness, appearance, design, and landscaping requirements of policies H7(2), HQ1, EE4 and EE5 of the adopted LP, policies NP6 and NP10 of the Northill Parish Neighbourhood Plan 2019-2031 (NP), the Central Bedfordshire Landscape Character Assessment, the PPTS and or chapters 12 or 15 of the National Planning Policy Framework 2023 (the Framework).

37. Notwithstanding the above, I have considered the deemed planning permission fallback position under section 173(11) of the Act in respect of the hardstanding area to the north of the site. This is a matter to which I afford considerable weight in the planning balance. In this context, and, subject to the imposition of planning conditions, I find that an alternative scheme, which confines the two Gypsy and Traveller pitches under the ground (a) appeal for Appeal B to only part of the site, would not have a detrimental impact on the character and appearance of the area, or to landscape character. In this regard, I conclude that there would not be conflict with the landscape character, distinctiveness, appearance, design, and landscaping requirements of the above policies.

Whether intentional unauthorised development

38. The Department for Communities and Local Government policy statement 2015 introduced planning policy to make intentional unauthorised development (IUD) a material consideration that would be weighed in the determination of planning applications and appeals from 31 August 2015.

39. In respect of IUD, planning permission should not be refused simply on the basis that the development was carried out without planning permission or is unlawful. A finding of IUD must be supported by evidence of something more than this, i.e., that the appellant intended the development to be unauthorised or actively sought to harmfully flout the rules.

40. In this case, the evidence is that the appellant submitted a planning application to use the site for residential purposes on 5 March 2021. The next day, the evidence indicates that work commenced to facilitate use of the site for residential purposes. It is noteworthy that the submitted plans are dated February 2021 and hence it is reasonable that I conclude that the professionally represented appellant was aware of the need to submit a planning application for the use/operational development on the land well in advance of submitting that planning application.

41. It is noteworthy that the two families on the appeal site had previously been leading a roadside existence. While I can appreciate the desire to have a settled base for the families, including for the children, the appellant has carried out unauthorised development. On the evidence that is before me, I find that such action was intentional. There is common ground between the main parties in this regard. The IUD clearly prevented the proper application of planning policies, including a more informed position about the baseline position of the site from a biodiversity point of view, and the evidence is that such action caused some friction with the local community.

42. Notwithstanding the above, I do not doubt the desire to have a settled base in March 2021, particularly from the point of view of the young children. Furthermore, I do not doubt that the alternative of continuing to live a roadside existence at this time would have been problematic owing to Covid-19 pandemic lockdowns and restrictions. Moreover, I am mindful that neither the appellant nor the Council have been able to refer me to the availability of any alternative available Gypsy/Traveller pitches in the area or elsewhere when the families moved onto the site. I am also told that the families have an aversion to bricks and mortar accommodation. These matters temper the adverse weight that I afford to IUD.

43. For the reasons outlined above, I conclude that IUD carries limited adverse weight in decision making terms.

Biodiversity

44. Unauthorised development is exempt from the statutory 10% biodiversity net gain (BNG) requirement. In this regard, there is no requirement under appeals B and C, to achieve a statutory minimum 10% BNG. As the planning application which is the subject of appeal A was made on 5 March 2021, it is also exempt from the statutory 10% BNG requirement which relates to planning applications made on or after 12 February 2024.

45. The Council has prepared Biodiversity Net Gain Guidance in Support of Policy EE2 of the LP (March 2022) (BNG Guidance). Paragraph 2.1.4 of the BNG Guidance states *'whilst the Local Plan does not specify a target for BNG, the Council are taking a positive and proactive approach and are encouraging new developments to achieve a net gain for biodiversity of at least 10%'.* Policy EE2 of the LP does not specify a target for BNG and while the BNG Guidance seems to encourage 10% BNG, I do not find that it is necessary for the appeal developments to achieve a minimum 10% BNG. The main parties were of the same view about this matter when questioned at the hearing.

46. There is, however, a requirement for the developments to achieve biodiversity gain as policy EE2 of the LP states *'development proposals will be permitted*

where they provide a net gain in biodiversity through the conservation, restoration and creation of ecological networks of habitats, species and sites (both statutory and non-statutory) or international, national and local importance'.

47. Furthermore, the appeal site falls within the Greensand Ridge Nature Improvement Area (GRNIA) and the B-Line area of priority pollinators. The GRNIA has been designated because of the opportunity it provides to support a better, stronger, and more robust natural environment at a landscape scale, and to make significant improvements to the existing ecological network in terms of enlarging and enhancing existing wildlife assets and increasing ecological connectivity between them. Policy EE8(1) of the LP states that development proposals within the GRNIA will be permitted where they *'demonstrate how a net gain in biodiversity will be delivered, including how gains in the quality and connectivity of ecological networks within and linking to the development will be delivered'.*

48. It is also notable that paragraph 180(d) of the Framework requires that decisions should contribute to and enhance the natural and local environment by *'minimising impacts on and providing net gains for biodiversity'.*

49. While a Preliminary Ecological Appraisal (PEA) was submitted by the appellant alongside the planning application, I agree with the Council that the evidence indicates that the PEA was carried out at post unauthorised development stage. The evidence is that the baseline biodiversity position was based on the unauthorised development that had taken place on the site. At this stage, the evidence is that vegetation had been removed from the site and hardstanding had been laid.

50. The site baseline should have been its original condition, prior to vegetation clearance. The evidence in the form of digital images shows that prior to the unauthorised development taking place, a large part of the site was predominantly grassland with boundary hedging and that it was semi-natural with some biodiversity value. Therefore, some harm had already occurred to biodiversity because of the unauthorised development. Moreover, while there is dispute between the appellant, Council and third parties about what type of vegetation was removed from the site, there is common ground that some form of vegetation was removed from the south-eastern boundary of the site, and from the frontage with Thorncote Road, prior to unauthorised development taking place.

51. It is also noted that the site would effectively become garden space in association with use as a Gypsy and Traveller residential caravan site. Even if one were to consider the proposed space as habitat and not garden space, the evidence is that a net gain in habitat units would not be possible on this site given the extent of the unauthorised hardstanding. Even applying the mix of habitats shown on the appellant's proposed plan and using the category 'vegetated garden', the evidence is that it would lead to losses of approximately 34% of habitat units and 50% hedge units.

52. I agree with the Council's evidence in its updated Ecology Statement of Case, dated September 2024, that the conifers on the eastern boundary should not be given a score of 'good' given the guidance in the Statutory Biodiversity Metric User Guide. Moreover, for appeal A, it is proposed to plant trees within

the grassland which would be small. I do not consider that the claimed 'good' condition would be achieved as that requires the trees to be mature and have opportunities for vertebrates and invertebrates such as cavities or deadwood, which is unlikely.

53. In the absence of correctly establishing the biodiversity baseline position, and hence being able to properly consider the proposed development against the pre-unauthorised development baseline position, and in accordance with the requirements of the Council's Biodiversity Net Gain Guidance 2022, I cannot conclude that the existing or proposed developments would accord with the biodiversity requirements of policies EE2 and EE8 of the LP, or paragraph 180(d) of the Framework. In addition, for the reasons outlined above, I do not find that trading rules have been met for either habitats or hedges in the appellant's submitted biodiversity metric. Overall, the appellant has not suitably demonstrated that the appeal developments would lead to biodiversity net gain. In respect of appeals A and C, this is a matter to which I afford very significant adverse weight in decision making terms.

54. Notwithstanding the above, I afford significant weight to the hardstanding fallback position in respect of the notice under Appeal C. A proportion of the hardstanding is not required to be removed if that notice was to be upheld. No conditions relating to biodiversity are capable of being imposed in respect of a deemed planning permission, under section 173(11) of the Act, for part of the hardstanding on the land. In this context, I find that the ground (a) appeal development which is the subject of Appeal B (i.e., material change of use development) would be acceptable in BNG terms if I decide that the Appeal C notice should be upheld and subject to the Gypsy and Traveller site use being confined solely to the said hardstanding area as shown on the appellant's alternative/indicative layout drawing No. J00491-CD01, dated September 2024.

55. In the context of the above, the material change of use of the land would not in itself have an impact on biodiversity and, moreover, it is noted that new native hedge and tree planting is shown on indicative drawing No. J00491-CD01 along the south-eastern boundary and along the road frontage with Thorncote Road. In this regard, I find that that subject to restricting the area of land for Gypsy and Traveller site use in accordance with the area shown on drawing No. J00491-CD01 dated September 2024, and the imposition of a landscaping condition, there is justification for overriding the harm caused to biodiversity, and hence conflict with policy EE8 of the LP, arising from the laying of the identified hardstanding area.

56. The above conclusion is reached on the basis that the notice under Appeal C is upheld and hence that the area of hardstanding to the south of the site (i.e., annotated in a blue colour on the plan attached to the notice) is removed and that a grassed area is reinstated. This decision is also reached in the context of the comment made at the hearing by the Council's ecologist that based on the alternative scheme, coupled with upholding the enforcement notice for appeal C and hence the retention of hardstanding outside of the blue edge of the plan appended to such a notice, he could not reasonably say that it would not be possible to achieve biodiversity net gain on the site.

57. Indeed, there was broad agreement between the main parties that it would be possible to provide new planting on the frontage of the site with Thorncote

Road (arising from a reduction in the size of the gates/associated fencing) and the provision of additional trees and hedges on the part of the land outside of the blue edged land on the plan appended to the notice which is the subject of appeal C. It was agreed that such replacement and new planting would be capable of being dealt with by condition and including a thirty-year maintenance, retention, and replacement programme.

58. There was some discussion about whether BNG needed to be provided on a like for like area basis, or whether it could be provided on a linear basis. While there are specific requirements in terms of achieving BNG in statutory terms, that does not apply in this case as the achievement of statutory BNG is not applicable to any of the appeals. It is necessary for BNG to be considered against policies EE2 and EE8 of the LP which is silent on whether BNG is delivered on an area or linear basis. On the evidence that is before me, I find that it would, as acknowledged by the Council's ecologist, be therefore possible to achieve BNG in conjunction with the alternative scheme. I acknowledge that the appellant has not provided me with a full or accurate BNG assessment in this regard, but on the basis of the appellant's alternative scheme, my decision in respect of Appeal C, and the comments made by the Council's ecologist at the hearing, I am satisfied that BNG could be dealt with by condition.

Whether sustainably located

59. The Council claims that the site is not sustainably located in so far that it is located outside of a defined settlement envelope. However, policy H7 of the LP, which specifically relates to the provision of Gypsy and Traveller sites, does not prohibit Gypsy and Traveller sites in the countryside. This is also the case in respect of the PPTS and policy SP7 of the LP. The latter policy lists the types of development that will be permitted outside settlements but uses the word *'includes'.* It is therefore not a closed list. In other words, it could include Gypsy and Traveller sites in the context of policy H7 of the LP.

60. Policy SP7 of the LP states that outside settlement envelopes *'the Council will recognise the intrinsic character and beauty of the countryside'*. I have found that subject to the imposition of conditions, part of the Appeal B development (i.e., the alternative scheme) would not cause harm to the intrinsic character and appearance of the countryside. I do not therefore find that this development would conflict with policy SP7 of the LP.

61. The Council also comments that there are limited facilities and services in close proximity to the site and that even where they do exist, such as in the nearby villages of Northill and Ickwell (e.g., village halls, a pre-school, lower school, outdoor recreation facilities and a pub serving food), it would be likely that occupiers of the site would use the private motor vehicle for most day-to-day journeys given the absence of pavements and street lights from the site at Thorncote Road and to these areas, coupled with the frequency and extent of public transport provision in the locality.

62. In respect of supermarket provision and middle and upper schools, the evidence is that there is a Tesco supermarket in Sandy which is about 2.2 miles away from the site, and there are schools a few miles from the site.

63. The Council makes the claim that owing to the above, the site is not sustainably located. However, neither Policy H7 of the LP, nor the PPTS, require

Gypsy and Traveller sites to have good public transport connectivity to day-to-day facilities and services. Policy H7(5) of the LP states proposals for Gypsies and Travellers will be permitted where *'adequate schools, shops, healthcare, and other community facilities are within reasonable travelling distance'*. While most day-to-day journeys would likely be undertaken in private motor vehicles for shopping, education and recreational purposes, most services and facilities would be within one to five miles and hence would be capable of being reached by private motor vehicle in up to about ten minutes. I find that the evidence is that there are adequate facilities within reasonable travel distances and hence the requirements of policy H7(5) are met. Moreover, the appellant confirmed at the hearing that the children travelled to school using a school bus and with a collection point at Thorncote Green.

64. In reaching the above conclusion, I am also mindful of the flexible approach to addressing sustainable transport and accessibility matters as outlined in paragraph 109 of the Framework which states that '*opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'* and *'significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a choice of transport modes'*. The appeal developments relate to two Gypsy and Traveller pitches and so are not 'significant' developments. While not policy, it is also noteworthy that the reasoned justification to policy H7 of the LP states, at paragraph 11.7, that what constitutes a reasonable travel distance will vary in relation to location of the site and services and the local pattern of development.

65. For the reasons outlined above, I do not find that the site that is the subject of the appeals is unsustainably located from the point of view of use as two Gypsy and Traveller pitches. In this regard, I conclude that there is no conflict with policy H7 of the LP, the PPTS or the Framework. This is a matter that carries neutral weight in the planning balance.

Other Considerations

Traveller Status

66. The Council does not dispute that the occupiers of the site meet the definition of a Gypsy and Traveller as contained within annex 1 of the PPTS (as updated in December 2023). I have no reason to disagree with this common ground position.

Need for Traveller Sites

67. There is dispute between the main parties that the LPA can demonstrate a deliverable five-year supply of Gypsy and Traveller sites.

68. The need for pitches up to 2035 was based on a 2016 Gypsy and Traveller Accommodation Assessment for Central Bedfordshire (GTAA). It has been used to inform the strategy for the provision of Traveller pitches in the LP. The GTAA identifies that within Central Bedfordshire, for the plan period 2015 to 2035, there is a need for 29 pitches to meet Gypsy and Traveller need (23 for 'Travelling' Gypsies and Travellers and 6 for unknown Gypsies and Travellers).

69. Paragraph 10.3.3 of the LP states that the *'Council's monitoring data shows it has already exceeded this figure and that a five-year supply can be maintained over the plan period'.* Policy SP8 of the LP states *'the Council has already approved a sufficient number of pitches to meet the Gypsy and Traveller accommodation need in Central Bedfordshire over the period 2015-2035'.* Given the above, the LP does not allocate sites for Gypsy and Traveller pitches and instead includes policy H7 which is a criteria-based policy for windfall Gypsy and Traveller pitches.

70. The Council therefore claims that it has permitted more Gypsy and Traveller pitches than the need identified in the GTAA and that since then it has approved additional pitches pursuant to policy H7 of the LP. In reaching this conclusion, the Council has submitted a statement prepared by Opinion Research Services (ORS). The evidence from ORS is that 72 Traveller pitches have been approved by the Council between 2015-2024. At the hearing, the Council updated the above to include evidence of an additional 12 Traveller pitches being approved on 16 October 2024 for a site in Arlesey[2], and one Traveller pitch being approved for a site in Leighton Buzzard[3].

71. ORS has considered the GTAA and its findings in terms of applying need from the definition of a Traveller in Annex 1 of the 2023 PPTS, as distinct from the definition that existed in the 2015 PPTS. Since the GTAA was published, the definition of a Gypsy and Traveller has been amended in the PPTS to include those who have ceased to travel permanently on the grounds of their own or family's or dependents' educational or health needs or old age. Based on the re-assessment, ORS state that this necessitates an adjustment in need of five additional Gypsy and Traveller pitches. It is stated that since the GTAA was published, and considering the revised need target for 34 pitches, the LPA has permitted enough pitches between 2015-2024 to meet required need. In this regard, the Council claim that a five-year supply of deliverable Gypsy and Traveller sites can still be demonstrated.

72. Notwithstanding the above, I find that there are several matters which cast doubt about whether the GTAA can now be relied upon in terms of considering the extent of need for Gypsy and Traveller pitches in the area. At the hearing, ORS acknowledged that in respect of the GTAA, the household interview return rate at 35% was '*very low'*. When questioned, the representative of ORS said that based on his experience a good household interview return rate was *'about 70%*'. While the household interview rate and GTAA methodology was considered acceptable for the local plan examination, it is nonetheless noteworthy that the GTAA is now over eight years old. It is no longer up to date. At the hearing, the representative from ONS confirmed that a reviewed GTAA was underway and *'was about 60% complete'.* However, he could not provide any sort of update in terms of the extent of Gypsy and Traveller pitch need in the area.

73. The focus of the GTAA was on the 2015 PPTS definition of a Gypsy and Traveller, although it did also seek to assess non-definition Gypsy and Traveller need and 'unknowns'. At the hearing, there was no dispute between the main parties that there were a very high number of 'unknowns' in the GTAA. In my judgement, this casts some doubt about the extent of Gypsy and Traveller

[2] Planning permission CB/23/04089/FULL
[3] Planning permission CB/23/02748/FULL

pitch need in the area now when considered again other matters. Indeed, it is possible that a high number of the 'unknowns' did in fact relate to those that met the definition of a Gypsy and Traveller in the December 2023 PPTS.

74. Moreover, the evidence is that a very significant number of Gypsy and Traveller pitches have been approved by the Council. The number of pitches that have been approved far exceeds that which was envisaged as being needed in terms of the GTAA. In my judgement, this also casts some doubt about whether the GTAA can still be relied upon from a five-year supply point of view.

75. The question of need was considered recently by an Inspector in August 2024 for a site at Home Farm, Dunstable Road, Tilsworth[4]. The Inspector concluded that *'taking into account the age of the GTAA and the large percentage of households who were either unknown or did not meet the 2015 definition, I consider that there is sufficient uncertainty to cast doubt on whether the Council has a five-year supply of specific deliverable sites*'.

76. The Inspector also referred to high caravan counts in the area in her decision. Specifically, she commented that *'it is clear that there has been an expansion of need in the area, with the caravan count having risen from 490 in 2016 to 610 in July 2023'*. While I note that caravan counts should be treated with some caution, as outlined by the representative from ORS at the hearing, it nevertheless provides at least some further indication of likely increased demand/need for Gypsy and Traveller pitches in the area.

77. At the hearing, it was agreed that the evidence submitted by ORS for the above Dunstable Road, Tilsworth appeal was essentially the same that had been submitted to me as part of the consideration of appeals A and B. I am mindful of the need for consistent decision making and, on the evidence that is before me, and, for the reasons outlined above, I do not find that there is a good reason for me to depart from the views expressed by the Inspector in August 2024.

78. The above finding is compounded owing to comments made recently by the LPA as part of the determination of the Arlesey planning application for a Gypsy and Traveller site. In the officer report, considered by Planning Committee, the LPA commented, at paragraph 1.16, *'the Inspectors in these appeal decisions raised concerns that the level of demand was greater than that shown in the GTAA. In the appeal decision for Plot 6 in Great Billington, the Inspector stated that they had "no doubt that there is demand for greater pitches in the area"'.*

79. Based on the above, it is reasonable that I conclude that the LPA is not currently disputing the recent position reached by other Inspectors about the current uncertainty surrounding the actual need for Gypsy and Traveller pitches in the area. If that were not the case, then I would have expected such a position to have been outlined in the above officer report. At the hearing, I asked Mr Hughes if he could provide a comment on this matter. He commented that he was not able to do so as he was *'acting as a consultant on behalf of the Council and no relevant officers were in attendance'.*

80. On the evidence that is before me, and for the collective reasons outlined above, there is uncertainty about whether the GTAA can now be relied on in

[4] Appeal A Ref: APP/P0240/C/23/3331075

terms of the extent of Gypsy and Traveller pitch need. Therefore, I cannot conclude that the Council can demonstrate a five-year supply of Gypsy and Traveller sites. The certainty will be provided when the GTAA review has been completed and a new Local Plan is in place. My conclusion in this matter weighs in favour of granting planning permission for a Gypsy and Traveller site on the land.

