

Planning Application 23/00815/FUL
Appeal Reference APP/W0340/W/24/3356688

“Hermitage Group of Residents” (also referred to as **Group** in this document) is a Rule 6(6) party to the above appeal and this document provides our Statement of Case (SOC), along with supporting evidence.

We refer to West Berkshire Council as **WBC** in this document.

Introduction

As a group, we have followed the progress of this Retrospective Planning Application since the submission in April 2023 through to the relevant Committee meeting in October 2024 and during that time communicated both verbally and in writing with the Planning Officer, local Ward Members and our Parish Council as to why we considered this development should be refused. Those written responses are contained in the body of evidence provided by WBC to the Inspector.

We are satisfied that, at the Committee Meeting on 23rd October 2024, the members of the Planning Committee, in deciding to unanimously refuse the Application, did :

- robustly examine the Planning Officer’s reasons to recommend approval of this Retrospective Planning Application
- take due and proper regard of the overwhelming number of objections lodged by the community
- correctly identify significant shortcomings in both the manner in which Policies had been interpreted in the Planning Officer’s report, together with inappropriate weight being given to matters which could not be evidenced under questioning.

We believe that, were the appeal to be successful, it would seriously undermine local public confidence in the planning process and potentially create a national precedent.

Statement of Case

The Appellant's document comprises 9 sections and 55 pages including an Appendix which contains the Planning Officer's report to Committee. Of this material, 3 pages are given at Section 7 to the Appellant's argument as to why the Committee's unanimous decision to **refuse** should be overturned.

We have structured our Statement of Case in the following manner:

PART 1 – Direct response to matters raised by the Appellant in his Section 7 titled 'The Case for the Appellant Reasons for Refusal.'

PART 2 – Selected commentary referencing aspects of the revised National Planning Policy Framework (NPPF), Planning Policy for Traveller sites (PPTS) and Policy CS7 (Gypsies, Travellers and Travelling Showpeople) where the Appellant relies upon the content of the Planning Officer's report as demonstrating compliance with those Policies.

PART 3 – A review of the terms of the High Court Injunction Order served on the Appellant on 21 April 2023 and the site inspection carried out by members of the Planning Committee and other Officers on 8 October 2024.

PART 1

Direct response to matters raised by the Appellant in his Section 7 titled ‘The Case for the Appellant Reasons for Refusal.’

Reason 1

“The application site lies in the North Wessex Downs National Landscape. This is specially protected landscape as defined in the NPPF. The development of this site for gypsy and traveller accommodation [5 pitches] will harm the visual character of the area, particularly in relation to the soft transition between the built up area of Hermitage to the south and open countryside to the north. This is considered to be contrary to the advice in policies ADDP5, CS7 and CS19 in the WBCS of 2006 to 2026 and the advice in para 176 of the NPPF of 2023. It is accordingly unacceptable. It is also contrary to the advice in policy TS3 in the HSADPD of 2017.”

Appellant SoC

7.1 In essence this reason for refusal related to the location of the appeal site within a National Landscape, it is important to note from the outset that the LPA have confirmed that the appeal application was screened, and it was confirmed that a negative screening opinion was issued confirming that the proposal was not EIA development.

Hermitage Group of Residents response:

Responding in the first part to the ‘*location of the appeal site within a National Landscape*’, the **Group** has regard to Policy TS3 which *inter alia* sets out “Detailed Planning Considerations for Traveller Sites”.

The Appellant is more than aware that any development within the North Wessex Downs National Landscape must be supported by an approved Landscape Visual Impact Assessment (LVIA). The LVIA submitted by the Applicant was wholly dismissed by WBC’s credentialed expert Liz Allen, a Chartered Member of the Landscape Institute who, *inter alia*, made the following comments:

The LVIA was incomplete, contained subjective opinions and overall did not provide an objective assessment of the development proposals, for the reasons as follows:

- *Inadequate methodology: The LVIA did not follow a recognised landscape and visual assessment methodology. Therefore, the judgements can only be the subjective opinion of the assessor*
- *Inaccurate baseline: The assessment used the baseline as the presently semi-constructed proposals, then concluded the mitigation measures*

would therefore offer an improvement, this is a misguided form of assessment. The baseline should have been the existing undeveloped grass field