Availability of Alternative Traveller Sites

81. There is a dispute between the main parties about the availability of alternative Gypsy and Traveller pitches to accommodate the needs of the occupiers of the site. The Council claims that it is aware of at least 13 vacant pitches on sites in the area and these include:

- Plot 1, Jockey Farm, Caddington (2 vacant pitches on a site with no personal restrictions);
- Preachers Place, Houghton Conquest (2 recently permitted pitches;
- Plot 9, The Stable, Gypsy Lane, Billington (1 vacant pitch, the site is subject to personal conditions, however the Council are not enforcing such conditions and would consider applications to remove such conditions)
- Common Road, Potton - Council run site (1 vacant pitch)
- Riveroaks (1 vacant pitch)
- Old Cartwheel Nurseries (6 vacant pitches)

82. Notwithstanding the above, the Council confirmed at the hearing that its up-to-date position was, in fact, that there were available pitches in respect of the Preachers Place site above (x2), the Jockey Farm site above (x2), and at the recently approved Gypsy and Traveller site at Woodview Lodge, Hitchin Road, Arlesey (x12). In respect of the latter planning permission, it includes conditions which are required to be discharged prior to first occupation of the site. The Council was not able to confirm at the hearing that such conditions had been discharged. In this regard, I do not find that the pitches are currently/lawfully available. Moreover, and, in any event, I do not know whether any of the pitches would be suitable, available, or affordable for the extended family on the appeal site. The Council were not able to provide clarity in terms of such matters at the hearing.

83. In addition to the above, I do not know if the above pitches would be made available to occupiers of the appeal site on a purely rental basis, or whether they would be offered for sale. The appellant made it clear at the hearing that he did not want to rent pitches, but instead wanted a site that was under his ownership and control, and where he could offer a stable and secure base for him and the other occupiers of the site, including the children.

84. On the evidence that is before me, I do not find that there is certainty that the above pitches are suitable, available, or affordable for occupiers of the appeal site. It is nonetheless important that I emphasise that even if there are currently no available alternative pitches for the family on the site, policy H7 of the LP is a criteria-based policy for the consideration of planning applications

for Gypsy and Traveller pitches in Central Bedfordshire. In this context, the appeal site was not necessarily the only option available to the families from the point of view of seeking planning permission for Gypsy and Traveller pitch purposes.

85. There is no objective evidence before me to lead me to conclude that it would not be possible to obtain planning permission on an alternative site elsewhere, ensuring full compliance with the requirements of policy H7 of the LP within the 12-month compliance period in the notice which is the subject of Appeal B. The appellant states that life savings have been invested in purchasing the appeal site and hence it would be difficult to purchase another site. I have no objective evidence before me to substantiate this claim, and, in any event, it remains possible that the appeal site could be sold.

86. Notwithstanding the above, and, importantly, I have granted deemed planning permission for part use of the subject land as a Gypsy and Traveller site. This is subject to compliance with conditions, but nonetheless the compliance period in the Appeal B notice is generous and hence there would be convenient and alternative pitch provision for the families on part of the land arising from this deemed planning permission. In this regard, the availability of suitable and affordable alternative sites is not a determinative matter.

Family circumstances including the best interests of the children

87. Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 (HRA) states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.

88. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.

89. It is clear that a settled base for the families has aided the children from an education point of view. There are currently six children on the site and two babies are expected to be born very soon. Four of the children are of school age and attend local schools, one is at pre-school, and one is home schooled. The two pitches on the site offer a stable base in educational and social well-being terms for the children on the site.

90. The evidence is that all family members are enrolled with a General Practitioner. Moreover, it is understood that one child is currently attending hospital visits owing to an eye condition. I afford the provision of a settled base some positive weight from a health point of view. That said, it may be possible for the families to ensure such health stability from securing planning permission for a site elsewhere in accordance with all the criteria in policy H7 of the LP.

Economic contribution

91. The evidence is that the appellant and his brother carry out building work (e.g., paving, driveways, and landscaping) and that they travel away from the area for economic purposes. There is little evidence that building work is routinely carried out in the local area, although it is understood that this may happen from time to time. The two families would provide some economic assistance and support to local services and facilities in the area. Overall, and given the scale of the development that is the subject of the appeals, I afford the economic contribution to the local area some positive, albeit limited, weight in decision making terms.

Previously developed land

92. Following an appeal in 2014, it was confirmed as part of the aforementioned LDC application that a mixed agricultural and hobby use for the storage of one commercial vehicle had occurred on the land. I have not been provided with any evidence to indicate a change in the use of the land since this time and prior to the existing unauthorised development taking place on the site. As part of the Council's statement of case, it seeks to make a claim that the LDC use may have been abandoned. This is a strange claim given the description of the breach of planning control in respect of Appeal B, but, in any event, this claim lacks any credible or objective reasoning or justification.

93. The LDC was approved in 2014 and there is nothing before me to indicate that there had been any intervening use(s) of the land or that the building had remained unused for a considerable time, such that a reasonable person might conclude that the previous use had been abandoned. I accept that the ownership of the land has changed since 2014, but nonetheless there is no indication that the appellant intended to suspend the use, or to cease it prior to the unauthorised development taking place on the land. I do not therefore agree with the Council that the LDC use was 'abandoned' prior to the unauthorised development taking place on the land.

94. Moreover, there is no dispute that there was a building on the land prior to the unauthorised development occurring. Indeed, it is stated that there was a *'single storey workshop building with an electricity supply'*. I was able to see that building on my site visit. The definition of previously developed land (PDL) is contained within annex 2 of the Framework which states, *'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure'.*

95. It is clear from reading the Planning Inspector's LDC appeal decision that the commercial storage and maintenance of one vehicle was confined to the land between the rear of the workshop building and the main road, and that the rest of land that is the subject of this appeal was in use for horse grazing purposes.

96. I do not doubt that the workshop building on the land had some form of curtilage. However, the site has significantly changed because of the unauthorised material change of use of the land (including formation of the hardstanding). It is not therefore possible for me to reach a very certain conclusion about this matter. However, I do find that the evidence is that much of the land on the appeal site was used for horse grazing.

97. Despite the above, the Council accepted at the hearing that part of the appeal site included hardstanding prior to the notices being issued. Mr Hughes commented that it was the Council's position that it could not be certain about the extent of hardstanding that existed to the northern part of the site, but that it did consider that there was some hardstanding based on the image on page 29 of its updated statement of case. The appellant commented at the hearing that there was hardstanding on this part of the site historically, albeit that some of it had become overgrown with grass. Mr Harrison raised doubt at the hearing about this claim referring to the Neighbourhood Plan which refers to the site as being 'permanent grassland' and that the above image perhaps just showed *'a muddy area'*.

98. In my judgement, and based on the evidence that is before me, including historic aerial photographs, I find that only a small proportion of the appeal site constitutes PDL. I do not find that it could on any reasonable or objective basis be said that the whole of the site was part and parcel of use of the former workshop building on the land. In my judgement, and, as a matter of fact and degree, I do find that part of the northern part of the site did historically include some hardstanding. It also included a building and that is still on the site now. I find that the northern part of the site is therefore PDL.

99. The evidence therefore supports a view that the land partly includes PDL. In this regard, the Appeal A development would make *'effective use of previously developed land'* in accordance with paragraph 26(a) of the PPTS. This is a matter to which I afford some positive weight in favour of granting planning permission. However, this is tempered in so far that the evidence indicates that a large proportion of the appeal site did not include a building or hardstanding prior to the unauthorised development occurring. Therefore, the evidence is that some of the development has occurred on land which is not PDL. In respect of this matter, I afford more weight to the existence of PDL in respect of the alternative scheme (Appeal B) as the two pitches would essentially be confined to an area of land within the curtilage of the workshop building on the land.

Other Matters

100. The main parties have respectively referred me to other appeal decisions. While I have considered the other appeal decisions, they are not directly analogous to the site-specific circumstances that prevail in respect of the appeals. I have determined the appeals on their individual planning merits and considering the identified other considerations.

Planning Balance and Conclusion

101. When the developments which are the subject of appeals A and C are considered as a whole, I have been unable to conclude that they would not or have not caused harm to the character and appearance of the area, including to landscape character. For the reasons outlined, I do not find that the harm could be suitably mitigated by means of the imposition of conditions. This harm is a matter to which I afford moderate adverse weight in the planning balance.

102. Moreover, the appellant has not properly assessed BNG based on an accurate baseline position, and, in any event, guidance has not been suitably applied. Consequently, I have been unable to conclude that when the

developments are considered as a whole (in particular the developments under Appeals A and C), they would deliver BNG in accordance with the requirement of policies EE2 and EE8 of the LP, and the Framework. In respect of the biodiversity issue, there would also be conflict with policy H7 of the LP as this policy states that there should be compliance with *'other relevant policies'* within the LP. This is a matter to which I afford very significant adverse weight in the planning balance. Furthermore, I find that IUD has taken place and limited adverse weight is attributed to this matter.

103. I find that the site is sustainably located as a Gypsy and Traveller site for two pitches. This is a matter which carries neutral weight in decision making terms.

104. Weighed against the above harms, are the other considerations outlined above. These weigh in favour of allowing the appeals. However, the positive weight that I collectively afford these matters is not sufficient to justify granting permanent planning permission for a Gypsy and Traveller site, or for a hardstanding area on the whole of the land.

105. I have considered whether a temporary planning permission would be justified. I acknowledge that the collective harm that I have identified would be diminished if temporary planning permission were to be approved in respect of either the ground (a) deemed planning applications, or in respect of the development proposed as part of the appeal made under section 78 of the Act. However, such collective harm from development within the red edged site areas would still be significant even if the development were to continue for a temporary period.

106. Notwithstanding the above, I afford significant weight to the deemed planning permission fallback position for the hardstanding to the north of the site. In this regard, if the notice under Appeal C were upheld and complied with, a proportion of the hardstanding would be permitted to be retained on the land. This would be permitted without any conditions being imposed, including those relating to BNG. In this context, I have considered the appellant's alternative layout for a Gypsy and Traveller site on this part of the site in respect of the ground (a) appeal made under Appeal B.

107. The evidence is that a large part of the land which forms part of the fallback deemed planning permission hardstanding is PDL. This weighs in favour of allowing a Gypsy and Traveller site on this part of the land. Subject to the imposition of conditions, I do not find that the siting of caravans and vehicles on this part of the land (i.e., material change of use of the land to a Gypsy and Traveller residential caravan site) would have a detrimental impact on the character and appearance of the area (including landscape character).

108. Moreover, I am satisfied that the indicative alternative layout suitably demonstrates that it would not lead to cramped living conditions for the two families. While I acknowledge that caravans and associated development would not be totally screened from public views, replacement and new planting would be capable of softening the impact of the position of caravans and associated development on the reduced site area. In addition, the evidence is that BNG would be capable of being achieved on the alternative site in relative terms and factoring in deemed planning permission for hardstanding on the northern part

of the site. New planting and any required replacement planting would be suitably controlled over a thirty-year period.

109. On balance, and when considered alongside the positive other considerations outlined above, I find that there is therefore justification for granting permanent planning permission for a smaller Gypsy and Traveller site on the land which is the subject of the notice under Appeal B. Subject to the imposition of conditions, and, in the context of the deemed planning permission fallback position for the hardstanding on the land, I find that this material change of use development would be capable of according with the criteria in policy H7 of the LP. In reaching this decision, the personal circumstances of the family (including the best interests of the children) have not therefore been a decisive issue and so a personal condition is not needed.

110. In respect of the alternative scheme and policy H7 of the LP, I find that the scale of the Gypsy and Traveller site and number of pitches would not dominate the nearest settled community; the character and appearance of the wider landscape would not be detrimentally affected subject to the imposition of conditions; there would be a good standard of amenity for occupiers of the smaller site; the site would be of sufficient size to accommodate the identified caravans, mobile homes, parking and storage requirements; amenities and services are within reasonable travelling distances; foul and surface water drainage could be addressed by planning condition, and a mixed residential and business use has not occurred. Moreover, I find that the alternative scheme would largely be confined to a part of the site that is PDL.

111. I therefore find that there is justification for granting permanent planning permission in respect of the 'alternative scheme'. My finding in respect of IUD does not hold sufficient weight to outweigh this finding, particularly when some of the positive other considerations are weighed in the balance.

112. For the reasons outlined, I nonetheless conclude that the appeal developments which are the subject of Appeals A and C do not accord with the development plan for the area taken as a whole and there are no material considerations which indicate the decision should be made other than in accordance with the development plan. Neither permanent nor temporary planning permission is justified in these cases.

113. I conclude that appeal A should be dismissed and that the ground (a) appeal under appeal C fails. However, the ground (a) appeal under appeal B succeeds subject to the imposition of conditions.

114. In reaching my conclusion to grant planning permission under ground (a) for Appeal B and for part of the land to be used as a Gypsy and Traveller site, I have considered the third-party representations made in respect of such an appeal. Comments made about the CCTV on the land and the invasion of privacy are not relevant to Appeal B. They are relevant to appeal C and such a notice is to be upheld. A condition shall be imposed relating to CCTV on the land. Matters relating to the treatment of sewage and surface water drainage shall be addressed by means of the imposition of planning conditions. I accept the point raised by Mr Harrison at the hearing about light being apparent from use of the caravans at night. However, I do not find that the extent of light from the caravans would cause material harm to the area at night and,

moreover, any external lights on the site would be controlled by way of a planning condition.

115. Other third-party matters raised have been considered elsewhere in this appeal decision. None of the other matters raised by third parties alter or outweigh my overall conclusion in respect of Appeal B.

Ground (a) appeal conditions – Appeal B

116. The conditions set out in the accompanying schedule were agreed by the main parties at the hearing. Where necessary, I have made minor word changes to the agreed conditions in the interests of precision and enforceability. I have included the reason for imposing each condition within the accompanying schedule of conditions.

117. In this case, there is clear justification for removing Class A (gates, fences, walls etc) of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permitted development rights. Without this level of control, harm could be caused to existing or proposed planting, to biodiversity, or to the character and appearance of the area. Moreover, it is necessary that the sufficient space is maintained on the approved Gypsy and Traveller site (i.e., the alternative scheme) for living conditions purposes.

Appeal B and Appeal C - ground (f) appeals

118. The appeals made under ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.

119. In respect of Appeal B, the claim made by the appellant is that the notice is invalid in that requirement 5(3) states '*return the land to its previous authorised use'.* There is no power in section 173(3) and (4) of the act to require a use to be restored or reinstated. This is a matter that I have already considered in 'The Notice' part of this decision. The notice has been varied and so requirement 5(3) is no longer part of it. Consequently, the notice is neither invalid and nor are the varied requirements of the notice excessive or unnecessary. The purpose of the notice is to remedy the breach of planning control. The requirements of the notice remedy the breach of planning control and so are not excessive.

120. In respect of Appeal C, the appellant claims that the notice is not clear in so far that it does not include a plan which precisely identifies the area of hard standing that is unauthorised. This is an invalidity argument rather than a matter that is relevant to a ground (f) appeal. I do not find that the notice is invalid in this regard. The notice includes a plan which includes a red edge which defines the land to which the breach of planning control relates. The appellant has not appealed on grounds (b) or (d) of section 174(2) of the Act and the evidence is that he accepts that a new hardstanding has been formed on the land. The onus is on the appellant to make his case on legal grounds and no objective evidence is before me to indicate that a new hardstanding had not been formed.

121. The notice includes a plan with an area of land edged blue which identifies the area of hardstanding to be removed. Again, the appellant does not make a claim that any part of this hardstanding has not occurred, or that it was immune from enforcement action owing to the passage of time. I find that the notice is clear in terms of what part of the hardstanding is required to be removed.

122. In effect, the appellant's argument is that requirement 5(3) of the notice would result in a deemed planning permission for hardstanding on part of the site (i.e., the northern part of the site) given section 173(11) of the Act. This is not an invalidity or nullity argument and instead is a separate matter that relates to the Council's decision to underenforce. It is a matter that I consider in respect of the ground (a) appeals. I find that the notice is clear and unambiguous: it was not necessary to include a plan which specifically identified the area of unauthorised hardstanding on the land. The notice tells the recipient fairly what they have done wrong and what they must do to remedy it.

123. The appellant claims that requirement 5(5) is conflicted and imprecise. I have already considered this matter in 'The Notice' part of this decision and it has been deleted without injustice being caused to the main parties.

124. For the reasons outlined above, I conclude that the varied steps in the two notices are not excessive. Therefore, the ground (f) appeals fail.

Appeal B and Appeal C - ground (g) appeals

125. The appeals made under ground (g) is that the period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.

126. The appellant has confirmed that he accepts the period of twelve months to comply with the requirements of the notice for Appeal B. In this regard, there is no actual claim that the compliance period in the notice for Appeal B falls short of what should reasonably be allowed. The appellant's claim is that in respect of Appeal C, which requires the removal of operational development, a compliance period of eighteen months rather than thirteen months would be more reasonable as it would facilitate a full twelve-month residential use of the land for the families and then enable the necessary works to be undertaken after that use has ceased.

127. I agree with the appellant that one month after the residential use has ceased to comply with the requirements of the notice under Appeal C would be too short. However, the appellant does not justify why a period of six months after the residential use has ceased would be needed to comply with the requirements of such a notice. In my judgement, a period of three months is proportionate and justified. I have granted planning permission for part use of the land as a Gypsy and Traveller residential caravan site under Appeal B. The families would not be made homeless as result of compliance with the requirements of Appeal B and a period of thirteen months to remove the specified hardstanding area is reasonable and proportionate in this context.

128. For the above reasons, I find that the compliance period in the notice for Appeal C is reasonable. Consequently, the ground (g) appeals fail.

Conclusions

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129. For the reasons given above, I conclude that the appeal should be dismissed.

Appeal B - APP/P0240/C/24/3346787

130. For the reasons given above, I conclude that the appeal should succeed in part only, and I will grant planning permission for a specified part of the land, but otherwise I will uphold the notice with a variation and refuse to grant planning permission in respect of the other specified part of the land. The requirements of the notice will cease to have effect so far as these are inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act (as amended).

Appeal C - APP/P0240/C/24/3346787

131. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

D Hartley

INSPECTOR

SCHEDULE OF CONDITIONS – APP/P0240/C/24/3346787 (APPEAL B)

1)The approved site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1: Planning Policy for Traveller Sites 2015 (as updated in December 2023) (or any subsequent definition that supersedes that document).

Reason: to limit the occupation of the site to persons that meet the definition of Gypsies and Travellers having regard to the circumstances that justified approving development on part of the site.

2)Notwithstanding the deemed planning permission description of development, no more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, and no more than two of the caravans shall be static caravans.

Reason: to limit the number and type of caravans on the smaller site and to ensure all caravans would meet the legal definition and in the interest of visual amenity.

3)The use hereby permitted shall cease and all caravans, structures, equipment, and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Notwithstanding the details submitted, within 4 months of the date of this decision a site development scheme with details for:

(a) the internal layout of the site including the extent of the residential pitches, the location of the caravans (reflective of actual scale), vehicle parking, vehicle turning areas, vehicle charging points/cabling, utility connections, siting of CCTV, and the siting of any proposed buildings, in the area cross hatched on plan reference CBC/HUTS/10;

(b) a site access scheme including: a scaled plan detailing an access measuring 4.8 metres wide and surfaced with a bound material for at least 5 metre back from the highway. The plan shall detail arrangements to be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway; a scaled plan detailing the provision of visibility splays measuring 2.4m measured along the centre line of the proposed access from its junction with the channel of the public highway and 43m measured from the centre line of the proposed access along the line of the centre channel of the public highway. The scaled plan shall detail any works required for the provision of visibility splays including the clearance of any vegetation and relocation of street furniture such as telegraph poles; replacement gates and fencing along the site frontage with Thorncote Road together with a timetable for removal of the existing gates and fence and implementation; and the provision of a refuse collection point located at the site frontage and outside the public highway and visibility splays.