- *Review of the baseline, content and findings of the assessment: The LVIA omitted relevant adopted evidence, in particular the NWD AONB Integrated Landscape Character Assessment Technical Report (LUC, March 2002) and the NWD AONB Management Plan 2019-2024. Not fully referencing these documents shows a lack of understanding of the baseline, what is of value and the proposed landscape strategy for this area and how the open undeveloped character of the proposed site contributes to the landscape character and special qualities of the National Landscape*
- *Lack of planning policy reference: The LVIA made no reference to the West Berkshire Local Plan 2006-2026 and in particular policies ADPP5, Policy CS7, CS14, CS19. Housing site allocations and the detailed planning considerations for travellers' sites*
- *Presentation including plans and tables: The LVIA did not include any Visual and Landscape assessment tables, although not a requirement, there is a requirement to show a clear, methodical transparent assessment. The LVIA also contained*
 - *Generalised plans not acknowledging tree canopies and the location of trees of value*
 - *Inadequate and poor-quality photos for the visual assessment.*

Responding in the second part to the the Appellant commentary vis. *“the LPA have confirmed that the appeal application was screened, and it was confirmed that a negative screening opinion was issued”*.

In this context the **Group** considers that the LPA uses this terminology as a reference to Regulation 8 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, under which the local council is required to adopt a ‘**screening opinion**’ (i.e. an initial assessment) as to whether proposals constitute ‘EIA development’ to determine if an Environmental Impact Assessment (EIA) is required as part of application. The word ‘screening’ in this context refers to a review of the size and nature of development and is nothing to do with the physical screening of the site.

Similarly the ‘**negative screening opinion**’ has no relevance as to whether a development should proceed within the National Landscape.

Appellant SoC

7.2 It is notable that to the immediate north of the appeal site is the residential dwelling Sandhill, and then the M4. These are existing features within the transition to the “open countryside” further north.

Hermitage Group of Residents response:

The comment here is simply a statement of fact and continues to ignore that the area sits within the National Landscape. We refer the Inspector to the requirement for an approved LVIA.

Appellant SoC

7.3 It is submitted that the impact on landscape character and visual amenity is very limited having regard to the fact that the appeal site is visually well-contained and that any visual impacts of the development are localised. The appeal site is currently well screened, and the proposed landscaping buffer screen will assist in mitigating any limited impact. It is noted that the LPA’s tree officer is content with the outline of the proposed landscaping scheme.

Hermitage Group of Residents response:

With regard to the Appellant’s statement above that ‘***the impact on landscape character and visual amenity is very limited***’, we would point again to the evidence supplied by WBC’s own expert (Liz Allen) who was engaged by WBC to review the LVIA submitted by the applicant. She concluded:

“The site is set within the North Wessex Downs National Landscape, where great weight should be given to conserving and enhancing landscape and scenic beauty. As shown the proposed development will **not** comply with the NPPF with a proposed development which will result in significant and demonstrable harm as follows:

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

The appellant also states that ‘***the appeal site is currently well screened***’. We refer back to our response to 7.1 whereby screening provided by vegetation (whether existing or by some proposed landscaping scheme) is not relevant unless evidenced by an approved LVIA. It is appropriate to also highlight other aspects of this ‘screening’ discussion that arose whilst the Committee sought clarification of the achievability of

sight lines at the proposed vehicular access and the following points are taken from the Committee Minutes:

- ***It was confirmed that a stopping sight distance of 100m would be required, starting from a point 2.4m back from the edge of the carriageway at the site access.***
- ***Councillor Abbs noted the special area where the site was located and the significant loss of hedgerows to create the sight line.***

In the original planning application, the Applicant submitted a 'Highways Technical Note' (authored by their expert 'Motion' and dated 12th September 2023) demonstrating that the required safe visibility splay North from the site's access point is 104m, a distance which spans 4 of the 5 proposed pitches. What this means in practice is that much of the existing hedgerow and tree screen for the whole of that distance must be cleared (or as a minimum, lowered and maintained for the future to a height of less than 0.6m). **This means that much of the current screening that the Appellant relies upon in this Appeal would have to be removed.**

The current village boundary and speed limit signs also sit within the 'visibility splay' so these would have to be moved – the image in Figure 1 below, is looking North from the site access - clearly showing these signs are above 0.6m and within the visibility splay:



Figure 1 -Visibility splay looking North from access

The 0.6m maximum height 'condition' was set by the Planning Authority's highways officer (condition HIGH8 – Visibility Splays before occupation) and is the essential requirement for safe road access to and from the site.

Our conclusion is that notwithstanding the overall requirement that any development in the National Landscape is supported by an approved LVIA it is evident that retaining any meaningful screening of this site is incompatible with safe road access onto the B4009.

Reason 2

“The development of this site for 5 gypsy and traveller site pitches has caused increased hardstanding and non-permeable material to be placed across the application site, with associated works/ stationing of sanitary units. The local planning authority on behalf of the lead local flood authority is not satisfied with the details and quality of the SUDs information submitted with the application to date. Accordingly, in taking the precautionary approach, it is considered that the development/ change of use proposed is contrary to the advice in policy CS16 in the WBCS of 2006 to 2026 and the advice in bullet points 1 and 7 in policy TS3 in the HSADPD of 2017.”

Appellant SoC

7.4 The reason for refusal refers specifically to “non permeable material to be placed across the appeal site”. It is not intended that non permeable material is to be placed and of course this can be the subject of a planning condition relating to surfacing materials, as indeed envisaged by the Case Officer in his report to committee. The Drainage Strategy submitting during the course of the application clearly proposes permeable paving within the appeal site.

Hermitage Group of Residents response:

The actual reason for refusal states:

“The development of this site for 5 gypsy and traveller site pitches **has caused** increased hardstanding and non-permeable material to be placed across the application site, with associated works/stationing of sanitary units.”



Figure 2 - Sanitary unit and some unspecified matting

The chronology of this retrospective application details the many occasions that Officers requested drainage proposals from the Applicant in sufficient detail to enable WBC to make a reasonable assessment on technical compliance.

As Reason 2 clearly states **“The local planning authority on behalf of the lead local flood authority is not satisfied with the details and quality of the SUDs information submitted with the application to date”**.

The Appellant (in his SoC) could have chosen to supply the information requested yet, on the evidence of this submission, has chosen not to.



Figure 3 - Increased hard standing post-injunction

In advancing Reason 2 as grounds for refusal The Members of the Planning Committee are simply making the statement that work has taken place to the site without any information being provided to WBC as to the nature of the materials laid to date and furthermore, that what has been done is not in accordance with the details of the SuDS information supplied.

The permeability or non-permeability of the materials laid, as argued by the Appellant, is therefore moot.

It seems clear to this **Group** that the actions and responses by the Appellant (as evidenced by Figure 2 and Figure 3 above), both during the course of the Application and this submission to the Appeal, demonstrate an intent to leave the materials that have been placed *in-situ* and to avoid providing any further information on this key matter.

This **Group** made a specific response to both foul drainage and surface water drainage (SuDS) strategies submitted by the Appellant during the planning process and concluded that, irrespective of the technical non-compliance noted by Officers, the

costs of installing what had been proposed were so high as to be clearly uneconomic and by inference unenforceable. That response is included in the document pack submitted by Council under cover of the Questionnaire.

Reason 3

“The development proposed presently has an unauthorised vehicle access onto the B4009. The current forward visibility splays in both directions [north and south] are inadequate for the identified traffic speeds along the highway. In addition there is no footway /pedestrian link to the south of the application site linking the accommodation to the village of Hermitage and its facilities. This all leads to potential conditions of road danger and a threat to highways safety, so being contrary to policy CS13 in the WBCS of 2006 to 2026 and the advice in para 110[b] of the NPPF of 2023 and the advice in the PPTS. It is accordingly not acceptable.”

Appellant SoC

7.5 This reason for refusal related to the unauthorized vehicle access from the appeal site. However, this is not as proposed in the submitted appeal application. Whilst it is accepted that as existing it may well be unacceptable from a highway safety standpoint it is not what is proposed. In this regard the reasoning of the LPA is ill founded. Reference is also made to the absence of a pedestrian link to the south of the appeal site, linking the appeal site to the village of Hermitage. These matters have been covered by the submissions within the planning application, and in any instance this is a matter that can be overcome by the imposition of a planning condition as indeed envisaged in the Case Officer report to committee.

Hermitage Group of Residents response:

The implication of this statement by the Appellant is that an alternative access is proposed but then at the same time, he makes the following statement in Section 2.2 of the appeal documentation:

“Access to the site is to remain as existing, which is an existing hard surfaced entranceway onto B4009 in the southwestern corner of the site, adjoining the neighbouring dwellings to the south.”

Given the incompatibility of the two statements made by the Appellant (in section 2.2 and section 7.5) together with the fact that no alternative access proposals have been supplied, we consider that this objection by the Appellant should be disregarded.