(c) a detailed surface water drainage scheme, to manage surface water for up to and including the 1 in 100 year event (+40%CC), the scheme shall be based on the final agreed Tech note (Ref: AcI604-21024, Adama, 28/0/21) and DEFRAs Non-statutory technical standards for sustainable drainage systems (March 2018);

include a simple investigation evidencing flood risk will not be increased for existing properties and the safety of the proposed development; include volume for volume mitigation for flood water as a minimum, for all above ground construction; not include the culverting of existing watercourses; include a full set of calculations, providing evidence of all surface water retained on site for the 1 in 100 (+40%CC). Any exceedance should be shown with pathways with maximum depths and velocity and; include full detailed drainage drawing showing all connections, control features, storage, inverts etc; and include full detailed design of Land Drainage Consent under the Land Drainage Act 1991 for the discharge of surface water to an existing watercourse/ditch.

(d) a detailed foul drainage assessment and scheme which shall; include a full detailed foul drainage drawing showing all connections, controls and storage, as well as details of any collection or discharge/ release arrangements; include a connection to the public foul sewer unless it is demonstrated to the satisfaction of the Local Planning Authority that it is not reasonable to connect to the public sewer; where a connection to the public foul sewer is not reasonable the scheme shall include a statement considering the following hierarchy of non-mains alternative solutions: package sewage treatment plants (which may be offered to the sewerage undertaker for adoption); septic tanks; and cesspool(s); include a completed FDA1 form, or equivalent information; if considered necessary by the Local Planning Authority details shall be submitted to demonstrate how the requirement of Building Regulations Approved Document H will be met; and details of the management and maintenance arrangements for the foul drainage system.

(e) a biodiversity enhancement and landscaping scheme to include all hard and soft landscaping and a scheme for landscape maintenance for a period of 30 years, the scheme shall include: the removal of existing hardstanding including astro turf; scaled plans detailing the location of replacement hardstanding and details of the materials with construction specification for all hardstanding (which shall be in full accordance with the surface water drainage scheme for the site); the removal of existing fencing, gates and brick plinths; details of all replacement boundary treatments and all other means of enclosure, which shall be more sympathetic in design for the location (any gates shall be sited 5 metres beyond the public highway and shall open away from the highway); the retention of existing trees and hedgerows; a comprehensive planting scheme with screen planting including details of species, plant sizes and proposed numbers and densities (plant species shall visually screen the site, respect the landscape context of the site and contribute towards ecological enhancements); and a comprehensive biodiversity enhancement scheme, which shall detail the location and design of species specific enhancement measures, purpose and conservation objectives for any measures and a scheme for the maintenance and monitoring of the measures for a period of 30 years identifying persons responsible for implementing, monitoring and maintaining the scheme.

(hereafter referred to as the "development scheme") shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

(ii) if within 11 months of the date of this decision the local planning authority refuse to approve the development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by the Secretary of State.

(iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted development scheme shall have been approved by the Secretary of State.

(iv)the approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition that scheme shall thereafter be retained. The provided visibility splays at the site access shall be maintained free of obstruction in perpetuity.

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

Reason: to safeguard the character and appearance of the area and highway safety, to ensure suitable living conditions and arrangements for utilities, vehicle charging, surface water drainage, and foul drainage, to ensure the development would not result in unacceptable on or off site flood risk, to prevent pollution, and to secure a net gain for biodiversity, in accordance with Policies H7, T2, T3, T5, EE2, EE4, EE5, CC3, CC4, CC5, CC6, CC7, CC8, and HQ1 of the Central Bedfordshire Local Plan, Policies NP8 and NP12 of the Northill Neighbourhood Plan and the Framework.

4)At the same time as the site development scheme required by condition 3 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for a period of 30 years of the existing and proposed planting beginning on date of the completion of the final phase of implementation as required by that condition. The schedule of maintenance shall make provision for the replacement, in the same position, of any ecological enhancement feature, tree, hedge or shrub that is removed, uprooted, or destroyed or dies, or in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reason: to ensure the establishment, retention, and replacement of planting and ecological enhancements, in the interest of biodiversity and the character and appearance of the area, in accordance with Policies EE2, EE3, EE4, EE5 and HQ1 of the Central Bedfordshire Local Plan, and the Framework.

5)At the same time as the site development scheme required by condition 3 above is submitted to the Local Planning Authority there shall be submitted a maintenance and management scheme for the entire surface water drainage system, inclusive of adoption arrangements and/or private ownership/ responsibilities. The maintenance and management scheme shall include maintenance of any watercourses within or adjacent to the site, even if there is no discharge to them. The entire surface water drainage system inclusion of the adjacent watercourses shall be maintained and managed in accordance with the approved maintenance and management scheme in perpetuity.

Reason: To ensure that the implementation and long-term operation of a sustainable drainage system.

6)At the same time as the site development scheme required by condition 3 above is submitted to the Local Planning Authority there shall be submitted a maintenance and management scheme for the entire foul drainage system, inclusive of adoption arrangements and/or private ownership/responsibilities. The entire foul drainage system shall be maintained and managed in accordance with the approved maintenance and management scheme in perpetuity.

Reason: To ensure there would be no detrimental impact on the environment in accordance with Policies CC6, CC7 and CC8 of the Central Bedfordshire Local Plan, and the Framework.

7)No commercial, industrial, or business activities shall take place on any part of the site, including the storage of materials and goods.

Reason: to safeguard the amenity of neighbouring occupiers and the character and appearance of the area, in accordance with Policies HQ1, CC8 and EE5 of the Central Bedfordshire Local Plan and the Framework.

8)No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: to safeguard the amenity of neighbouring occupiers and the character and appearance of the area, in accordance with Policies HQ1, CC8 and EE5 of the Central Bedfordshire Local Plan and the Framework.

9)Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected within the site without the grant of further specific planning permission from the Local Planning Authority, or those approved under Condition 3 of this permission.

Reason: To control the development in the interests of the rural amenity of the area.

10)No external lighting shall be installed or erected at the site, unless details are first submitted to and approved in writing by the Local Planning Authority.

Reason: to safeguard the character and appearance of the area, the natural environment, and the amenity of neighbouring occupiers, in accordance with Policies EE2, EE3, EE4, EE5 and HQ1 of the Central Bedfordshire Local Plan, and the Framework.

11)No equipment, machinery or materials shall be brought on to the site for the purposes of development as agreed under Condition 3 until the protective fencing for the protection of any retained tree(s), has been erected in the positions shown on Drawing "Tree Protection Plan - Date: 25/06/2021". The approved fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition.

Reason: To protect the trees so enclosed in accordance with Section 8 of BS 5837 of 2012 or as may be subsequently amended.

12)All existing onsite buildings shall be demolished and all resultant detritus completely removed from the site prior to the commencement of works as approved under Condition 3.

Reason: In the interests of the visual amenities of the area.

13)The development permitted under condition 3 and 12 shall be undertaken in full accordance with a 'Construction Code of Practice for Developers and Contractors' which shall first have been submitted to and agreed in writing by the local planning authority

Reason: In order to minimise the impact of construction work on the amenities of nearby residential properties and to accord with chapter 12 of the Framework.

The Planning Inspectorate

Plan referred to in the decision for APP/P0240/C/24/3346787 (Appeal B)

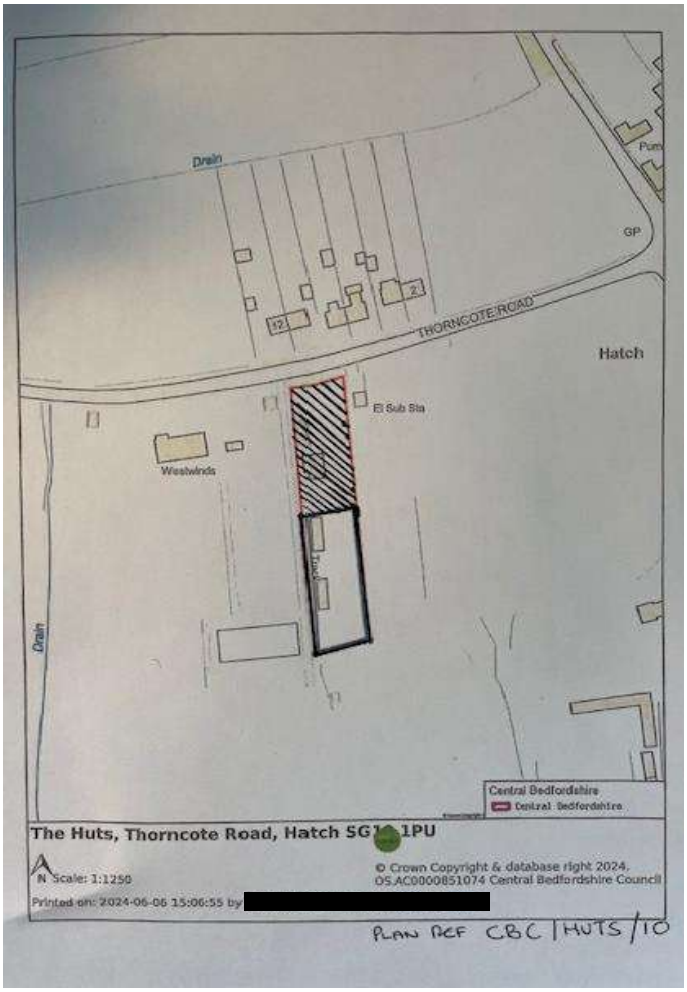
This is the plan referred to in my decision dated: **11TH NOVEMBER 2024**

by D Hartley BA (Hons) MTP MBA MRTPI

Land at: The Huts, Thorncote Road, Hatch, Sandy, SG19 1PU

Appeal reference: APP/P0240/C/24/3346787

Scale: Do not scale



APPEARANCES

FOR THE APPELLANTS:

Alan Masters, Counsel for the appellant

Brian Woods, WS Planning & Architecture

Craig Williams, Arb Tech

Joseph Robb

John Robb

FOR THE LOCAL PLANNING AUTHORITY:

Phillip Hughes, Planning Consultant

Steve Jarman, ORS

Neil Harvey, Place Services

OTHER INTERESTED PARTIES:

Stephen Harrison, resident

Zoe Tofield, resident

Frank Firth, resident

Paul Daniels, ward Councillor

DOCUMENTS SUBMITTED AT THE HEARING

1)Signed statement of common ground

2)Planning permission decision notice CB/23/04089/FULL and the associated officer report

3)Planning permission decision notice CB/23/02748/FULL and the associated officer report

4)Council's additional suggested condition relating to a biodiversity enhancement strategy

APPENDIX 8

Report by Arbtec, 2023

See separate document

APPENDIX 9

Great Crested Newt eDNA results, Darwin Ecology

Unit 6, The Wincombe Centre,
Wincombe Business Park, Shaftesbury,
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Email: info@darwin-ecology.co.uk
www.darwin-ecology.co.uk

15th January 2024

Site visit and update PRA 2024

To whom it may concern

Darwin Ecology Ltd were instructed to undertake an update site walkover, a badger walkover and a Habitat Suitability Index (HSI) assessment at “Land at Stovolds Hill, Cranleigh, GU6 8UX”. The surveys were required to provide additional evidence to support a retrospective planning application (reference:WA/2022/02625, appeal reference: APP/R3650/W/22/3313865) for the change of land use for the creation of one traveller pitch comprising the siting of one mobile home and one touring caravan with the formation of hardstanding.

A Preliminary Ecological Appraisal (PEA) was undertaken by Arbtech in March and April 2023, with the PEA site visit being conducted on the 21st February 2023. Due to the PEA being conducted to support a retrospective planning application, the aim of the survey was to obtain data on existing and pre-development ecological conditions, and to assess the likely significance of ecological impacts of the proposed development.

Summary of the 2023 PEA results

The PEA undertaken by Arbtech identified that the site, currently, comprises a large area of hardstanding (developed land; sealed surface) of compacted gravel and tarmac construction. Two mature trees (oak *Quercus robur* and ash *Franxinus excelsior*) were present in the centre of the site. The site was enclosed on all aspects by a solid timber panel fence which was in good condition, with no damage or gaps being visible.

At the time of the 2023 survey, areas of woodland bordered the site to the north, east, and west. The woodland was categorised as Other Woodland; broad-leaved (semi-natural) by Arbtech, and was registered as priority deciduous woodland on Magic.

Arbtech, through the use of aerial imagery and the Magic database, assessed that prior to the development, the site was comprised of broadleaved, semi natural woodland of a similar composition to the woodland surrounding the site. This woodland was registered as priority deciduous woodland on Magic.

It was assessed that the site, as of the 2023 development has negligible intrinsic ecological value and offers limited opportunities for protected and notable species.

However, it was assessed that the woodland habitat surrounding the site, and the woodland habitat of the pre-development site, has moderate to high intrinsic ecological value and offers good opportunities for protected and notable species. Due to the high value of this habitat, Arbtech made three recommendations for further surveys:

- A botanical survey and condition assessment of the neighbouring woodland to condition assess the condition of, and characterise, the woodland habitat lost. This would be used to develop a compensation and enhancement strategy. They recommended that this walkover be undertaken in April/May.
- A HSI to be undertaken on any waterbodies within 500m of the site, where accessible. EDNA surveys are recommended if the waterbodies are assessed to hold potential to support breeding populations of great crested newt (GCN).
- A badger walkover of the neighbouring woodland (inclusive of a 30m buffer from site) to determine the presence or absence of badger setts within this habitat.

January 2024 Site Visit - Conducted by Darwin Ecology Ltd.

Methodology

Senior Ecologist Amanda Honour BSc (Hons) MSc ACIEEM and Assistant Ecologist Eleanor Kemp BSc (Hons) MSc conducted the below update surveys on 10th January 2024. The weather was sunny and clear, with the temperature measuring approximately 4ºC.

Habitat Walkover

The survey site and surroundings habitats were compared to the habitat map and site description produced by Arbtech in 2023. This was to determine whether the impact assessment, recommendations, and conclusions within the PEA produced by Arbtech would still be accurate to the site at present.

Badger Walkover

The surveyors searched the surrounding woodland and any areas within 30m of the development site for signs of badger presence such as snuffle holes, latrines, hairs, scat, or

sett entrances. Mammal paths were also searched for, with the surveyors checking the paths and the surrounding vegetation for evidence of badger activity such as scat, hairs, or prints.

Great Crested Newt Habitat Suitability Index (HSI)

A Habitat Suitability Index (HSI) assessment was carried out on the waterbodies within the site. The HSI score gives an indication of the likelihood of presence of great crested newts (GCN) within a water body. The assessment can be performed at any time of year, although ideally between March and the end of September.

Generally, ponds with a higher score are more likely to support GCN than those with a lower score and there is a positive correlation between HSI scores and ponds in which GCN are recorded. Ten suitability indices (SI) are assessed for each pond to calculate the suitability of the ponds to support this species:

1. Geographic location;
2. Pond area;
3. Desiccation rate;
4. Water quality;
5. Shade;
6. Number of fowl;
7. Number of fish;
8. Number of linked ponds;
9. Terrestrial habitat; and
10. Macrophyte cover.

A total score of between 0 and 1 is calculated and pond suitability is then determined according to the scale shown in **Table 1**

Table 1: HSI scores and pond suitability for great crested newts.
Categorisation of HSI Score by Lee Brady

HSI Score	Pond Suitability
< 0.5	Poor
0.5 - 0.59	Below average
0.6 - 0.69	Average
0.7 - 0.79	Good
> 0.8	Excellent

Results

Photographs of the site and surrounding habitats are included at the end of this report.

Habitat Walkover

The site at Stovold's Hill matched the habitat map produced by Arbtech in March 2023. The site was comprised of a an approximately 120m^2 area of compacted gravel and tarmac hardstanding with a static mobile home and one mobile caravan present. Two mature trees (oak and ash) were present in the northern aspect of the site. The site was bordered entirely by intact and good condition wooden panel fencing.

The site at the time of the 2024 walkover had negligible ecological value, offering limited foraging, commuting, and resting opportunities for a variety of protected and notable species. The two mature trees in the northern aspect of the property offered good foraging and roosting/nesting opportunities for bats and birds.

The habitat to the north of site, comprising a planted woodland (predominantly willow), pastural fields, scrub, and neutral grassland offered some foraging, commuting, and resting opportunities for protected and notable species. However, these habitats had been damaged by grazing cattle, reducing their suitability to support protected and notable species.

The habitat to the east of site, comprising a pond surrounded by seasonally wet neutral grassland, scattered ash trees, bare ground, and bramble scrub, offer some foraging and resting opportunities for protected and notable species. The short sward of the grassland and the high percentage of bare ground limits opportunities for commuting within this area. Further, this area is bordered by hardstanding, modified grassland, and wooden panel fencing, limiting the ability of wildlife to commute through the habitats. Overall, this habitat has some limited potential to support protected and notable species.

The habitat to the southwest of the site comprised a pastural field used for horse grazing immediately adjacent to the western border of the site, with priority habitat deciduous woodland situated to the west of this field. This priority habitat woodland was on private land and could not be accessed at the time of the survey.

A couple of young ash trees appear to have been felled within the pastural field, evidenced by the presence of dead wood piled on the western boundary of the field. There is potential that these were felled due to ash dieback, due to the presence of dead young ash trees to the east of the site.

Due to the wooden panel fencing, the site had negligible connectivity with the surrounding environment, limiting access to the site for wildlife. The surrounding landscape had a moderate level of connectivity, with wildlife being able to commute through the landscape

without significant barriers. The presence of wire fencing may reduce the ability of terrestrial mammals to commute through the landscape.

The habitat surrounding the site was consistent with the habitats described by Arbtech within the 2023 PEA.

Badger Walkover

The badger walkover assessed all habitats within 30m of the site for their potential to support badgers and the presence of badgers. The western priority deciduous woodland was not within 30m of site, and was additionally not accessible at the time of the survey.

No evidence of badgers, such as latrines, scat, snuffle holes, fur, or sett entrances were identified within 30m of the site. Multiple mammal paths were identified throughout the northern woodland, scrub and pastural fields, however, no evidence such as hairs were identified. Deer droppings were identified within the habitats surrounding the site.

The habitats surrounding the site had some suitability to support badgers, with the woodland and scrub offering some good foraging, commuting, and resting opportunities. The grazed grassland, pastural field, and hardstanding habitats offer limited opportunities for these species. The site itself offered no opportunities for these species, and as such it is unlikely to support badgers.

Habitat Suitability Index Assessment

A single pond was identified by Arbtech within 500m of site. This pond was on private property and could not be accessed at the time of the survey.

The landscape within 500m of the site contained numerous wet ditches. A large wet ditch was identified to border the site to the west (D1), and a pond was identified bordering the site to the east (P1). An HSI was conducted on both of these waterbodies (**Table 2**).

The wet ditch to the west of the site measured approximately 200m^2 and was situated within a seasonally wet deciduous woodland. It is likely, due to their proximity, that this ditch connects to the pond on the neighbouring property in periods of heavy rain. The ditch had a high level of macrophyte cover, including species such as water iris and water mint, indicating a good water quality and a low dry-out frequency. The ditch was heavily shaded by the surrounding woodland.

The pond to the east of the site appeared to be a remanent of the previously existing ditch that was present pre-development. The pond appeared to be sustained through run-off water from the neighbouring hardstanding, and is situated within a mosaic of seasonally wet neutral grassland, scattered ash trees, bramble scrub, and bare earth. The habitats surrounding the pond were littered with debris such as gravel, household items such as

children's toys, construction equipment and materials, and general litter. The pond had a high level of macrophyte cover, comprising predominantly bur reeds *Sparganium spp.* The pond had limited levels of shade as the surrounding trees appeared to be dead (likely through ash dieback). The water was murky and appeared to be stagnant.

Table 2: ARGUK GCN HSI Calculator

	Pond Name	D1	P1
SI No	**SI Description**	**SI Value**	**SI Value**
1	Geographic location	*1.00*	*1.00*
2	Pond area	*0.400*	*0.300*
3	Pond permanence	*0.90*	*1.00*
4	Water quality	*0.67*	*0.33*
5	Shade	*0.60*	*1.00*
6	Water fowl effect	*0.67*	*1.00*
7	Fish presence	*1.00*	*1.00*
8	Pond Density	*0.90*	*0.90*
9	Terrestrial habitat	*0.67*	*0.33*
10	Macropyhyte cover	*0.80*	*0.90*
HSI Score		**0.74**	**0.70**
Pond suitability (see below)		*Good*	*Good*
Based on ARGUK advice note 5 - Great Crested Newt Habitat Suitability Index			

Discussion and recommendations

Habitat Walkover

Following the updated 2024 site visit and assessment of the site at Stovolds Hill, the ecological situation at the site was recorded to be consistent with the habitat descriptions detailed in the 2023 report. Therefore, the impact assessment, conclusions, and recommendations provided by Arbtech within their 2023 report are still applicable to the site.

As per the 2023 Arbtech report, a condition assessment and botanical survey of the western woodland should be undertaken (in April/May) if permission is granted by the landowner. This survey should be used to establish a baseline condition for and characterise the removed woodland. The information obtained from this walkover will be used to inform a compensation and enhancement plan for the works.

A compensation and enhancement strategy for the site should be created upon the completion of all surveys. This will aim to compensate for the habitats lost, and enhance the biodiversity on site. Additionally, this strategy should aim to compensate for the loss of

foraging, commuting, and nesting/roosting/resting opportunities that would have been present for protected and notable species within the woodland, and comparatively increase the number of opportunities available to protected and notable species.

Badger Walkover

No evidence of badger activity or badger setts were identified within 30m of the site. Although evidence of general mammal activity was identified around site, no specific evidence of badger activity was identified. No further badger surveys are recommended for the site at Stovold's Hill for these proposals.

Habitat Suitability Index Assessment

Both waterbodies were assessed to hold good suitability to support breeding populations of great crested newt. As per standard practice, and the recommendations by Arbtech, eDNA surveys should be undertaken on both waterbodies to determine the likely presence/ absence of great crested newt within each waterbody from mid-april to mid-july. Once the presence/absence of great crested newt within these waterbodies has been determined, an appropriate compensation and enhancement strategy will be designed and implemented.

Conclusion

On the basis the ecological status of the site and surrounding habitats at Stovold's Hill remains unchanged, the conclusions and recommendations provided within this report, and the 2023 Arbtech PEA report remain valid.

If you have any further questions please do not hesitate to get in touch.

Yours sincerely,

Eleanor Kemp BSc (Hons) MSc

Assistant Ecologist, Darwin Ecology Ltd.

Image 1: The Mature Oak tree on site

Image 2: D1 - The wet ditch within the woodland to the west of site

Image 3: P1 - The pond to the east of site

Image 4: The willow woodland to the north of site

Image 5: Pastural fields and scrub to the northwest of site

Image 6: Bare ground to the east of site

Image 7: Pastural field adjacent to site. Broadleaved woodland and the foreground.

Image 8: Broadleaved woodland west of site

The Hopkiln, Bury Court
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Company No. 07654823

19th July 2024

Dear Sir/Madam,

Re: eDNA surveys on the waterbodies assessed to be of good suitability to support breeding populations of great crested newt at Stovolds Hill, Cranleigh

Introduction and Background

In January 2024, Darwin Ecology Ltd were instructed to undertake an update site walkover, a badger walkover and a Habitat Suitability Index (HSI) assessment at "Land at Stovolds Hill, Cranleigh, GU6 8UX". The surveys were required to provide additional evidence to support a retrospective planning application (reference:WA/2022/02625, appeal reference: APP/R3650/W/22/3313865) for the change of land use for the creation of one traveller pitch comprising the siting of one mobile home and one touring caravan with the formation of hardstanding.

Ecologist Eleanor Kemp BSc (Hons) MSc and Senior Ecologist Amanda Honour BSc (Hons) MSc attended site on 10th January 2024. The weather was sunny and clear, with the temperature measuring approximately 4ºC.

The results of this walkover are outlined by the document 'Report Letter - Land at Stovolds Hill' produced by Darwin Ecology Ltd. in February 2024. This letter should be read in conjunction with that document.

The pond (P1) on the eastern boundary of the site, and the ditch (D1) which was situated on the western border of the site, were assessed for their suitability to support great crested newts through the use of a Habitat Suitability Index (HSI) assessment. The results of this assessment are detailed in **Table 1**. Both of these waterbodies were assessed to hold good suitability to support breeding populations of great crested newt.

In line with current ARGUK best practice guidance, it was recommended that eDNA surveys were undertaken on these two waterbodies to determine the likely presence or absence of great crested newt within the waterbodies. If it was identified that great crested newt were using the waterbodies around the site, an appropriate compensation and enhancement strategy should be implemented.

Table 1: ARGUK GCN HSI Calculator

	Pond Name	D1	P1
SI No	**SI Description**	**SI Value**	**SI Value**
1	Geographic location	*1.00*	*1.00*
2	Pond area	*0.400*	*0.300*
3	Pond permanence	*0.90*	*1.00*
4	Water quality	*0.67*	*0.33*
5	Shade	*0.60*	*1.00*
6	Water fowl effect	*0.67*	*1.00*
7	Fish presence	*1.00*	*1.00*
8	Pond Density	*0.90*	*0.90*
9	Terrestrial habitat	*0.67*	*0.33*
10	Macropyhyte cover	*0.80*	*0.90*
HSI Score		**0.74**	**0.70**
Pond suitability (see below)		*Good*	*Good*
Based on ARGUK advice note 5 - Great Crested Newt Habitat Suitability Index			

eDNA Surveys

eDNA surveys were carried by Ecologist Natalie Christie BSc (Hons) and Assistant Ecologist Alisha Stafford-Jones MEnvSci, on the 25th June 2024, on the waterbodies identified during the habitat walkover in January 2024. These surveys were utilised to confirm whether the waterbodies sampled supported populations of great crested newt.

Each survey involved using an eDNA sample kit purchased from SureScreen Scientifics to take 20 evenly spaced water samples from around the pond. These samples were mixed together within a plastic bag, and approximately 20ml (per sample) of the mixed samples was pipetted into the provided sample tubes (filling to the 50ml line). The sample tubes were shaken for 30 seconds. The samples were kept in a temperature controlled environment (cool box with ice-packs or fridges) until they were sent for analysis.

Only the ditch (D1) could be sampled on the 25th June 2024, as the pond (P1) on the eastern aspect of site had dried up. Due to the dry nature of the pond, no suitable water samples could be taken from this waterbody. It is assumed that due to the proximity between the two waterbodies, and the presence of suitable commuting habitat between the two waterbodies (comprising tall sward grassland, scrub, and woodland) the results from the ditch can be extrapolated to the pond as it is significantly likely that these two waterbodies share the same amphibian populations.

As the pond had dried by the time of the survey, after a reasonably cool and wet summer, it is anticipated that the pond may dry as frequently as annually. Therefore, the HSI results from January 2024 were reassessed to take this factor into account (**Table 2**). This reduced the suitability of the pond to support great crested newt from ‘Good’ to ‘Below average’.

Table 2: ARGUK GCN HSI Calculator

	Pond Name	D1	P1
SI No	**SI Description**	**SI Value**	**SI Value**
1	Geographic location	*1.00*	*1.00*
2	Pond area	*0.400*	*0.300*
3	Pond permanence	*0.90*	*0.10*
4	Water quality	*0.67*	*0.33*
5	Shade	*0.60*	*1.00*
6	Water fowl effect	*0.67*	*1.00*
7	Fish presence	*1.00*	*1.00*
8	Pond Density	*0.90*	*0.90*
9	Terrestrial habitat	*0.67*	*0.33*
10	Macropyhyte cover	*0.80*	*0.90*
HSI Score		**0.74**	**0.55**
Pond suitability (see below)		*Good*	*Below Average*
Based on ARGUK advice note 5 - Great Crested Newt Habitat Suitability Index			

eDNA Results

The eDNA survey revealed that the ditch was negative for presence of great crested newt, indicating a likely absence of this species from the waterbody. As such, it is considered that neither waterbody (both D1 and P1) supported great crested newt.

Recommendations

As neither waterbody supported populations or individual great crested newt, it is considered likely that this species is absent from the site and the habitats immediately surrounding the site.

Due to the likely absence of great crested newt from the ponds bordering the site, a full compensation and enhancement strategy is not required for the site. However, the habitats within the wider site area (comprising the woodland, scrub, and long sward habitats which border the site to the north and the east) should be enhanced and managed to increase the opportunities available to great crested newt and common amphibians within the local area.

To provide new resting and hibernating habitat for reptiles and amphibians, small deadwood (at least two) piles or hibernaculum features (at least one) can be incorporated at appropriate areas of the site, such as at the base of hedgerows (see **Appendix** for further details).

Areas of species rich grassland should be created within the wider site area, with a particular focus on areas that are currently just bare earth. These ares of grassland should be sown with an appropriate seed mix such as Emorsgate EM10 for a sward of tussocky grassland, or Emorsgate EM1 for a wildflower grassland, or similar as available, and allowed to grow longer (at least 30cm in height).

Areas of shrub and woodland should be enhanced through the planting of new native tree and shrub species to increase the density of these habitats. Additionally, the areas of woodland should be sown with an appropriate woodland understory seed mixture to increase the density of the

woodland understory. These increases in the density of these habitats would provide more commuting and resting opportunities for amphibians on site.

It is considered that these enhancements to the surrounding habitats, and the creation of new hibernacula and dead wood piles, would appropriately compensate for the small loss of suitable habitat to support and provide suitable opportunities for amphibians on site.

If you have any further questions please do not hesitate to get in touch.

Yours sincerely,

Eleanor Kemp BSc (Hons) MSc
Ecologist, Darwin Ecology Ltd

Amanda Honour BSc, MSc, ACIEEM
Senior Ecologist, Darwin Ecology Ltd

Folio No: 2619-2024
Purchase Order: 250624SH
Contact: Darwin Ecology Ltd
Issue Date: 11.07.2024
Received Date: 28.06.2024

GCN Report

Technical Report

SureScreen Scientifics

Folio No: 2619-2024
Purchase Order: 250624SH
Contact: Darwin Ecology Ltd
Issue Date: 11.07.2024
Received Date: 28.06.2024

SureScreen Scientifics

GCN eDNA Analysis

Summary

When great crested newts (GCN), , inhabit a pond, they continuously release small amounts of their DNA into the environment. By collecting and analyzing water samples, we can detect these small traces of environmental DNA (eDNA) to confirm GCN habitation or establish GCN absence.

Results

Lab ID	Site Name	OS Reference	Degradation Check	Inhibition Check	Result	Positive Replicates
7313	Shuolds Hill - Ditch - WB1		Pass	Pass	Negative	0/12

Matters affecting result: none

Reported by: Lauryn Jewkes

Approved by: Jennifer Higginbottom

Folio No:	2619-2024
Purchase Order:	250624SH
Contact:	Darwin Ecology Ltd
Issue Date:	11.07.2024
Received Date:	28.06.2024

SureScreen Scientifics

Methodology

The samples detailed above have been analyzed for the presence of GCN eDNA following the protocol stated in DEFRA WC1067 'Analytical and methodological development for improved surveillance of the Great Crested Newt, Appendix 5.' (Biggs et al. 2014). Each of the 6 sub-sample tubes are first centrifuged and pooled together into a single sample tube which then undergoes DNA extraction. The extracted sample is then analyzed using real-time PCR (qPCR), which uses species-specific molecular markers to amplify GCN DNA within a sample. These markers are unique to GCN DNA, meaning that there should be no detection of closely related species.

If GCN DNA is present, the DNA is amplified up to a detectable level, resulting in positive species detection. If GCN DNA is not present then amplification does not occur, and a negative result is recorded. Analysis of eDNA requires attention to detail to prevent the risk of contamination. True positive controls, negative controls, and spiked synthetic DNA are included in every analysis and these have to be correct before any result is declared and reported. Stages of the DNA analysis are also conducted in different buildings at our premises for added analytical security.

SureScreen Scientifics Ltd is ISO9001 accredited and participates in Natural England's proficiency testing scheme for GCN eDNA testing.

Interpretation of Results

Sample Integrity Check: When samples are received in the laboratory, they are inspected for any tube leakage, suitability of sample (not too much mud or weed etc.) and absence of any factors that could potentially lead to inconclusive results. Any samples which fail this test are rejected and eliminated before analysis.

Degradation Check: **Pass/Fail**. Analysis of the spiked DNA marker to see if there has been degradation of the kit or sample between the date it was made to the date of analysis. Degradation of the spiked DNA marker may lead indicate a risk of false negative results.

Inhibition Check: **Pass/Fail.** The presence of inhibitors within a sample is assessed using a DNA marker. If inhibition is detected, samples are purified and re-analyzed. Inhibitors cannot always be removed, if the inhibition check fails, the sample should be re-collected.

Result: **Presence of GCN eDNA (Positive/Negative/Inconclusive)**
Positive: GCN DNA was identified within the sample, indicative of GCN presence within the sampling location at the time the sample was taken or within the recent past at the sampling location.
Positive Replicates: Number of positive qPCR replicates out of a series of 12. If one or more of these are found to be positive the pond is declared positive for GCN presence. It may be assumed that small fractions of positive analyses suggest low level presence, but this cannot currently be used for population studies. In accordance with the WC1067 Natural England protocol, even a score of 1/12 is declared positive. 0/12 indicates negative GCN presence.
Negative: GCN eDNA was not detected or is below the threshold detection level and the test result should be considered as evidence of GCN absence, however, does not exclude the potential for GCN presence below the limit of detection.
Inconclusive: Controls indicate inhibition or degradation of the sample, resulting in the inability to provide conclusive evidence for GCN presence or absence.

Deadwood Habitat Piles

Design and creation

Deadwood habitat piles offer valuable habitats for an array of saprophytic (deadwood eating) invertebrates that will in turn provide food for a wide range of predatory species of insects, birds, mammals, reptiles and amphibians.

On sites where vegetation structure is limited, brash and log piles provide an instant enhancement, Deadwood habitat piles also provide shelter and refuge opportunities for larger animals, particularly reptiles and amphibians.

They can also be suitable hibernation sites during the winter for reptiles, amphibians and small mammals including hedgehogs. Think bonfire!

Habitat piles should be located in sunny or part shaded sites. A compact central core, with larger woody material in contact with the ground is recommended to provide the damp and decomposing wood conditions that are most suitable for benefiting saprophytic invertebrates. The outer layers should be laid more loosely on top. This provides a diverse structure within the habitat pile and provides suitable cover and basking opportunities for reptiles.

Habitat piles should be maintained by adding material every few years as the pile decomposes and do not require much management.

To provide optimal conditions for reptiles, amphibians and mammals, log piles should contain a mixture of sizes and shapes with plenty of small diameter material included. This introduces voids of different sizes and creates a complex internal structure.

They can be created to be an attractive feature of the landscape where a more formal appearance is required.

T: 07748 843842 E: info@darwin-ecology.co.uk

Creation and design

Hibernacula offer sheltering opportunities for reptile and amphibian species, providing them with essential habitat in which to hibernate during th winter temporary shelter in the summer during the warmer months.

Hibernacula can be both naturally-occurring and artificial, and can be constructed of a range of materials. Our ecologists can advise on the best locations and materials for the placement of artificial hibernacula.

The optimum locations for hibernacula are on south-facing slopes within freely-draining soils. It is imperative that the hibernacula are exposed to direct sunlight for the majority of the day to ensure maximum thermal capacity.

It is also important that hibernacula are created within a mosaic of habitat types for example open areas of grassland adjacent to sheltered areas of scrub / hedgerow. This ensures excellent basking areas are available adjacent to well connected habitat and areas of shelter.

Hibernacular can range from underground chambers to sheltered areas at ground level, akin to refugia.

By digging a shallow pit and filling it with materials such as rocks and logs, a chamber can be created which contains several gaps within. Access can be enabled by placing entrance tubes at ground level that go into and out of the chamber.

When the chamber and access has been constructed, soil can be piled on top of the hibernacula to seal it. Plant wildflower seeds on top to further benefit local biodiversity!

Hibernacula

APPENDIX 10 Submission by Mr Hermann

THATCHED HOUSE FARM
DUNSFOLD ROAD
LOXHILL
GODALMING
SURREY
GU8 4BW

6th March 2023

Dear Sir,

WA/2023/00470

Plot 3, Site 1, LAND NORTH OF LYDIA PARK CENTRED COORDINATES 502149 137873, Stovold's Hill, Cranleigh, Surrey.

Applicant: Matthew Doherty (Smith)

Description: Change of use to use as a residential caravan site for 1 gypsy/traveller family, comprising 1 no. Static Mobile Home (Caravan) and a 1 no. Touring Caravan, 1 no. Day Room, hardstanding to provide parking (part retrospective).

On 15 October 2021 I submitted a neutral comment, in respect of WA/2021/02307 which lies adjacent to this application.

If you are minded to grant planning consent to WA/2023/00470, I would request that you address the same points as those that I raised previously, but with particular emphasis on the following matters:

1 There is no separation between the area upon which hardcore has been deposited and Thatched House Farm's land. Adequate land drainage should therefore be undertaken, to prevent surface water run-off from the hardstanding onto our fields, which we farm organically and use for the rearing of rare-breed pigs and sheep.

2 Close-board fencing and/or bunding should be erected in order to prevent domestic materials from entering the fields, which could endanger livestock.

3 Thatched House Farm has three ponds which are fed by springs, surface and sub-surface run-off water from Loxhill, Hascombe Hill and High Loxley.

Water flows into the ponds and then, via a sluice, into a watercourse, which runs from Thatched House Farm, along the side of the concrete track (which gives access to the Applicant's site), and eventually through a conduit under Stovolds Hill, before finally discharging into the River Wey.

However, the application refers to this long-established water course as *'nothing more than a ditch'.* It also states that *'The surface water is confined to land outside the application site and therefore is not applicable to the application.'*

This is incorrect. The water-course conveys a high volume of water, particularly during times of heavy rainfall.

As I pointed out in my previous comments relating to WA/2021/02307, the watercourse has been filled-in at the entrance of the Applicants' land, presumably to provide access to the site.

Although I have received assurances by the various owners of the plots, of which WA/2023/00470 forms part, that a conduit was, or will be, installed into the watercourse, water is currently not running smoothly.

This poses a risk of flooding not only to the applicants of WA/2023/00470 but also to dwellings upstream, to the west of the Applicant's site, including dwellings at Lydia Park, "Weeping Willows" and Thatched House Farm. Indeed, there is already an increasing amount of standing water in Thatched House Farm's woodland at the boundary with "Weeping Willows".

As this is a direct result of the filling-in of the watercourse, the application does affect land outside the site and therefore conditions should be imposed to ensure the restoration and patency of the watercourse, regardless of whether or not consent is granted.