The fact that the Appellant agrees that **‘as existing, it (i.e. the access) may well be unacceptable from a highway safety standpoint.....’** supports the council’s refusal decision and the imposition of numerous ‘Highways’ conditions that are required to be met prior to occupation.

The Appellant makes two further points which we comment on below:

[Appellant SoC](#)

Policy Context

7.6 It is submitted that the appeal proposed meets all the criteria set out in the above policy. This matter is considered in detail in the Case Officer report from paragraph 7.6.

Hermitage Group of Residents response:

This comment refers to compliance with Policy CS7 (Gypsies, Travellers and Travelling Showpeople) and the Appellant relies upon the content of the Officer's report as demonstrating this compliance. Committee Members however (under Reason 1) identified that compliance with CS7 had not been met and disagreed with the Officer's conclusions.

Our response to Policy CS7 and other Policy comments are made under **PART 2**.

[Appellant SoC](#)

Need and Supply

7.7 With regard to need, it is common ground that the LPA meet the requirement to demonstrate a 5 year supply of pitches.

Hermitage Group of Residents response:

We do not dispute that Council has an obligation to demonstrate a 'rolling' 5 year supply of pitches in support of a total number of pitches to be achieved by 2038. The current status of Council's obligations was debated at length during Committee and the following matters are minuted:

It was confirmed that there was no provision in the local plan for additional Gypsy and Traveler sites. As a precursor to the Local Plan Review, there had been a call for additional pitches, and one had been promoted. The Council as the planning authority could have allocated designated sites across the district, but this wasn't done. Officers were required to take account of the shortfall when assessing applications.

It was confirmed that the owner of the land could have brought the land forward for consideration during the Local Plan.

Officers highlighted Table 7.3, which stated that a net increase of 18 pitches was needed by 2038. If planning permission was granted for this application, it would reduce the requirement to 13 pitches.

Councillor Paul Dick indicated that He acknowledged that there was a shortfall in Gypsy and Traveller pitches, but it was a shortfall of one, and the Council had five years to address it.

From the evidence above, it is our view that there is no pressing obligation on the Council to provide additional traveller pitches at this time.

This site is entirely unsuitable for that purpose and the Appellant has provided no material evidence that would take precedence over the reasons to refuse.

PART 2

Selected commentary against aspects of the revised National Planning Policy Framework (NPPF), Planning Policy for Traveller sites (PPTS) and Policy CS7 (Gypsies, Travellers and Travelling Showpeople) insofar that the Appellant relies upon the content of the Planning Officer’s report as demonstrating compliance with those Policies.

Noting that the NPPF and PPTS are designed to be read together we make our comments against the specificity of the PPTS.

Planning Policy for Traveller sites (PPTS)

Paragraph 3 of the PPTS states that “the Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.”

Whilst respecting the rights of travellers, it is also necessary to ensure fair and equal treatment for the settled community. As stated at the Planning Committee meeting on 24th October, no other development would ever be accepted on this site, so ‘fairness and equality’ should, by definition, lead to refusal of this application.

Paragraph 4 sets out the Government’s aims in respect of Traveller sites:

c) to encourage local planning authorities to plan for sites over a reasonable timescale

d) that plan-making and decision-taking should protect Green Belt from inappropriate development

f) that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective

i) to reduce tensions between settled and traveller communities in plan-making and planning decisions

WBC has repeatedly stated that the provision of traveller sites is by a plan-led approach. This parcel of land in the **North Wessex Downs National Landscape** would never have been identified as a suitable site and its illegal occupation has created the type of unauthorised development that they are seeking to reduce. Allowing the development to proceed on appeal would not look like ‘fair and equal’ treatment to the settled community and would risk setting a precedent for other sites. This would risk increasing tensions between the settled and traveller communities.

Paragraph 13 Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

a) promote peaceful and integrated co-existence between the site and the local community

As minuted at the Planning Committee meeting, no attempt has been made by the travellers to mix with or integrate into the local community. There has been a total disregard for the local environment, amply demonstrated by the initial illegal occupation of the site and associated actions, destroying any wildlife habitat on site. In PART 3 of this SoC we provide further detail.

c) ensure that children can attend school on a regular basis

At the current time, we understand that there are no children from the site attending the local school.

e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development

Officers have reported that noise from the M4 will exceed safe levels for residential use and mitigation would be a necessary condition of any approval. For mobile caravans and other semi-permanent buildings of the 'day-room' type proposed for this site the mitigation provided by the normal building fabric is insufficient as would be the option to install double glazing and air conditioning to maintain ventilation with windows shut. In the Officer's opinion a necessary condition of approval for this development would require the installation of 2.3m high acoustic screens at each plot. WBC Officers acknowledge that such a condition would further negatively impact the visibility of the site and is not consistent with the design principles in the Local Development Plan.

f) avoid placing undue pressure on local infrastructure and services

Local services, such as access to health care, are already at full stretch. For example, it is already very difficult to get an appointment to see a doctor.

h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability."

The Planning Officer, in his report, was very clear that approval would be conditioned that no business can be run from the site and no work should be undertaken there. This Group and others in the community have noted that there are often an excessive number of vehicles parked on the site (including vans and work type vehicles) having regard to the 5 caravans located there on a semi permanent basis. Photo evidence from

the Committee's visit is indicative of this point. The Planning Officer, in his report, has provided no evidence that the Appellant's proposals contributed to a sustainable lifestyle.



Figure 4 – Possible evidence of business being run from the site

Paragraph 27 sets out that if a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).

Due to the recent change of definition of 'need' in the PPTS (which now requires the inclusion of 'cultural' need), WBC currently has a 'planning' shortfall of just **one** pitch in the **expected** requirement for gypsy/traveller sites over the five year period which runs through to April 2026.

Policy CS7 (Gypsies, Travellers and Travelling Showpeople)

Policy CS7 of the Core Strategy (Gypsies, Travellers and Travelling Showpeople) includes a number of elements for assessing proposed sites. The policy is criteria based, and does not follow on from the GTAA undertaken as part of the evidence base for the Core Strategy. The policy sets out that the following criteria will need to be satisfied for sites outside of settlement boundaries.

In our opinion the Minutes of the Committee Meeting provide the evidence that Members were not persuaded by the Officer's assessment against Policy CS7 on the following matters:

1. Safe and easy access to major roads and public transport services

The entrance to the site at present has a dangerous access with poor visibility onto a fast road. We refer also to our response to **Reason 3**.

5. The possibility of the integrated co-existence between the site and the settled community, including adequate levels of privacy and residential amenity both within the site and with neighbouring occupiers.

We can find no evidence of any attempts by the Appellant to engage with the settled community to explain their proposals. Regrettably the nature of the occupation, overnight, and the subsequent imposition of a High Court Injunction has only served to increase the concerns within the community.

6. Opportunities for an element of authorised mixed uses.

Given there is to be no business run from the site, there is no opportunity for mixed use.

8. Will not materially harm the physical and visual character of the area.

We refer to the response given under **Reason 1 Point 7.3**. The criticism by a WBC appointed expert of the LVIA provided by the applicant makes it clear that the physical and visual character of the site has already been damaged. Prolonged occupation will only make this worse. In the winter, the hedge to the site provides little or no screening. Compliance with the Highways conditions would effectively remove all residual screening of the western side of the site adjacent to the B4009.

9. Where applicable have regard for the character and policies affecting the North Wessex Downs AONB

We refer to our response made to **Reason 1 at 7.1**.

PART 3**A review of the terms of the High Court Injunction Order served on the Appellant on 21 April 2023 and the site inspection carried out by members of the Planning Committee and other Officers on 8 October 2024.**

The full (redacted) injunction is **attached** at **Appendix 2**. Particular items of note in the injunction are the following prohibitions:

- (v) Bring onto the Land any further waste materials and/or hardcore and/or like materials for any purpose (over and above that depicted in the 7 photographs attached to this Order taken on 4th April 2023), including the creation/laying of hardstandings or hard surfaces, in association with the use of Land for the stationing of caravans and/or mobile homes for the purpose of human habitation or residential occupation in breach of planning control;
- (vi) Carry out any further works in relation to the formation of paths, roadways or any works including the provision of sewerage, water and electricity infrastructure associated with the use of caravans and/or mobile homes (over and above that depicted in the 7 photographs attached to this Order taken on 4th April 2023) for the purpose of human habitation or residential occupation in breach of planning control;
- (vii) Carry out any further works to the Land associated with or in preparation for its use for stationing caravans and/or mobile homes or for the erection of a building and/or any structure for human habitation or residential occupation in breach of planning control (over and above that depicted in the 7 photographs attached to this Order taken on 4th April 2023);

At point (v) the piles of hardcore seen in the Order (photographs dated 4th April 2023) have now been spread and further volumes spread as can be seen in the series of photos taken on 8th October 2024 as uploaded by WBC. Example



At point (vi) there is clear evidence of (potentially unauthorised) connections to adjacent power poles.