(See attached photographs and plans).

4 The fields and woodland surrounding the applicant's plot, provide important wildlife habitat and should be subjected to the same ecological assessments as we have had to undertake, in relation to recent planning applications at Thatched House Farm. These included arboriculture, habitat, bat, reptile and butterfly surveys, some of which necessitated remedial measures.

5 The caravans that are currently on the site are visually intrusive on the AGLV and AONB, and therefore, should consent be granted, conditions should be imposed requiring sympathetic building materials, adequate screening and a prohibition on floodlighting.

Yours sincerely,

ASHLEY HERMAN

APPENDIX 11 'Saving the Wood White Project' report

See separate document

APPENDIX 12 'Selection criteria for Sites of Nature Conservation Importance in Surrey' by Surrey Wildlife Trust.

See separate document

APPENDIX 13 Butterfly Conservation factsheet

Butterfly Conservation

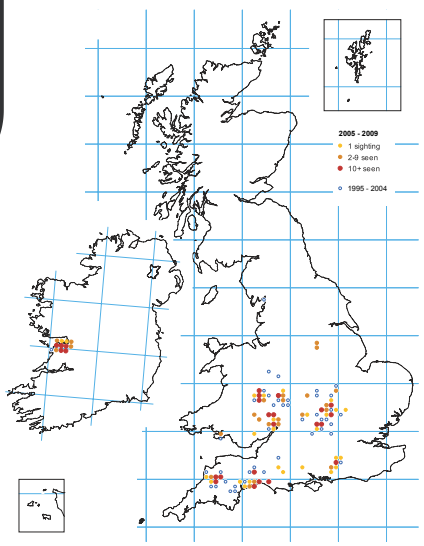
factsheet

Wood White

Leptidea sinapis

Conservation status

Priority Species in UK Biodiversity Plan
Listed under Sections 41 and 42 of the Natural Environment and Rural Communities Act (2006)
The Wildlife and Countryside Act (1981) specifies that a licence is needed for trading in this species.



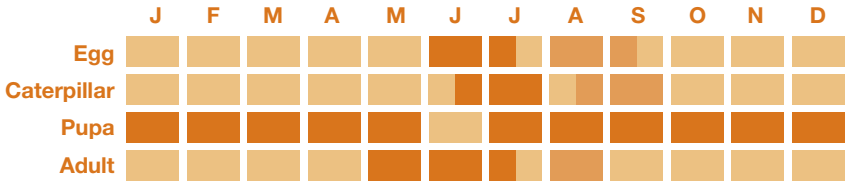
The Wood White is a delicate, slow-flying butterfly usually encountered in sheltered situations, such as woodland rides or scrub edges. The males fly almost continuously throughout the day in fine weather, patrolling to find a mate, whereas females spend much of their time feeding on flowers and resting. During the characteristic courtship display, the male lands opposite the female and waves his head and antennae backwards and forwards with his proboscis extended. The butterfly has a very localised distribution in England and Wales and has declined greatly in Britain over the past few decades.

Life cycle

There is one main generation per year through most of the Wood White's range, with adults flying from mid-May to mid-July. There is a partial second brood in late July and August and in recent years this second brood has often been as large as the first, particularly on southern sites. Eggs are laid singly on the upper parts of the foodplants in lightly shaded and sheltered situations (levels of 10 - 50% shade). The early first generation tend to lay eggs on shorter vegetation often in open, cleared spaces with bare ground. The later first and second generation use a wider range of situations. The larvae are green, well camouflaged and tend to feed on younger more nutritious growth at the top of foodplants. They move away from the foodplant to pupate in surrounding tall grassland or scrub. The butterfly overwinters as a pupa.

Population structure

The butterfly forms discrete colonies at most sites, but these vary considerably in their size and density. In some cases, high densities occur in compact areas, whilst in others the breeding habitat is more scattered and adults occur at low densities over wide areas. There may be considerable movement around the wider countryside if a suitable network of appropriate habitat is available.



Foodplants

A variety of legumes, the most common being Meadow Vetchling *Lathyrus pratensis*, Greater Bird's-foot-trefoil *Lotus pedunculatus*, Bird's-foot-trefoil *Lotus corniculatus,* Tufted Vetch *Vicia craccae* and Bitter Vetch *Lathyrus linifolius*.

Habitat

A range of habitats are used including:

1. Woodland rides and glades. The butterfly breeds in herb-rich vegetation at the edges of open sunny rides and within glades. Ditches can be important breeding areas in some woods.
2. Mosaics of scrub and tall grassland and adjacent hedgerows. These include abandoned commons, disused railways and quarries and coastal undercliffs.

Habitat management for the Wood White

Woodland rides

Aim to maintain a continuity of open sunny rides, with grass or scrub margins that are lightly shaded by surrounding trees and have abundant vetches.

Ride Management

Rotational cutting of clearings and rides is most beneficial. The time of year and frequency of cutting plays a key role in determining the composition and structure of ride vegetation, but this is also affected by soil type so the effect will vary between sites. Cutting at any time of year, whatever method is used to cut and remove material, is very likely to affect or destroy some life stages so it is important to only cut part of the verge in any one year and to monitor the impact. Length of rotation will depend on the individual site, but edges can be mown every 2 to 4 years and scrub margins cut every 4 to 8 years. Cutting in autumn and winter months is preferable.

Periodic cutting of scrub margins is beneficial to keep rides as sunny as possible and to provide suitable conditions for the growth of larval foodplants and nectar plants. Connectivity between existing breeding habitat can be improved by widening overgrown, shaded rides. Scallops and box junctions can also be created to make the breeding habitat more open and to create refuge habitat away from the verge edges. Management should be planned in sections to avoid disrupting large areas at any time.

Combining Conservation Management with Forestry Operations

Forestry operations may have significant impacts on breeding areas along rides. The road/verge edge tends to receive regular disturbance as all operational forest roads undergo periodic maintenance (grading) during which this zone is scraped back to bare ground. This ground disturbance eventually creates good breeding habitat but will destroy it in the short term. Wherever possible, grading should be carried out in sections or on one ride margin at a time.

Features such as turning circles and loading bays can also provide good breeding habitat, but again this habitat will be damaged or destroyed at intervals. This is also the case for most roadside ditches, created to take the run-off from the surfaced roads. These ditches, their banks and associated vegetation provide habitat for Wood White, but they will be regularly re-dug, with spoil removed to the ditch banks or verge edge.

Other activities such as timber removal will affect the verge habitats. Vehicles, including forestry machinery, will often need to use the verge and timber is regularly stacked on ride edges for considerable periods of time.

A range of possible solutions include: -

- Ensuring that the entire ride network is not managed uniformly in any one year.
- Providing refuge breeding areas.
- Monitoring key breeding areas so that potential problems can be avoided or mitigated.
- Putting in place temporary protection of some habitats (such as temporary fencing around a particularly sensitive patch during forestry work)

High Forest Rotation and Coppicing

Suitable conditions can be provided by ensuring a sequence of felling and replanting to create an uneven-aged forest, combined with the maintenance of a network of sunny rides and glades. Re-introduction of coppicing can also improve woodland structure and provide suitable semi-shaded habitat. As with other woodlands, a wide ride network is also needed in coppiced woods.

Hedgerows and grass/scrub mosaics

Maintain open but sheltered habitat containing abundant vetches in and around scrub patches and along adjacent hedgerows.

Grazing

Heavy grazing by either sheep or cattle is generally unsuitable as this removes the tall grass/scrub margins to field edges. Extensive cattle grazing is probably the most suitable regime, but should be combined with periodic cutting of scrub/hedge margins or rotational scrub or hedge management (c. 10 to 20 years). Domestic livestock grazing regimes should also take account of deer and rabbit populations which can have a significant deleterious impact.

Cutting

On sites with no grazing, periodic grass cutting can be beneficial, although this should be done on a long rotation without cutting all suitable areas in any one year. As with grazing, scrub/hedge margins should be cut periodically, preferably on rotation, to create abundant young scrub where vetches and grass can grow through.

On coastal undercliffs, the optimum balance of scrub/grass interface with abundant vetches is largely maintained by continual cliff falls and soil slippage. However, periodic scrub clearance may also be beneficial at these sites if it is safe to do so.

Greater Bird's-foot-trefoil on ride edge

Breeding habitat in woodland with differently mown ride edges

Butterfly Conservation
Saving butterflies, moths and our environment

Head Office Manor Yard, East Lulworth, Wareham, Dorset, BH20 5QP
Telephone: 01929 400209 Email: info@butterfly-conservation.org
www.butterfly-conservation.org

Original compiled by Morag McCracken & Martin Warren
Revised and updated by David Green & Susan Clarke
Photographs by David Green
March 2015

APPENDIX 14 House of Commons Select Committee report

See separate document

APPENDIX 15 Buglife Technical report 2021

Technical Report

The Bugs Matter Citizen Science Survey: counting insect 'splats' on vehicle number plates reveals a 58.5% reduction in the abundance of actively flying insects in the UK between 2004 and 2021.

Lawrence Ball[1], Robbie Still[1], Alison Riggs[2], Alana Skilbeck[1], Matt Shardlow[3], Andrew Whitehouse[3], & Paul Tinsley-Marshall[1]

[1]Kent Wildlife Trust, Tyland Barn, Sandling Lane, Maidstone, Kent, ME14 3BD
[2]Diocese of Oxford, Church House Oxford, Langford Locks, Kidlington, Oxford, OX5 1GF
[3]Buglife, G.06, Allia Future Business Centre, London Road, Peterborough, PE2 8AN

Address for correspondence: info@bugsmatter.app

Abstract

In recent years, scientists and the media have drawn attention to global declines in insect abundance, the consequences of which are potentially catastrophic. Invertebrates are critical to ecosystem functions and services, and without them life on earth would collapse. However, there has been insufficient data to make robust conclusions about trends in insect abundance in the UK, because standardised insect sampling approaches are not widely applied to all insect groups or at a national scale. Here, we demonstrate the use of an innovative and scalable invertebrate sampling technique conducted by citizen scientists, to examine the difference in invertebrate abundance in the UK over a 17-year timeframe. The 'windscreen phenomenon' is a term given to the anecdotal observation that people tend to find fewer insects squashed on the windscreens of their cars now, compared to in the past. This observation has been ascribed to major declines in insect abundance. In this study, citizen scientists were asked to record the numbers of squashed insects and other invertebrates on their vehicle number plates following a journey, having first removed any residual insects sampled on previous journeys. We compared the number of insects sampled by vehicles in 2019 (n = 599 journeys in Kent) and 2021 (n = 3,348 journeys nationwide) with the results of a nationwide survey using this methodology led by the RSPB ('Big Bug Count') in 2004 (n = 14,466 journeys). The results show that the number of insects sampled on vehicle number plates in the UK decreased by 58.5% between 2004 and 2021, and that these differences were statistically significant. A comparison of the 2004 national data with the 2019 data from Kent showed a 53.7% decrease. The greatest decreases in splat rate between 2004 and 2021 occurred in England (65%) whilst journeys in Scotland recorded a comparably smaller decrease (27.9%), with intermediate decreases in Wales (55%). These results are consistent with the declining trends in insect populations widely

reported by others, and informs a growing requirement for conservation research, policy and practice targeted at invertebrates in the UK. However, our results are based on data with low temporal resolution and consequently we interpret this change between two points in time with caution. Furthermore, inter-annual variation in a range of unmeasured factors, such as wind speed, predation or land-use change, could significantly influence the observed pattern. To draw robust conclusions about long-term trends in insect populations in the UK, scientists require data from multiple years, over long time periods, and over large spatial scales – the Bugs Matter citizen science survey has demonstrated that it has the potential to generate such data.

1 Introduction

A growing body of evidence (Fox et al., 2013; Hallmann et al., 2017; Goulson, D. 2019; Sánchez-Bayo et al., 2019; Thomas et al., 2019; van der Sluijs, 2020; Macadam et al., 2020; Outhwaite, McCann and Newbold, 2022) highlights population declines in insects and other invertebrates at global scales (herein referred to collectively as 'insects'). These declines, which are evident across all functional groups of insects (herbivores, detritivores, parasitoids, predators and pollinators) could have catastrophic impacts on the earth's natural systems and human survivability on our planet. Invertebrates are functionally of greater importance than large-bodied fauna, and in terms of biomass, bioabundance and species diversity, they make up the greatest proportion of life on earth.

Invertebrates are critical to ecosystem functions and services. They pollinate most of the world's crops, provide natural pest control services, and decompose organic matter and recycle nutrients into the soil. Without them we could not grow onions, cabbages, broccoli, chillies, most tomatoes, coffee, cocoa, most fruits, sunflowers, and rapeseed, and demand for synthetic fibres would surge because bees pollinate cotton and flax. Invertebrates underpin food chains, providing food for larger animals including birds, bats, reptiles, amphibians, fish and terrestrial mammals. Almost all birds eat insects, and many of those that eat seeds and other food as adults must feed insects to their young – it is thought to take 200,000 insects to raise a single swallow chick (Chapman et al., 2013). Without insects, life on earth would collapse, millions of species would go extinct, and we would be surrounded by the carcases of dead animals.

Evidence of insect declines comes from targeted surveys using specific sampling techniques aimed at specific target groups. Many of these have generated long-term data sets, such as the Rothamstead Insect Survey of aphids and larger moths, since 1964 (Taylor, 1986), the UK Butterfly Monitoring Scheme, since 1976, (Brereton et al., 2020), and the National Moth Recording Scheme, since 2007 (Fox et al., 2021), and they provide a good indication of trends for those target taxa. However, generalising national and global trends from surveys of a limited number of insect groups could be inaccurate. Patterns and trends for specific species or species groups are nuanced, and while trends in some insect groups are well understood, there is a paucity of data for many others. Whilst some survey techniques such as moth trapping and butterfly transects are discriminate in terms of what species they record, there are very few established methods for large-scale monitoring of insect abundance across a broad range of insect groups. Both discriminate and indiscriminate approaches have advantages and disadvantages. Here we present the results from a survey that used an innovative method for large-scale indiscriminate monitoring of flying insect populations, which has potential to provide an efficient, standardised and scalable approach to monitor trends in insect abundance across local, regional and global scales.

The 'windscreen phenomenon' (Wikipedia, 2021) is a term given to the anecdotal observation that fewer insects tend to get squashed on the windscreens of cars now compared to a decade or several decades ago. These observations have served as an indication of the major global declines in insect abundance,

and have been reported from empirical data (Møller, 2019). Flying insects are inadvertently sampled when they become squashed on vehicle windscreens and number plates when they are impacted. We implemented an invertebrate sampling technique based on the 'windscreen phenomenon'. Data were collected by citizen scientists to assess invertebrate abundance over a 17 year timeframe (Tinsley-Marshall et al., 2021a, 2021b). The aim was to quantify insect abundance in the UK using a standardised approach and to make comparisons with pre-existing baseline data from 2004, which was collected as part of a national survey using the same sampling method led by the RSPB ('Big Bug Count'). By repeating the survey in 2019 and 2021 it was possible to compare the numbers of insects sampled between these points in time.

We aimed to test the null hypothesis H0: there is no evidence of variation in the numbers of insects sampled on vehicle number plates in the UK between 2004, 2019 and 2021 and to determine whether an alternative hypothesis H1: there is evidence of variation in the numbers of insects sampled on vehicle number plates in the UK between 2004, 2019 and 2021, could be accepted. This report summarises the results of an analysis of the insect abundance and participation data from the Bugs Matter survey in the UK, and adds to the evidence base for patterns in invertebrate abundance.

2 Materials and Methods

Study area and survey design

The parameters of the study landscape were defined as the whole of the UK. For some parts of the analysis we provide country-specific results for England, Scotland, Wales and Northern Ireland separately, accepting that some data was collected from journeys that spanned the country borders (Figure 1). It was not possible to isolate at which point in each journey insects were sampled, therefore each complete journey was included where journeys crossed country borders. Survey design was informed by a list of desirable attributes of monitoring programmes, ordered from most elemental to most aspirational (Pocock et al., 2015) and aimed to ensure that all relevant attributes were adopted.

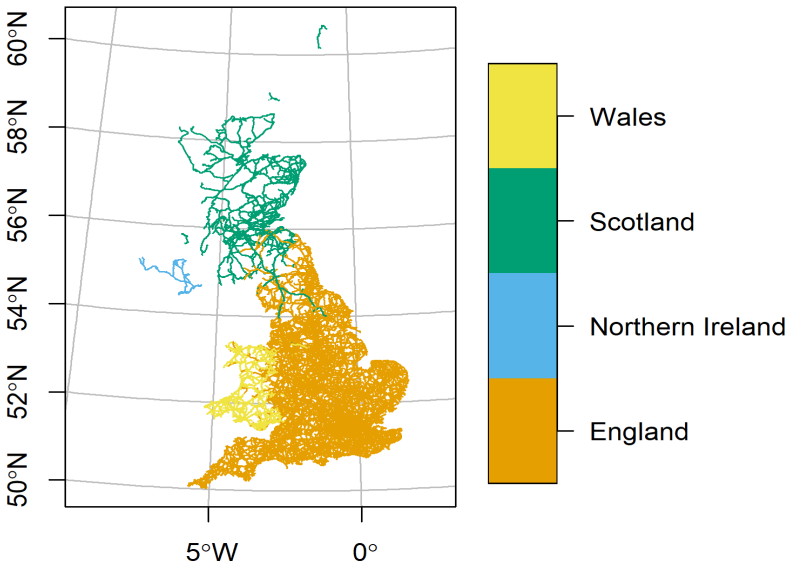


Figure 1. A map showing the distribution and extent of journeys in 2004, 2019 and 2021 included in this analysis of Bugs Matter survey data on insect numbers sampled by vehicle number plates in the UK.

Insect sampling method

Prior to commencing a journey, citizen scientists cleaned the front number plate of their vehicle to remove any residual insects. Insects were then sampled when they collided with the number plate throughout the duration of a journey. Whilst the sampling method was not designed to identify species, or groups of species, insects sampled will have been predominantly the adult forms of flying species from the following taxonomic groups: Coleoptera, Diptera, Ephemeroptera, Hemiptera, Hymenoptera, Lepidoptera, Megaloptera, Neuroptera, Plecoptera, Trichoptera and Thysanoptera. Citizen scientists were asked to participate only on essential journeys and not to make journeys specifically to take part in the survey. Using a standardised sampling grid, termed a 'splatometer', citizen scientists recorded the number of insects squashed on the number plate of their car (Figure 2). Only insects within the cut-out portions of the splatometer were counted to ensure all counts were made from within a standardized area on each number plate. In 2019 and 2021, data was collected on journeys undertaken between 1st June and 31st August, and in 2004 data was collected in June. In 2004 and 2019, the start and end times and locations of the journeys were recorded, along with the journey distance using vehicle odometer readings. In 2019, data was only collected from journeys starting in Kent. In 2021 the precise route of the journey was recorded in real-time using the Bugs Matter mobile app.

Figure 2. Photograph showing the splatometer positioned over a number plate.

Bugs Matter mobile app

In 2021, data were submitted by citizen scientists via the Bugs Matter mobile app (Figure 3). The app provided a platform to record counts of insects on number plates, track the journey route using GPS, and collect information on the length, duration, and average speed of each journey undertaken as part of the survey. It also used an Application Programming Interface (API) number plate look-up service to collect information about vehicles involved in the survey. This data was used in the analysis to determine whether and how vehicle specifications influence insect sampling.

Figure 3. Screenshots of the Bugs Matter mobile app.