At point (vii) under the general heading of 'preparation for further works' we would point to the following example



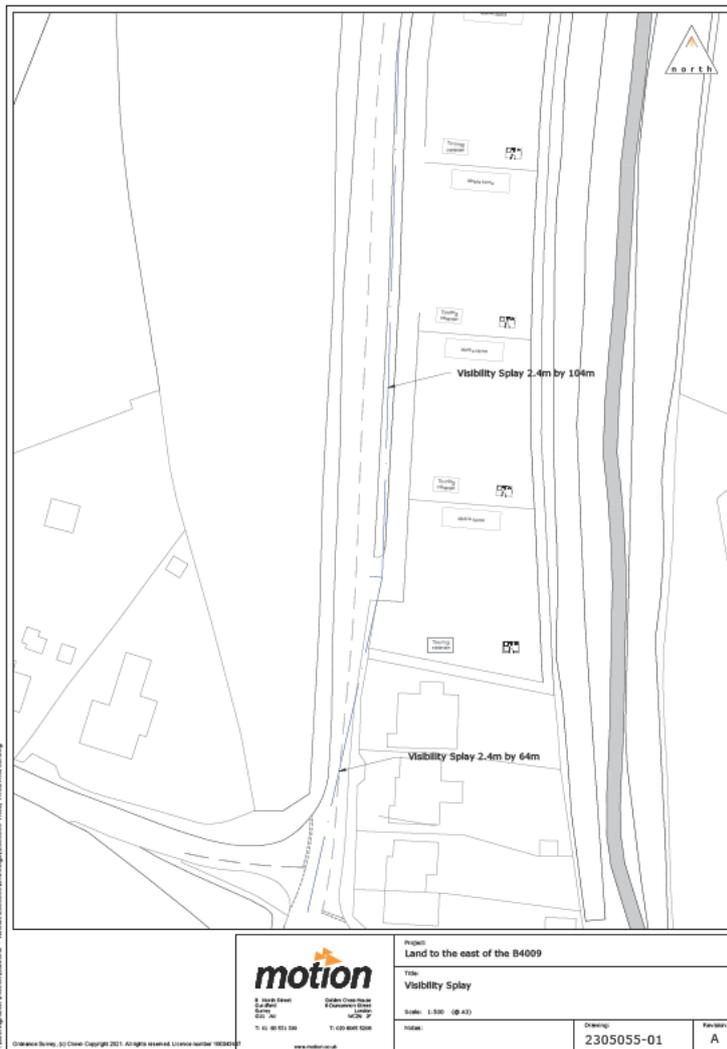
These examples demonstrate an ongoing intent by the Appellant to wilfully disregard the rule of law and the Hermitage Group of Residents considers that little or no confidence could ever be attributed to the Appellant complying with any Conditions placed on him if the decision to refuse his retrospective Planning Application were to be reversed as a result of this Appeal.

Conclusion

Taking all of the above into account, the Hermitage Group of Residents would request that the Appeal on behalf of Mr Black is not allowed and the decision to **refuse**, reached at the Western Area Planning Committee on the 24th October 2024, stands.

Hermitage Group of Residents

Appendix 1 - Sightlines



Appendix 2 - Injunction

IN THE HIGH COURT OF JUSTICE

Claim No. KB-2023-001507

KING'S BENCH DIVISION

DATED 21st April 2023
COURT 73

BEFORE KAREN RIDGE SITTING AS A DEPUTY HIGH COURT JUDGE

IN THE MATTER OF S.187B OF THE TOWN AND COUNTRY PLANNING ACT 1990

B E T W E E N : -



KB-2023-001507

WEST BERKSHIRE DISTRICT COUNCIL

Claimant

and

- (1) [REDACTED]
- (2) [REDACTED]
- (3) [REDACTED]
- (4) [REDACTED]
- (5) [REDACTED]
- (6) [REDACTED]
- (7) [REDACTED]
- (8) [REDACTED]
- (9) [REDACTED]
- (10) [REDACTED]
- (11) [REDACTED]
- (12) [REDACTED]

Defendants

INJUNCTION ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED: [REDACTED], [REDACTED], [REDACTED],
[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED],
[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED],
[REDACTED]

DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND LIABLE TO IMPRISONMENT OR FINED OR YOUR ASSETS SEIZED. ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

IMPORTANT

1. This Order prohibits you from doing the acts set out in this Order. You should read terms of the Order and the guidance notes very carefully. You are advised to consult a solicitor as soon as possible. You have a right to ask the Court to vary or discharge the Order.
2. If you disobey this order you may be found guilty of Contempt of Court and may be sent to prison or fined. In the case of a Corporate Defendant, it may be fined, its Directors may be sent to prison or fined or its assets may be seized.

On the 21st April 2023 Karen Ridge sitting as a Deputy High Court Judge considered the Application brought by West Berkshire District Council (“the Claimant”) for the continuation of the interim injunction granted by Mr Justice Ritchie on 31st March 2023.

UPON all parties being represented and upon Defendants 1-6 and 8-12 being present in court and confirming that they had had the terms of the injunction explained to them and upon the Judge setting out the possible consequences of any breach of the injunction.

BY CONSENT, IT IS ORDERED

THE INJUNCTION

Prohibitions

1. In relation to the Land known as “Land adjoining Sandhill, Hermitage Road, Hermitage, Newbury” registered at HM Land Registry under Title Number BK326689 (“the Land”) as shown edged red on

the attached plan, the Defendants, whether by themselves or by instructing, encouraging or permitting any other person, must not:

- (i) Bring onto the Land any additional caravans and/or mobile homes for the purpose of human habitation or residential occupation in breach of planning control (above the number 6 touring caravans currently on the Land);
- (ii) Take up permanent residential occupation without the express grant of planning permission on the Land save for, and without prejudice to the Claimant's position that there was no residential occupation when the injunction order of 31st March 2023 was granted and served, the following;

Plot 1 – ██████████ residing in an Abbey caravan

Plot 2 – ██████████ and ██████████ children including ██████████ who is over 18) residing in a Bailey and an Abbey caravan

Plot 3 – ██████████ and ██████████ residing in a Bailey caravan

Plot 4 – ██████████ and ██████████ and ██████████ children residing in a Lunar caravan

Plot 5 – ██████████ and ██████████ and ██████████ children with ██████████ ██████████ residing in an Elddis caravan

- (iii) Bring/erect/install any buildings or structures on the Land for the purposes of human habitation or residential occupation in breach of planning control;
- (iv) Bring onto the Land any portable structures including portable toilets for purposes associated with human habitation or residential occupation in breach of planning control;
- (v) Bring onto the Land any further waste materials and/or hardcore and/or like materials for any purpose (over and above that depicted in the 7 photographs attached to this Order taken on 4th April 2023), including the creation/laying of hardstandings or hard surfaces, in association with the use of Land for the stationing of caravans and/or mobile homes for the purpose of human habitation or residential occupation in breach of planning control;
- (vi) Carry out any further works in relation to the formation of paths, roadways or any works including the provision of sewerage, water and electricity infrastructure associated with the use of caravans and/or mobile homes (over and above that depicted in the 7 photographs attached to this Order taken on 4th April 2023) for the purpose of human habitation or residential occupation in breach of planning control;
- (vii) Carry out any further works to the Land associated with or in preparation for its use for stationing caravans and/or mobile homes or for the erection of a building and/or any structure for human habitation or residential occupation in breach of planning control (over and above that depicted in the 7 photographs attached to this Order taken on 4th April 2023);

(viii) Undertake any further development on the Land as defined in section 55 of the Town and Country Planning Act 1990 without the express grant of planning permission (over and above that depicted in the 7 photographs attached to this Order taken on 4th April 2023).

2. The terms of this Order are subject to the proviso that should any of the Defendants have to replace a mobile home or caravan that was situated on the Land for genuine reasons concerning the health and safety of those occupying the Land, they may do so by replacing the relevant mobile home or caravan with a similar one of comparable size provided that the Claimant grants prior express written consent for such replacement (such consent not to be unreasonably withheld) or the Court so orders.