Collating explanatory variables

Time of day was calculated for each journey as the intermediate time between the start and end times. As 97% of journeys occurred during daytime hours (05:00-21:00), we treated time as a continuous variable in the statistical modelling, rather than converting to a factor variable or sin/cos time. The 'sf' package (Pebesma, 2018) in R was used to calculate journey length. The average speed of the journey was calculated by dividing the journey distance by the journey duration. The vehicle type, acquired via the API, was classified to align with the analysis conducted by the RSPB in 2004. These categories were car, heavy goods vehicle (HGV), multi-purpose vehicle (MPV), sports car, sports utility vehicle (SUV) and van. Data collected prior to 2021 contained only start and end postcodes, and so journey routes were obtained from the Google Directions API, through the R 'mapsapi' package (Dorman, 2022). Mean temperature was calculated for each journey by averaging the intersecting raster cell values from 0.1 degree E-OBS gridded daily mean temperature (Cornes et al., 2018).

Maximum greenest pixel composites of normalized difference vegetation index (NDVI) values were generated in Google Earth Engine (Gorelick et al., 2017) from MODIS Terra Vegetation Indices 16-Day Global 250 m data (Didan, 2015) for each survey year. NDVI describes the difference between visible and near-infrared reflectance of vegetation cover based on chlorophyll content, and can be used to estimate vegetation productivity. Artificially-surfaced areas such as roads and buildings show as low values, whilst vegetated areas show as high values. The NDVI values were averaged within a 500 m buffer of each journey route to approximate the suitability of the habitat for insects surrounding each journey route. The NDVI values were rescaled to a -10-10 range to aid interpretation of the model coefficients.

Finally, the proportion of each journey that was conducted on 'primary', 'secondary', 'tertiary' and 'other' roads were extracted for each journey by snapping the journeys to OpenStreetMap roads data and extracting the road type information. Journeys mostly followed primary, secondary, and to a lesser extent tertiary roads, with very few on other road types. Only data on the proportions of secondary and tertiary

roads were included as variables in the model because including additional variables in the model would lead to perfect collinearity, as the proportions of each road type sum to a whole (100%).

Statistical analysis

Data cleaning and preparation

To make the data comparable between journeys, insect counts recorded by citizen scientists, were converted to a 'splat rate', by dividing the insect count by the journey distance, expressed in a unit of 'splats per mile'. This important metric is easily defined as the number of insects sampled on the number plate every mile. Differences in insect splat rate (splats per mile) between years were visualized in a boxplot. In addition, relationships between other variables, such as how journey distance or the types of vehicles used in the surveys varied between years, were examined visually in boxplots and correlation plots, and tested using Kruskal-Wallis tests or Spearman correlation tests.

Prior to the analysis, some steps were taken to clean the data and remove outliers. Journeys with GPS errors were removed from the 2021 data. These errors were caused by a drop-out of background tracking due to GPS signal being lost by the device, and they appeared as long straight lines between distant locations. All journeys with a 1 km or greater gap between route vertices were omitted. Of the 4834 journeys collected in 2021, 825 (17%) had GPS errors and were removed from the analysis. Some journeys were very short with extremely high splat rates. Therefore, very short journeys of less than 0.3 miles were removed, as they are highly likely to be the result of GPS errors or incorrect use of the app, for example by the user forgetting to press the start journey button at the appropriate time. Similarly, all journeys that lasted less than one minute and journeys with an average speed of less than 1 mph or over 80 mph were omitted. In addition, all journeys during which rainfall occurred were omitted from the dataset due to the risk that rainfall could dislodge insects from numberplates, leading to bias in the data. After data cleaning, 18,413 of 22,364 journeys were retained.

Modelling

We performed a statistical analysis to examine the relative effects of survey year, time of day of the journey, average journey temperature, average journey speed, journey distance, vehicle type, local NDVI, and road type, on insect splat rate. The response variable in our analysis was the insect count which showed a right-skewed distribution due to the high number of zero and low values, as is typical for count-derived data (Appendix 1). Therefore we tested several modelling approaches suited to over-dispersed and zero-inflated count data and compared their performance, to identify the optimum model to use (Yau, Wang and Lee, 2003).

Journey distance was included in the models as an offset term. Offset terms are included in models of count-derived data to deal with counts made over different observation periods, which in this case was journey distance. This is preferable to using the precalculated splat rate because by adding the denominator of the ratio (distance) as an offset term, it makes use of the correct probability distributions. It can be thought of as explicitly modelling the expected rate of sampling an insect as distance driven changes. The model with offset does model the splat rate (splats per mile), but in a way that is likely to be much more compatible with the data (Coelho et al., 2020).

We performed a Poisson generalized linear model (Poisson), a negative binomial generalized linear model (NB), a zero-inflated Poisson model (ZIP), and a zero-inflated negative binomial generalized linear model (ZINB) and compared their Log Likelihood, AIC, BIC and Likelihood ratio test statistics (Table 1). Overdispersion was confirmed using a test for overdispersion on a Poisson model (Cameron and Trivedi,

1990), which resulted in a test statistic of c = 11.664, indicating overdispersion (c = 0 for equidispersion). The ZINB model provided the best fit and was therefore used for the main analysis.

Table 1. Summary statistics from fitting several different models to the data from the Bugs Matter citizen science survey of insect abundance. Based on the evaluation metrics, the ZINB model was found to provide the most accurate fit.

Model	Log.likelihood	AIC	BIC	Likelihood ratio test, DF diff.
Poisson	-130198.13	260426.3	260543.3	149481.51 , -14
NB	-56021.80	112075.6	112200.4	10659.28 , -14
ZIP	-125627.81	251315.6	251549.7	29174.8 , -28
ZINB	-55956.73	111975.5	112217.3	2802.61 , -28

The ZINB model, akin to the ZIP model, is designed for data that includes excess zeros. The model accepts that there could be additional processes that are determining whether a count is zero or greater than zero and models this explicitly. Whilst the importance of submitting data for zero-count journeys was explained to citizen scientists in all survey years, there may be other unknown processes that result in zero count journeys, for example associated with journey speed or location. The ZINB has two parts. The first is a binomial model which models the relationship between the independent variables and a binary outcome of zero or greater than zero insect splats. The second part is a negative binomial model to model the count process. The analysis was performed using the MASS package (Venables and Ripley, 2002) and the pscl package (Zeileis, Kleiber and Jackman, 2008) in RStudio (R Core Team, 2021) following established techniques (Sokal &Rolf, 1995; Crawley, 2007).

After running the model, variance inflation factor (VIF) scores were calculated to check for multicollinearity between independent variables. A VIF score greater than 10 indicates high collinearity, which means two or more independent variables are correlated with one another. This can cause unreliable predictions and weaken the statistical power of the model. A likelihood ratio test was used to compare a model with only survey year included as an independent variable, with the full model, to evaluate the contribution of the other independent variables to the model fit.

The results of the ZINB zero-inflated model show the change in the odds of a zero-count journey occurring given a one-unit change in the independent variable. The results of the ZINB negative binomial model show the quantity of change (a multiplier) in the response variable given a one-unit change in the independent variable, while holding other variables in the model constant. These values are called incidence rate ratios and they can be visualized effectively in a forest plot.

To examine country-specific trends, we repeated the analysis on the data for each country separately. We used NB models because there was perfect separation between the binomial outcome of zero or greater than zero and one or more independent variables in the these country-specific datasets.

We also performed a regression tree analysis (RTA) in the R 'rpart' package (R Core team, 2019; Therneau and Atkinson 2019b) which implements methodologies of Breiman et al. (1984). Regression tree analysis partitions a dataset into smaller subgroups through recursive partitioning. The binary splits occur at nodes based on true/false answers about the values of predictors, and each split is based on a single variable. The rule generated at each step maximizes the class purity within each of the two resulting sub-groups (Breiman et al. 1984; Miska and Jan 2004). This machine learning classification approach enabled us to detect any important non-linear relationships between our independent variables and splat rate and also provides a measure of variable importance.

3 Results

Flying insect abundance

In 2004, 196,448 insects were sampled over 14,466 journeys comprising 867,595 miles. In 2019, 1,063 insects were sampled over 599 journeys comprising 9,960 miles. In 2021, 11,712 insects were sampled over 3,348 journeys comprising 121,641 miles. The average splat rate in 2004 was 0.238 splats per mile, in 2019 it was 0.098, and in 2021 it was 0.104 splats per mile. The spread of the insect splat rate data is shown in Figure 4. The proportion of journeys in which zero insects were sampled was 7.8% in 2004, 54.3% in 2019, and 39.5% in 2021. The majority of journeys (85%) were undertaken in a conventional car with the remainder being undertaken in HGVs, MPVs, sports cars, SUVs, and vans (Appendix 2). The average time of day of journeys in 2004 was 13:40, in 2019 it was 12:48 whilst in 2021 it was 13:33 (Appendix 3). The mean average journey speed in 2004 was 37.2 mph, in 2019 it was 21.7 mph, whilst in 2021 it was 29.3 mph (Appendix 4). The average journey temperature in 2004 was 16°C, in 2019 it was 17°C, whilst in 2021 it was 16.7°C (Appendix 5). The average journey distance in 2004 was 60 miles, in 2019 it was 16.6 miles, and in 2021 it was 36.3 miles (Appendix 6). The average NDVI surrounding journeys in 2004 was 4.975, in 2019 it was 5.423, and in 2021 it was 5.428 (Appendix 7). The mean proportion of journeys conducted on primary roads was 71.6% in 2004, 39.8% in 2019, and 47.2% in 2021. The mean proportion of journeys conducted on secondary roads was 25.1% in 2004, 48.6% in 2019, and 42.6% in 2021. The mean proportion of journeys conducted on tertiary roads was 3.3% in 2004, 11.5% in 2019, and 10.1% in 2021 (Appendix 8). A positive correlation was observed between journey distance and count of splats (Appendix 9). A positive correlation was also observed between journey distance and splat rate (Appendix 10). A weak positive trend was found between vehicle registration year and splat rate (Appendix 11). The VIF scores (max VIF = 1.49) showed very low collinearity between independent variables.

The results of the ZINB negative binomial model showed a 53.7% (95% CI [46.7%, 59.7%]) reduction in insect splat rate in 2019 (35.8%/decade), and a 58.5% (95% CI [56.2%, 60.8%]) reduction in 2021 (34.4%/decade), compared with 2004 (Figure 5). The differences were statistically significant ($p = < 0.001$). The Likelihood Ratio test statistic was 2,802.6, and in a model with only year as a predictor it was 1,449.9. This shows that the goodness of fit of the model almost doubled with the addition of the other independent variables.

Regarding the other independent variables, the results showed that compared to conventional cars, splat rate was 48% higher for HGVs, 15% higher for sports cars, and 26% lower for MPVs, and these relationships were statistically significant. Splat rates of vans and SUVs did not differ significantly from conventional cars. On average, splat rate increased by 6% with each hour of the day, splat rate increased by 2% with each one degree increase in mean daily temperature, and splat rate increased by 3% with each one unit increase in NDVI, and these relationships were statistically significant. There was a significant but very slight change in splat rate with journey distance, whereby splat rate decreased by 0.1% with each mile driven. There was no significant relationship between splat rate and average journey speed (Figure 5).

The results of the ZINB zero-inflated model showed that the odds of a zero-count journey occurring increased by 2.9 times between 2004 and 2021. The odds of a zero-count journey occurring increased by 1.01 times with each 1% increase in the proportion of a journey that was conducted on secondary roads. Furthermore, the odds of a zero-count journey occurring increased by 1.94 times if the vehicle was a HGV rather than a car and 3.28 times if the vehicle was a SUV rather than a car. The odds of a zero-count journey occurring decreased by 1.15 times with each hour in the day, decreased by 1.17 times with each

one degree increase in temperature, and decreased by 1.3 times with each unit increase in NDVI. In addition, the odds of a zero-count journey occurring decreased by 1.02 times with each mile increase in journey distance. These relationships were statistically significant (Appendix 12).

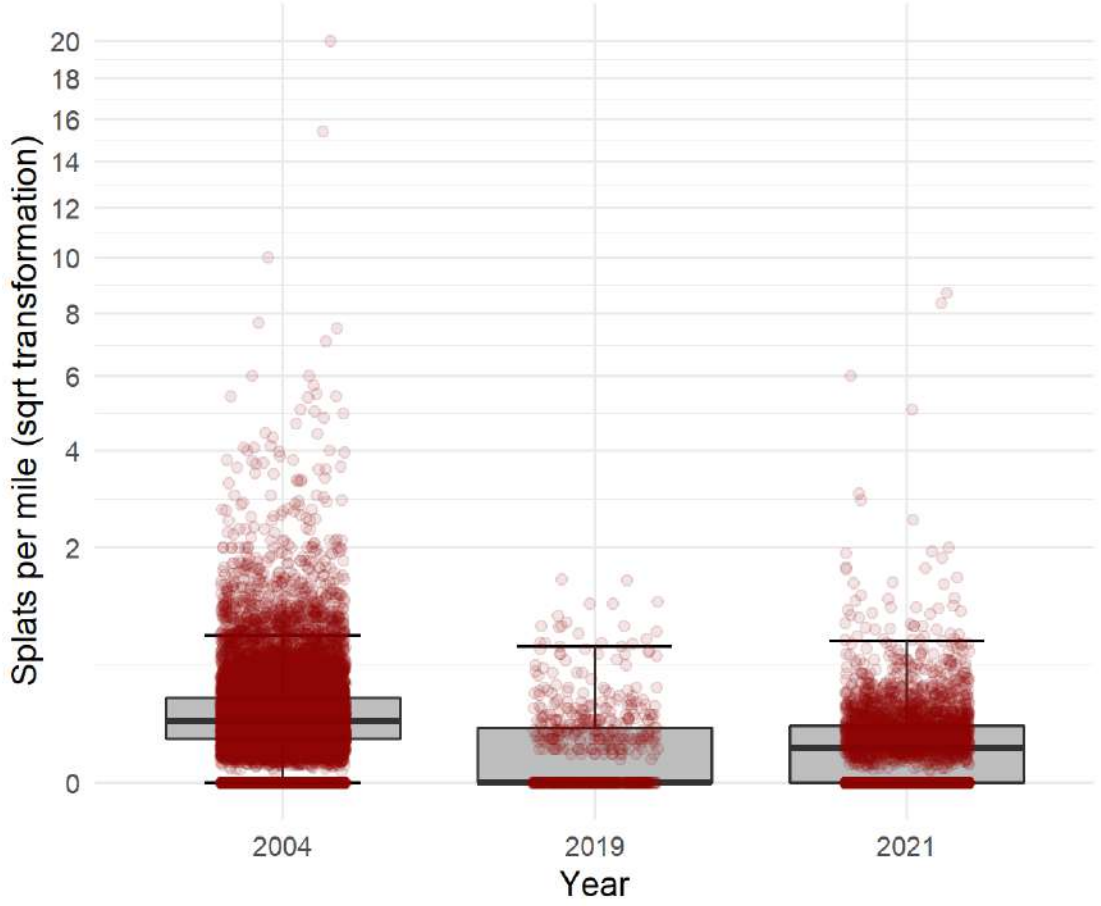


Figure 4. Box and whisker plot with jittered data points showing the spread of insect splat rate data (splats per mile) from the Bugs Matter survey of insects on car number plates in the UK in each of the survey years. The boxes indicate the interquartile range (central 50% of the data), either side of the median splat rate which is shown by the horizontal line inside the box. The vertical lines extend out by 1.5 times the interquartile range, and the data points themselves are added with a 'horizontal jitter' so they do not overlap to improve visualization of the data distribution. The thick line at y = 0 for each year are data points for journeys with a count of zero splats per mile. If splat rate on every journey was identical, we would only see the line across the middle of the box, with the data points on top of it.

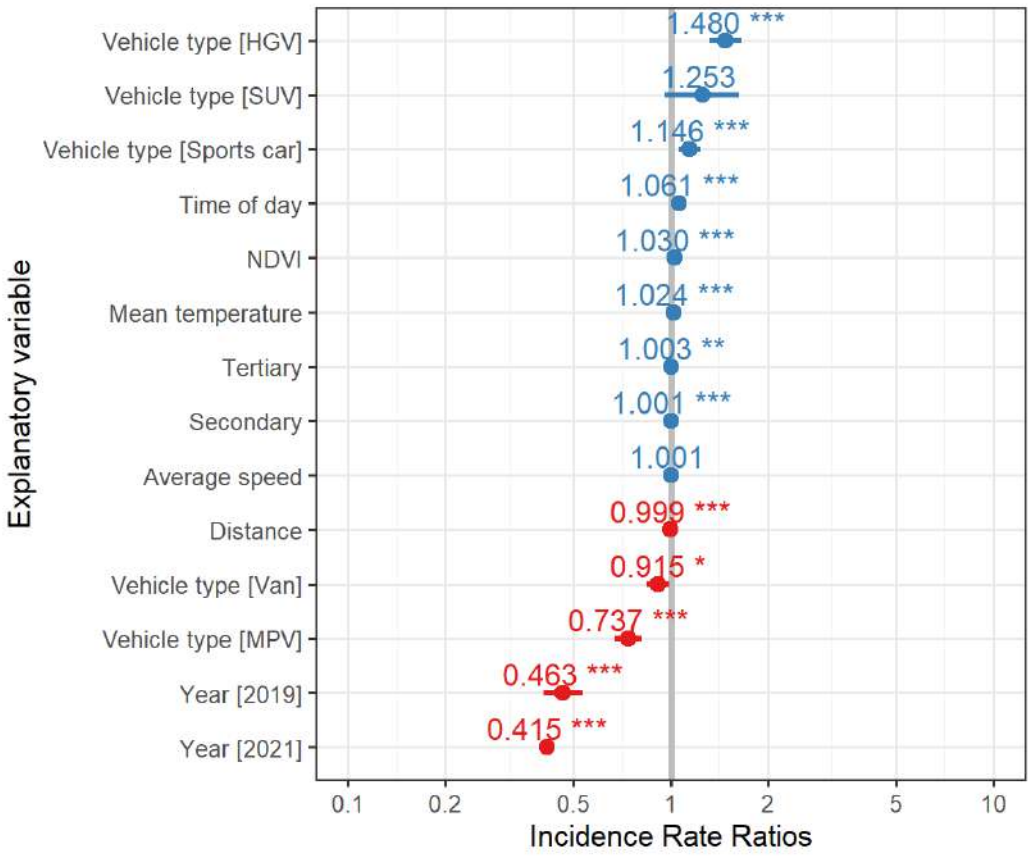


Figure 5. Forest plot of incidence rate ratios from the ZINB negative binomial model of Bugs Matter survey data of insects on car number plates in the UK, showing the quantity of change (a multiplier) in splat rate (splats per mile) given a one-unit change in the independent variable, while holding other variables in the model constant. Significant relationships between splat rate and independent variables are shown by asterisks (* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$). Vehicle types are compared to the reference category of 'conventional cars'. The reference year is 2004.

The regression tree describing splat rate (Appendix 13) had two splits, three terminal nodes and a cross-validated error of 0.918. It showed that splat rate was, on average, over three times as high after 8 pm, and highest in 2004. The complexity parameter plot shows the reduction in the cross-validated error with decreasing complexity parameter values and increasing tree size (Appendix 14). We would see diminishing returns if we continued to grow the tree. A cross-validated error of 0.918 shows that the tree could only explain a small amount of the variance in the data. Variable importance is calculated as the sum of the goodness of split measures (Gini index) and considers both primary and surrogate splits. Time of day of the journey and the journey year were the two most important variables (Appendix 14).

The country-specific results show that the greatest decreases in splat rate occurred in England (65% between 2004 and 2021) whilst journeys in Scotland recorded a comparably smaller decrease in splat rate between 2004 and 2021 (27.9%) (Table 2 and Figure 6).

Table 2. The results from country-specific NB models of insects sampled on vehicle number plates gathered by the RSPB Big Bug Count in 2004 and by the Bugs Matter survey in 2019 and 2021, showing the estimates and confidence intervals (95%) of the percentage decrease in splat rate between years.

	% decrease in splat rate			
Country (years)	Estimate	Per decade	2.50%	97.50%
England (2004-2019)	56.19	37.5	61.36	50.31
England (2004-2021)	64.96	38.2	66.78	63.02
Scotland(2004-2021)	27.85	16.4	41.07	11.32
Wales (2004-2021)	54.95	32.3	62.28	46.11

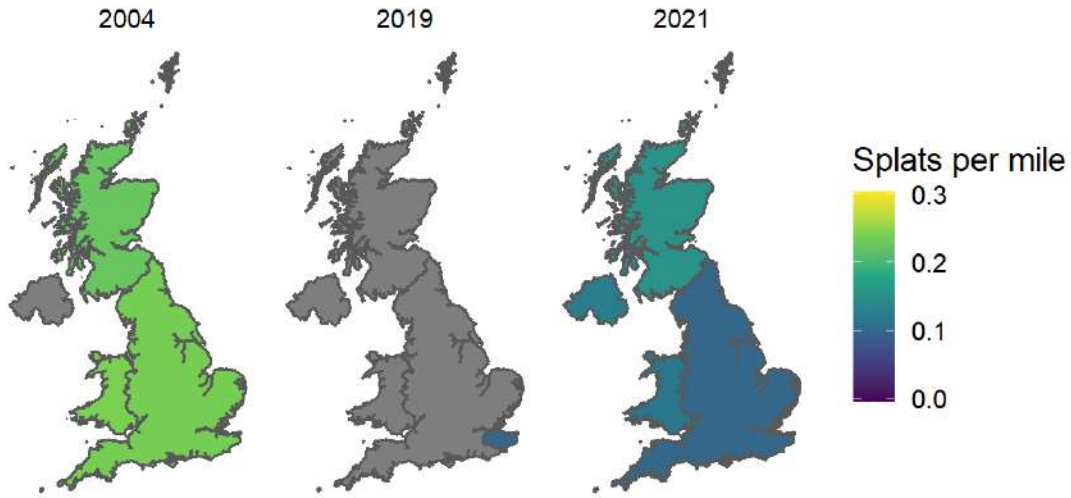


Figure 6. Heat map of splat rate of insects on car number plates from the Bugs Matter survey in the UK in each of the survey years, 2004, 2019 and 2021.

Participation

In the 2021 survey season, 5,215 users signed up to Bugs Matter via the mobile app. The majority signed-up in the initial launch period between mid-May and early-June, although there were considerable spikes in signups around key dates (Figure 7). For example, an increase in early June coincides with Bugs Matter featuring on BBC Springwatch. There was a slight lag between launch and sign-up spikes in Wales - this may have been due to delays in translating communication materials into the Welsh language.

Of the 5,215 individuals who signed up to the Bugs Matter app in 2021, 710 participated in the survey, the criteria for which was submitting data for at least one journey. We calculated a conversion rate as the number of participants who submitted one or more journeys (710) divided by the number of sign-ups (5,215). This gives a conversion rate of 13.6%. At the end of the survey season, these users had recorded a total of 4,778 journeys. The average number of journeys recorded by each surveyor was 4.7. In 2021, 4,053 journeys were completed in England, 36 journeys were completed in Northern Ireland, 283 journeys were completed in Scotland, and 403 journeys were completed in Wales (Figure 8).

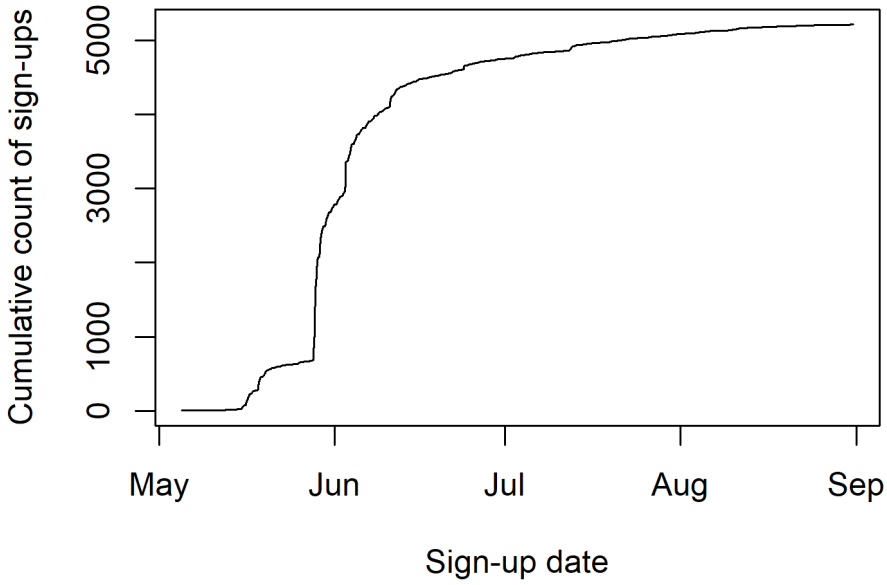


Figure 7. Number of signups to the Bugs Matter app during the 2021 survey season.

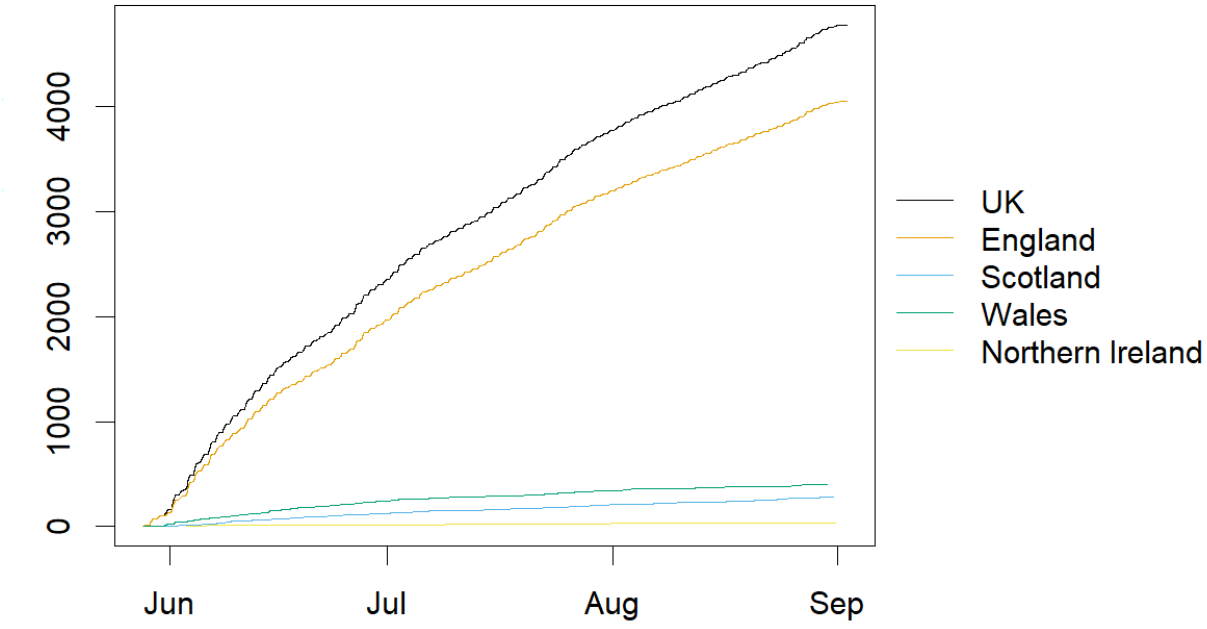


Figure 8. Number of journeys submitted via the Bugs Matter app for the UK and each country during the 2021 survey season.

4 Discussion

Insect abundance

The results of this study show a reduction in numbers of insects sampled on vehicle number plates, consistent with insect abundance decline rates reported by others (Fox et al., 2013; Goulson, D., 2019; Hallmann et al., 2017). The estimate of change in splat rate between 2004 and 2021 (a decrease of 58.5%) has a lower confidence interval of 56.2% and an upper confidence interval of 60.8%, at a 95% confidence level. This means that if we repeated the study, 95% of the time we would expect the estimate of change in splat rate to fall between these values. However, it should be noted that the observations reported here are based on data from only three points in time with a skewed temporal distribution, and consequently do not constitute a trend. With such a low temporal resolution, there is a risk of uncharacteristically high or low insect abundances during these sampling years showing an apparent change in abundance that is unrepresentative of actual insect abundance trends. To accurately estimate change in insect abundance over time, the population needs to be monitored comprehensively at regular intervals over an extended timeframe to reveal the direction and scale of genuine trends. However, the pattern observed in this study is consistent with examples of insect decline reported elsewhere and and informs a growing requirement for conservation research, policy and practice targeted at invertebrates in the UK. Similar declining trends were recorded in a study that sampled insects splatted on vehicle windscreens every year between 1997 and 2017 in Denmark (Møller, 2019). However, when windscreen splats in Denmark and Spain in just 1997 and 2018 were compared there was no significant difference due to year (Møller, et al. 2021).

Insect population dynamics and activity are influenced by a range of natural factors that vary inter-annually and across spatial and temporal scales (Figure 9). These factors add noise to longer-term trends in insect abundance but can be partly controlled for in our modelling. For instance, the inclusion of mean temperature and NDVI in our models controls for inter-annual differences in temperature and spatial variation in vegetation cover, both of which may naturally influence insect abundance and activity. Whilst insect populations vary spatially and temporally, so did our insect sampling approach. The time of day and date of the journey, the vehicle type, the vehicle speed and the journey distance all create sampling bias, which we have attempted to control for in our methods, by measuring these variables and including them in our models (Figure 9). By controlling for these effects we obtain more accurate estimates of change in insect splat rate between survey years. However, there are other important variables that are not yet included in the models. For example, environmental variables with demonstrated lethal and sub-lethal influence on insect population ecology such as pesticide use (Møller, et al. 2021a), pollution, land-use change and climate change could explain a further proportion of the unexplained variation in the data. Our model also lacks data on a number of other influential factors on insect abundance and activity such as variation in habitat type and management, disease and predation of insects, other weather conditions including humidity or wind, and natural variation in insect lifecycles or flight periods. Finally, there may be subtle differences in survey methods and/or approaches between journeys and/or years which were not recorded or communicated to subsequent survey managers.

By including a range of variables in the statistical model, it was possible to examine how specific variables affected insect splat rate while controlling for the effects of the other variables in the model. This was important for a more robust estimation of change in splat rate between years, but also allowed us to examine the effects of other factors on insect splat rate. HGVs and sports cars sampled more insects than conventional cars. This may be due to their typical travel speed or aerodynamic properties. Insect splat rate increased by 6% as each hour in the day passed. This could be due to the fact that insects are more

active at higher ambient air temperatures (Mellanby, 1939). Indeed, insect splat rate increased by 2% with each one degree increase in mean daily temperature. Splat rate was found to increase by 3% with each one unit increase in NDVI and the odds of a zero-count journey occurring decreased by 1.3 times with each unit increase in NDVI. These results most likely reflect the fact that insects are more abundant in more vegetated rural areas compared to urban areas, due to the relative suitability of habitats. However, it should also be noted that certain crops will show high NDVI values, but insect abundance may be low in these locations due to pesticide use, the negative influence of crop monocultures on insect abundance, a lack of habitat attributes that provide nesting or overwintering habitats, and a lack of undisturbed habitat and habitat continuity due to intensive management for crops. In future analyses we aim to include data on broad habitat types surrounding journey routes which might help to reveal further information about how insect splat rates vary between land use types. There was no significant relationship between splat rate and average journey speed. Average journey speed is a very low resolution measure of journey speed, and it is likely that a range of other factors such as the spatial distribution of insects and road type interact with the vehicle speed differently along different sections of the journey route. The weak positive relationship between vehicle registration year and splat rate suggests that newer vehicles are more efficient at sampling insects than older vehicles. This is contrary to a suggestion that finding fewer insects on number plates in recent years might be attributed to increasing streamlining of vehicle aerodynamics over time. Our data show that newer vehicles sample more insects than older vehicles, and we have observed pattern of fewer insects on number plates more recently than in the past in spite of this effect of vehicle age, which is assumed to be correlated with aerodynamics.

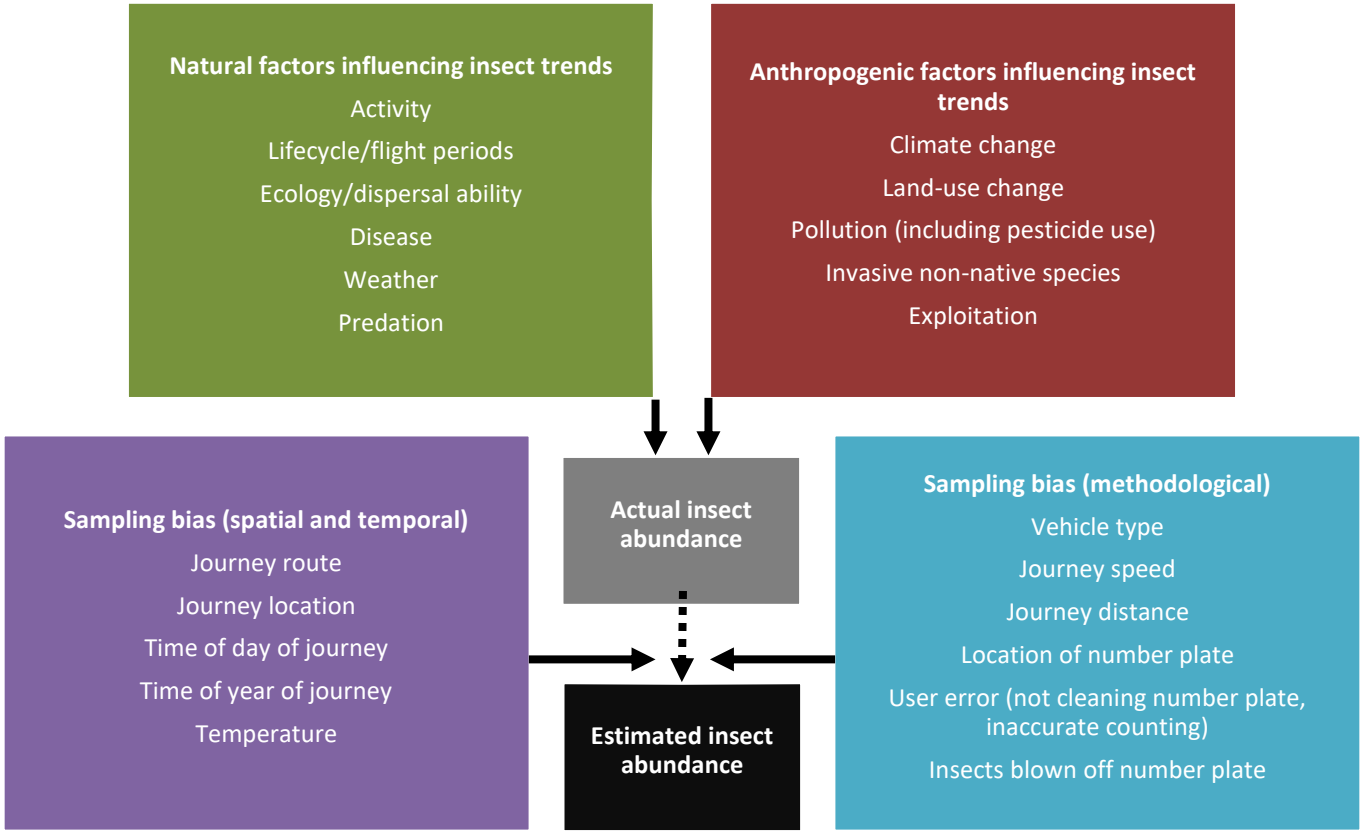


Figure 9. A conceptual diagram showing the range of variables potentially influencing actual insect abundance and estimates of insect abundance using the Bugs Matter app and insect sampling using vehicle number plates conducted by citizen scientists.

Splat rate showed little correlation with journey distance, as shown by a significant but very slight change in splat rate with journey distance. This is somewhat expected as the splat rate is normalized over journey distance, however we might have expected to see more insects sampled over longer journeys due to the increased chances of encountering areas with higher densities of flying insects. Conversely, longer journeys tend to follow motorways where insect abundance may be lower and it is possible that sampled insects could be blown off the number plate on long journeys, especially if the average journey speed is high. The correlation plots showing the relationship between journey distance and splat count and rate (Appendix 8) show some long journeys with very few insect splats or low overall splat rates, which could be partially explained by this phenomenon. Interestingly, the ZINB zero-inflated model determined that the odds of a zero-count journey occurring decreased by 1.02 times with each mile increase in journey distance, suggesting a threshold distance might exist, above which one or more insects are sampled. The average journey distance in 2004 was 60 miles, in 2019 it was 16.6 miles, and in 2021 was 36.3 miles, perhaps reflecting the 2019 survey being focused only in Kent, and changes in traveling behaviour influenced by the global COVID-19 pandemic.

The results of the ZINB zero-inflated model showed that the odds of a zero-count journey occurring increased by 2.9 times between 2004 and 2021.The importance of submitting data for journeys during which zero insects were sampled was communicated to citizen scientists during all survey years, yet there was still a considerably higher proportion of journeys with zero insect splats in 2019 (54.3%) and 2021 (39.5%) compared to 2004 (7.8%). In 2004, the primary method of engagement with citizen scientists was a printed leaflet. With the rise in the use of social media and digital communications it was possible for engagement with citizen scientists in 2019 and 2021 to be more frequent, targeted and specific. This may have resulted in more effective communication of the importance of submitting zero-count journeys, and therefore greater frequency of their occurrence in the data. Another limitation of the survey was that citizen scientists may have forgotten to clean their numberplate prior to conducting a survey, although the risk of this is very low for the 2021 Bugs Matter survey, where the app required a checkbox confirmation that the number plate had been cleaned, the risk may have been higher in 2004, resulting potentially in an elevated count in that year.

Differences in participant behaviour between the two surveys cannot however explain the fact that there were significantly different changes in splat rates in 2004 and 2021 between the different countries of the UK. Most notably while the splat rate was 27.9% lower in Scotland in 2021, it was over twice as reduced in England - 65% lower. Annual counts of moths caught in Rothamsted moth traps were analysed by Fox et al. (2021), they revealed declining trends in moth abundance in traps in Northern and Southern Britain between 1968 and 2017, however while the reduction was -22% in northern Britain, it was nearly twice that, -39%, in southern Britain. Rothamsted moth trap data is itself a proxy for moth abundance, and the time period of the decline is much longer, but the similar pattern of greater rates of loss in the south reinforces concerns that the factors responsible for recent insect declines are acting more strongly on populations in England or Southern Britain.

The national rate of change in flying insect abundance that may be inferred by this study, -34.4%/decade, is much higher than the longer term -6.6/decade rate of annual moth change calculated by Fox et al. (2021), however the figures are similar to more recent trends, such as the change in insect numbers sampled on vehicle windscreens recorded by Møller (2019), on two transects in Denmark between 1997 and 2017, -38.0%/decade and -46.0%/decade, and are slightly higher than the -28.0% decadal change in the biomass of flying insects in malaise traps on nature reserves in Germany between 1990 and 2011 revealed by Hallmann et al. (2017).