IT IS FURTHER ORDERED THAT:

ALTERNATIVE SERVICE

- 3.
 - a. Service of this Order and related documentation may be effected by the securing or affixing of sealed copies of the said Order, the Application Notice, the Claim Form and evidence in support of the Application and any future documentation in a transparent waterproof envelope in a prominent position on the Land and such posting shall be deemed to be good and sufficient service on the Defendants of the said Order, the Application Notice, Claim Form and evidence in support of the Application and any future documentation on the date it was so affixed.
 - b. Service of this order on [REDACTED] at his last known address.
 - c. Service of this Order and related documentation may be effected by emailing [REDACTED] [REDACTED] solicitor.

THE CLAIM

- 4. The following are joined as named Defendants: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].
- 5. The Claim stands adjourned until a further date to be fixed following the final determination or withdrawal of the Planning Application.
- 6. The Claimant shall apply for further directions in respect of the hearing of the claim following the final determination or withdrawal of the Planning Application.

VARIATION OR DISCHARGE OF THIS ORDER

7. The Defendants may each of them (or anyone notified of this Order) apply to the Court on 48 hours written notice to the Claimant's legal representatives to vary or discharge this Order (or so much of it as affects that person). Except that the hours between 5pm on any Friday and 9am on any Monday cannot be counted as part of the 48 hours' notice period.

COSTS OF THE APPLICATION

8. Costs reserved.
9. Liberty to apply.

GUIDANCE NOTES

Effect of this Order – The Defendants

A Defendant who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.

Effect of this Order - Parties other than the Claimant and Defendants

It is a Contempt of Court for any person notified of this Order knowingly to assist in or permit a breach of this Order. Any person doing so may be sent to prison, fined or have his assets seized.

Interpretation of this Order

1. In this Order, where there is more than one Defendant (unless otherwise stated) references to "the Defendants" means each or all of them.
2. A requirement to serve on "the Defendants" means on each of them. However, the Order is effective against any Defendant on whom it is served.
3. An Order requiring "the Defendants" not to do anything applies to all Defendants.
4. In this Order "the Planning Application" means the determination or withdrawal of the planning application with reference 23/00815/FUL made by the First Defendant including, for the avoidance of doubt, the final determination of any statutory appeals.

Communications with the Court

All communications to the Court about this Order should be sent to Room WG08, Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6010). The offices are open between 10 a.m. and 4.30 p.m. Monday to Friday except holidays.

SCHEDULE A

Evidence

The Judge read the following written evidence before making this Order:-

1. First Witness Statement of [REDACTED] dated 30th March 2023
2. First Witness Statement of [REDACTED] dated 30th March 2023
3. First Witness Statement of [REDACTED] dated 4th April 2023
4. Second Witness Statement of [REDACTED] dated 20th April 2023
5. First Witness Statement of [REDACTED] dated 19th April 2023
6. First Witness Statement of [REDACTED] dated 20th April 2023
7. First Witness Statement of [REDACTED] dated 20th April 2023
8. First Witness Statement of [REDACTED] dated 20th April 2023

SCHEDULE B

Undertakings given to the Court by the Claimant:-

1. As soon as practicable the Claimant will serve on the named Defendants a sealed copy of this Order and evidence together with Counsel's skeleton argument for the hearing in support pursuant to the Order for alternative service herein.
2. To use the Claimant's best endeavours to effect personal service on the named Defendants.

Name and Address of Claimant's Legal Representatives:-

West Berkshire District Council Legal Services
Council Offices
Market Street
Newbury
Berkshire RG14 5LD
01635 519957

Claim No. KB-2023-001507

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

DATED 21st April 2023

IN THE MATTER

B E T W E E N:-

WEST BERKSHIRE DISTRICT COUNCIL

Claimant

-and-

- (1) [REDACTED]
- (2) [REDACTED]
- (3) [REDACTED]
- (4) [REDACTED]
- (5) [REDACTED]
- (6) [REDACTED]
- (7) [REDACTED]
- (8) [REDACTED]
- (9) [REDACTED]
- (10) [REDACTED]
- (11) [REDACTED]
- (12) [REDACTED]

Defendants

INJUNCTION ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED DEFENDANTS,

[REDACTED], [REDACTED], [REDACTED]
 [REDACTED], [REDACTED], [REDACTED], [REDACTED]
 [REDACTED], [REDACTED], [REDACTED]
 [REDACTED], [REDACTED], [REDACTED], [REDACTED]
 [REDACTED], [REDACTED]

DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND LIABLE TO IMPRISONMENT OR FINED OR YOUR ASSETS SEIZED

West Berkshire District Council Legal Services
Council Offices
Market Street
Newbury
Berkshire RG14 5LD

01635 519957