While this data firms up a picture of widespread and severe modern declines in insects, caution is required in extrapolating conclusions from this apparent decline, and in particular in drawing conclusions about insect abundance itself as this is not the only factor affecting the splat rate of insects on number plates. Insect sampling was restricted to transects along the road network, and therefore the spatial coverage of the surveys is inherently limited and may be in part dependant on specific changes to roadside verge management. Whilst this design serves to provide a robust measure of change in the number of insects sampled by cars, by comparing one year to the next, we caution against the use of this data to directly infer insect abundance. Indeed, our method is an activity-density measure and it is conceivable that insects are just as abundant between years, but are less active. We can see this in our results at shorter timescales, where splat rate increases with temperature and after 8pm, not because there are more insects, but because the same number of insects are active in a different way.

Reduced frequency and distances of flying is a scenario that occurs when habitats become so fragmented that dispersal becomes evolutionarily disadvantageous for a species (Hill et al., 1999). There is evidence that when habitats become fragmented there is a tipping point beyond which dispersal is more likely to decrease genetic resources than give genes the chance to proliferate in an under-exploited habitat.

Eventually the high probability of failure outweighs the benefits if successful, so wings shrink, wing muscles atrophy, dispersal reduces (Davies and Saccheri, 2013) and we assume, long-distance dispersal eventually stops. The relationship between increasing habitat fragmentation, increasing temperature and reduced wing functionality has been shown in most groups of butterflies including swallowtails (Dempster et al., 1976; Dempster, 1991), skippers (Fenberg et al., 2016), blues (Dempster, 1991; Wilson et al., 2019), and a white and nymphalid (Bowden et al., 2015). Shrinking wing-size is a phenomenon that has been recently observed in many smaller animals that are likely to be more vulnerable to the effect of fragmentation, such as Spanish wasps (Polidori et al., 2019), German craneflies, where wing size increased but wing loading increased by 26.9% in males (Jourdan et al., 2019), and Bornean moths (Wu et al., 2019). While in South American birds in primary forest body size is reducing but wing size is increasing (Jirinec et al., 2021) indicating that dispersal or at least flight is still evolutionarily beneficial to birds in less fragmented habitats. It may be that reductions in the occurrence of insects in traps or on numberplates is being caused, at least in part, by reduced activity, flight and dispersal of insects, which may be a response to combinations of climate change, habitat fragmentation and pesticide contaminated landscapes that reduce the occurrence of genes associated with long distant flight. Of course, reduced activity of flying insects would itself be indicative of reduced pollination rates for plants at a distance from quality habitats, reduced prey availability for flying insectivores, reduced ability of species to respond to climate change and reduced ability to recolonize after an extinction event, and may be associated with declines in insect populations at a landscape scale.

Synthesis and Application

The Bugs Matter survey successfully quantified a difference in the number of insects sampled on vehicle numberplates over time from baseline data established in 2004. The approach has the potential to provide an efficient, standardised and scalable approach to monitor insect population trends across local, regional and global scales, to add to the growing body of evidence for trends in insect populations and to provide a coarse metric of the functional provision by insects within ecosystems.

We are currently investigating how we could use AI algorithms to automatically count the number of insects on number plates. This would use a virtual template within the app., similar to those used to automatically read credit card details, and return the count in real-time to the user. This would negate the requirement for a splatometer making it quicker and easier for citizen scientists to count and record

data. In 2021, a high proportion of people who downloaded the app. did not submit any data. The need for a physical splatometer is thought to be one barrier to participation, and removing this requirement may help to increase numbers of participants in future years and to reduce the operating costs of the survey.

An increasing number of studies are accumulating evidence of insect declines, and associated consequence for ecosystem functions, including the reductions in genetic diversity, β-diversity and species evenness that are associated with the failure of species to disperse and colonise or recolonise habitats in a fragmented landscape (Vasiliev et al.,2021). It is important to recognise that these patterns and trends are often nuanced, and that local conditions and choice of analytical approach may mean that results reported locally or regionally may not reflect patterns everywhere. Over-simplified reporting by the media of negative trends from short time series data such as those presented here, risks missing some of the nuances and limitations of research. Whilst there is growing evidence of potentially catastrophic declines in insect diversity and abundance, care must be taken to not extrapolate too far, with potential consequences for undermining public confidence in research. We recognise and stress that the results we have reported here do not constitute a trend, and advocate strongly for data collection over extended timeframes to enable conclusions about trends in insect populations to be drawn. We believe that the widespread adoption of the Bugs Matter survey facilitated by the Bugs Matter app can provide a replicable and scalable approach for the generation of an enhanced evidence-base that can be used to assess trends and drive positive action for insects and other invertebrates.

Increasing sample size both by increasing the number of citizen scientist participants and the number of journeys undertaken would provide greater confidence in the reliability of our data as a robust indicator of patterns in insect abundance. Similarly, cross-validating our results with other monitoring schemes for insect abundance, such as the Rothamsted Insect Survey (RIS) (Fox et al., 2013) or the UK Pollinator Monitoring Scheme (https://www.ceh.ac.uk/our-science/projects/uk-pollinator-monitoring-scheme), or the results of long-term Malaise trapping studies (Hallmann et al., 2017), would provide another means to calibrate and critique the patterns in our data. There is potential for the survey method to have global application and relevance, and deployed at a national scale, it can provide data at resolutions appropriate to the scale at which the ecosystem services provided by insects operate. By continuing to promote participation in the survey in subsequent years, insect conservationists can capitalise on the opportunity to gather long-term data and build the evidence base for insect abundance at UK county and national scale.

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Author contributions

This project was led and managed by PTM, who contributed much of the text for this report along with guidance for the statistical analyses. LB led on the collation of variables, statistical analysis and report writing, whilst RS performed initial data cleaning and formatting and the analysis of the participation data. AR and AS were part of the project team in 2019, AR leading on GIS and data assimilation, and AR on citizen scientist participation. PTM and AR designed the original brief and specification for the Bugs Matter app., and MS and AW provided helpful comments and input on an earlier draft of the manuscript.

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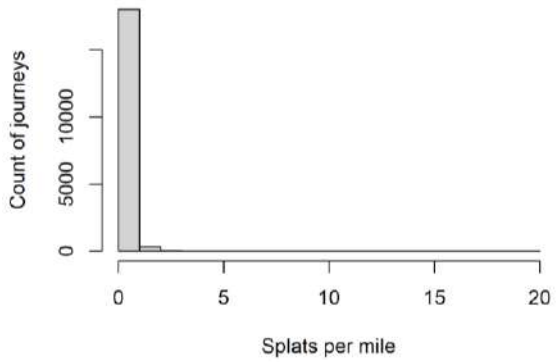
Appendices

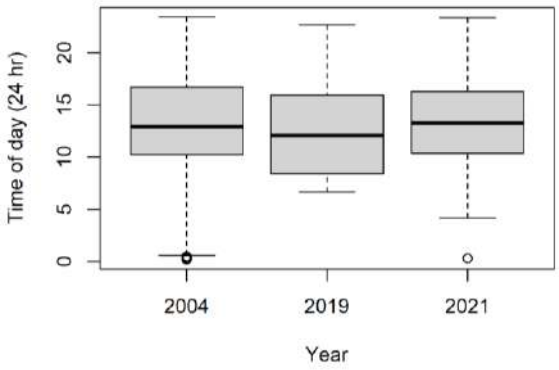
Appendix 1. A histogram of the splat rate (splats per mile) data.



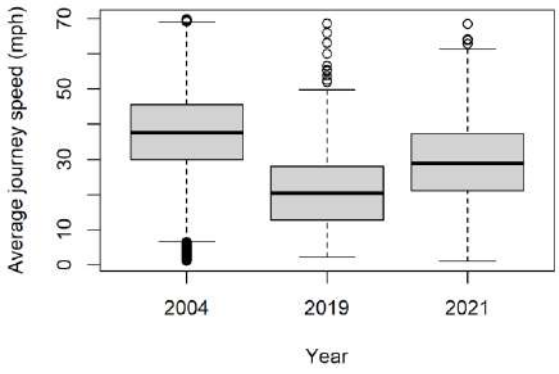
Appendix 2. The number of journeys conducted by each vehicle type in each survey year.

	2004	2019	2021
Car	12547	307	2812
HGV	257	89	75
MPV	338	13	318
Sports car	619	41	50
SUV	33	149	10
Van	672	0	53

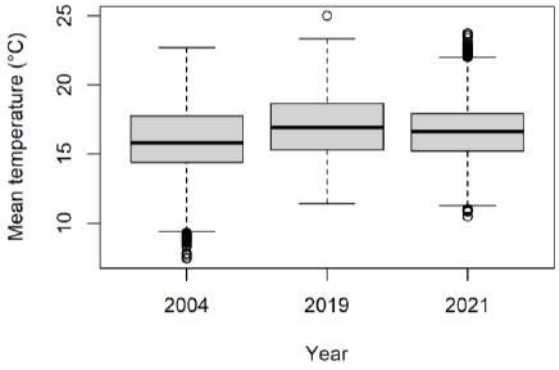
Appendix 3. Box and whisker plot showing the spread of the time of day of journey data from the Bugs Matter survey of insects on car number plates in in each of the survey years. A Kruskal-Wallis test showed a significant difference in the time of day at which journeys were undertaken between the survey years ($H(1) = 33.253$, $p = < 0.001$).



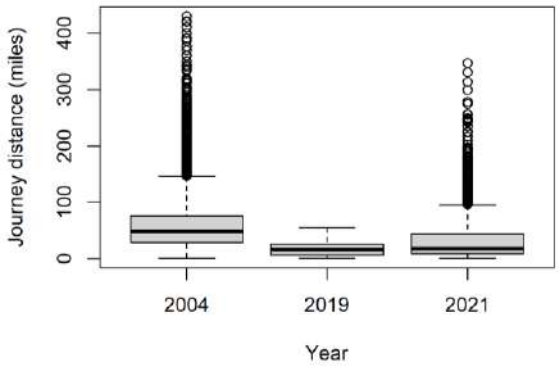
Appendix 4. Box and whisker plot showing the spread of the average journey speed data from the Bugs Matter survey of insects on car number plates in in each of the survey years. A Kruskal-Wallis test showed a significant difference in the average journey speed between the survey years ($H(1) = 1677.517$, $p = < 0.001$).



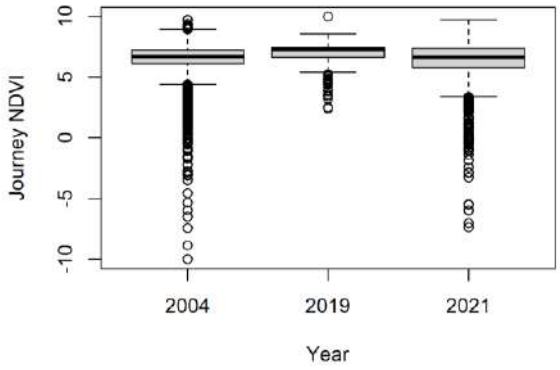
Appendix 5. Box and whisker plot showing the spread of the mean journey temperature data from the Bugs Matter survey of insects on car number plates in in each of the survey years. A Kruskal-Wallis test showed a significant difference in the mean journey temperature between the survey years (H(1) = 274.594, p = < 0.001).



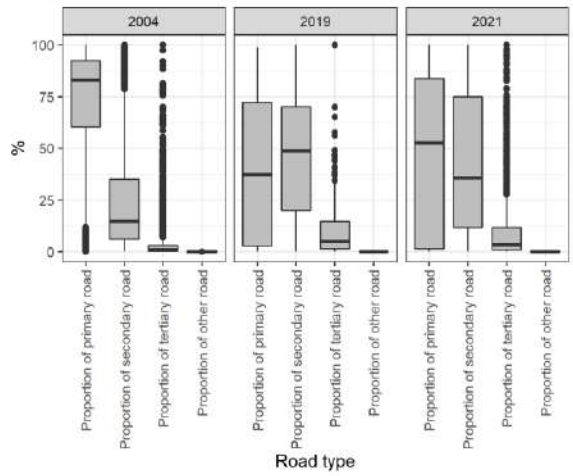
Appendix 6. Box and whisker plot showing the spread of the journey distance data from the Bugs Matter survey of insects on car number plates in in each of the survey years. A Kruskal-Wallis test showed a significant difference in the journey distances between the survey years (H(1) = 2794.17, p = < 0.001).



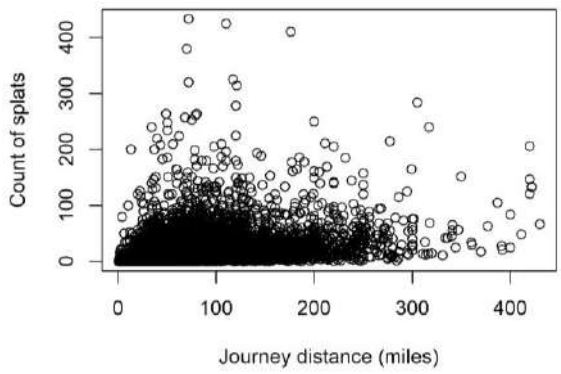
Appendix 7. Box and whisker plot showing the spread of the NDVI data from the Bugs Matter survey of insects on car number plates in in each of the survey years. A Kruskal-Wallis test showed a significant difference in the journey NDVI between the survey years (H(1) = 144.134, p = < 0.001).



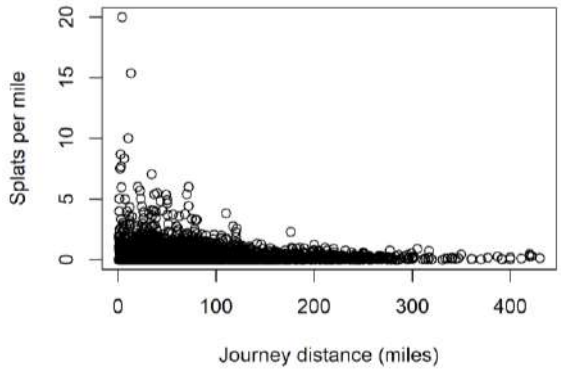
Appendix 8. Box and whisker plot showing the spread of the road type data from the Bugs Matter survey of insects on car number plates in in each of the survey years.



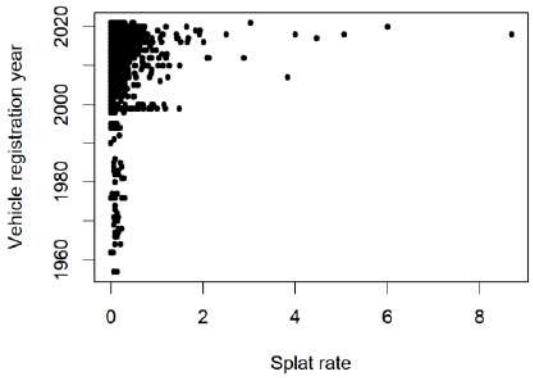
Appendix 9. Correlation plot showing the relationship between journey distance (x-axis) and count of splats (y-axis). A Spearman correlation test showed a significant positive correlation between journey distance and count of splats (rho = 0.636, p = < 0.001).



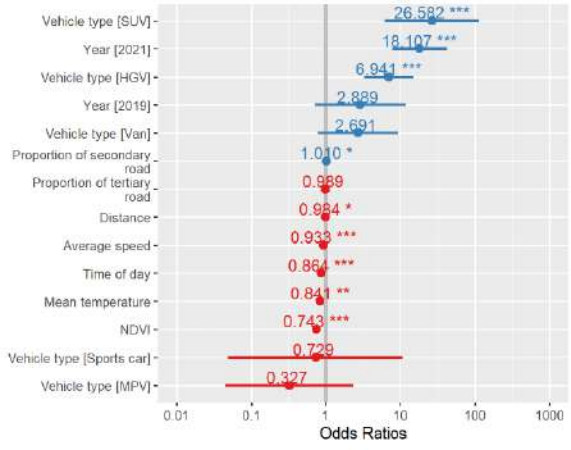
Appendix 10. Correlation plot showing the relationship between journey distance (x-axis) and splat rate (y-axis). A Spearman correlation test showed a weak but significant positive correlation between journey distance and count of splats (rho = 0.198, p = < 0.001).



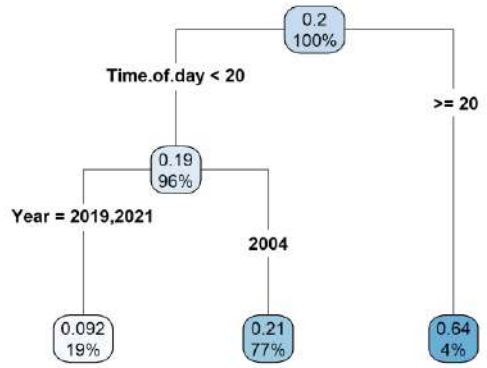
Appendix 11. Correlation plot showing the relationship between splat rate (x-axis) and vehicle registration year (y-axis) (data available only from 2019 and 2021). A simple linear regression on log-transformed splat rate showed a weak positive trend (coef 0.00072, *p* = 0.015) between vehicle registration year and splat rate.



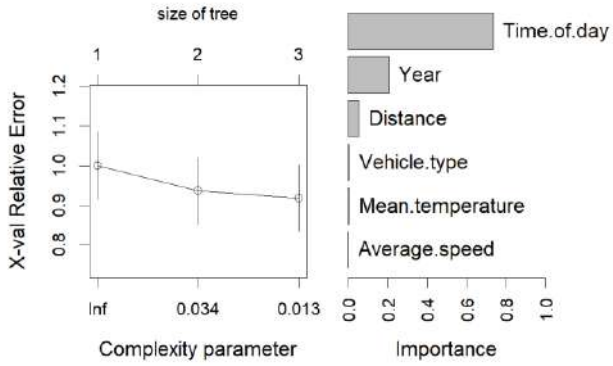
Appendix 12. Forest plot of odds ratios from the ZINB zero-inflated model of Bugs Matter survey data of insects on car number plates in the UK, showing the change in the odds of a zero-count journey occurring given a one-unit change in the independent variable, while holding other variables in the model constant. Significant relationships between splat rate and independent variables are shown by asterisks (* p < 0.05, ** p < 0.01, *** p < 0.001). Vehicle types are compared to the reference category of 'conventional cars'. The reference year is 2004.



Appendix 13. The regression tree describing splat rate had two splits, three terminal nodes and a cross-validated error of 0.918.



Appendix 14. Complexity parameter plot and variable importance for the regression tree describing splat rate. Complexity parameter plots show the reduction in the cross validated error with decreasing complexity parameter and increasing tree size. We would see diminishing returns if we continued to grow the trees. Variable importance is calculated as the sum of the goodness of split measures (Gini index) and considers both primary and surrogate splits.



APPENDIX 16 Buglife summary report 2025

Bugs Matter

2025 SURVEY SEASON RESULTS

WHAT'S HAPPENING TO OUR INSECT NUMBERS?

59% DECREASE

The number of insects sampled on vehicle number plates decreased by **59% between 2021 and 2025.**

Corresponding to a **19% decrease per year** across the UK and Ireland

19% DECREASE PER YEAR

2021
2022
2023
2024
2025

NUMBERS BY COUNTRY

Splat rate decreases **per year** since 2021

21% DECREASE — SCOTLAND

20% DECREASE — ENGLAND

8% DECREASE — N. IRELAND

18% DECREASE — REPUBLIC OF IRELAND

Survey expanded to Republic of Ireland in 2021, providing a baseline for subsequent years.

BUGS MATTER 2025 SUMMARY

10,693 journeys

480,842 kilometers covered

30,910 insects sampled

25,662 total journeys in the Bugs Matter dataset

PARTICIPATION

710 new Bugs Matter users signed up in 2025

OVER 10,000 registered citizen scientists

NUMBERS BY REGION

Most journeys recorded in:

2,863 SOUTH EAST ENGLAND

1,257 EAST OF ENGLAND

724 SOUTH WEST ENGLAND

2,863 South East England is the region with the most journeys in the Bugs Matter dataset

Find more information about the Bugs Matter project here:

buglife.org.uk/bugsmatter

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