



Planning

Appeal Statement of Case

Land Adjacent to Warren Lodge Care Home

Finchampstead, RG40 4HR

Appeal of Refused Application 242011 'Full Application for the proposed change of use of land for the siting of 2.no Gypsy and Traveller pitches with creation of a second access off Finchampstead Road and associated installation of soft and hard landscaping'

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01 Introduction

- 1.1 This statement is submitted following the decision of Wokingham Borough Council ('the LPA') to refuse planning permission for '*Full application for the proposed change of use of land for the siting of 2no. gypsy and traveller pitches with creation of a second access off Finchampstead Road and associated installation of soft and hard landscaping*'.
- 1.2 The application was registered on and considered under reference 242011. The application was refused under delegated powers on 31/10/2024. A copy of the officer's report and decision notice are included with the appeal documents (**Appendix 1 and Appendix 2**).
- 1.3 This statement will focus upon matters raised within the decision notice for the appeal scheme.

02 Site Location & Description

- 2.1 The appeal site comprises a parcel of land sited on the junction of Warren Lane and Finchampstead Road (B3016), to the east of Warren Lodge Care Centre.
- 2.2 The site features an existing access along Warren Lane and is overgrown by vegetation. The site comprises a number of trees.

2.3 The site is within 5km of the Thames Basin Heath SPA Mitigation Zone and the countryside. There are no other relevant planning constraints.

03 The Appellant's Case

3.1 The Council's refusal reason can be found in Appendix 2 and are not to be repeated here for the sake of brevity.

3.2 However, it is considered the reasons for refusal can be considered to be 'cross cutting' on matters and would not be necessarily be separate considerations.

3.3 As such, it is considered these reasons can be accurately summarised within the following considerations:

- 1 *Location of the development in the Countryside;*
- 2 *Impact to the Landscape;*
- 3 *Highway Safety and Access;*
- 4 *Accessibility (Locational Sustainability)*
- 5 *Impact to Trees;*
- 6 *Residential Amenities of Occupiers;*
- 7 *Impact to the Thames Basin Heath SPA;*
- 8 *Compliance with Development Plan*
- 9 *Material Considerations*

3.4 The appeal proposal is assessed below against the relevant policies identified by the Council in relation to the above considerations, and with reference to national guidance in the form of the National Planning Policy Framework (the 'Framework') and the Planning Policy for Gypsy and Traveller Sites (the 'PPTS').

3.5 It should be noted that the appellant has advanced personal circumstances as part of the appeal, however, **the appellant's primary case is that permission should be granted in the first instance owing to development complying with the Development Plan as a whole, with local GRT policies setting different policy tests than general policies in the plan that apply to general development in the countryside.** A personal permission would only be required were the Inspector to consider the benefits of the scheme do not outweigh the adverse impacts.

3.6 On this matter, it is normal for a Development Plan to have policies that "pull in different directions" (*R v Rochdale Metropolitan Borough Council, ex parte Milne [2000] EWHC 650*). The *Rochdale* judgement explicitly found that to comply with a Development Plan 'as a whole' does not mean there is a requirement to comply with every relevant policy that applies (see paragraphs 48-50 of the judgement). This should be at the forefront of the Inspector's decision making in this appeal.

3.7 Prior to the consideration of individual policies it should be noted that

Policy CC01 – Presumption in Favour of Sustainable Development

of the MDD replicates the paragraph 11 presumption in the Framework, and therefore, when considering whether policies are out of date – compliance with CC01 would mean the development would still be in accordance with the Development Plan as a whole.

3.8 **Location of the development in the Countryside:** the appellant considers the appeal development complies with the locational requirements of CP2 – Inclusive Communities of the CS and Policy TB10: Traveller Sites of the MDD and therefore the principle of the location of the development in the countryside complies with the Development Plan as a whole.

3.9 The LPA considers that the proposal should be assessed against policy **CP11** of the CS as a starting point as the site is in the countryside. However, the criteria of **CP2** purposefully accounts for the provision of GRT pitches within or outside of development limits (the latter being the countryside).

3.10 Explicitly CP2 states that (with ET Planning emphasis):

“proposals for gypsies, travellers and travelling showpeople (including allocations in the Development Plan Documents) will demonstrate that:

- i) *The site is located either within or **close to the development limits of a settlement in policy CP9** in order to maximise the possibilities for social inclusion and sustainable patterns of living; and*
- ii) ***The proposed site is not disproportionate to the scale of the existing settlement** whether singly or cumulatively with any existing sites in the area”.*

3.11 Figure 1. of the Officer Report demonstrates that the appeal site can only be considered ‘close’ to the settlement of Finchampstead (a limited development location identified in CP9), being only 180m from the settlement boundary, therefore the proposal complies with CP2(i).

3.12 In relation to CP2(ii) the development would only be for 2 pitches and would not be considered to be disproportionate to the settlement of Finchampstead even when accounting for other pitches within the settlement - the settlement would still maintain majority of bricks and mortar dwellings and its overall form. For clarity this is also considered to apply to the dwellings and care home along Warren Lane (the nearest settled community). **Therefore, the proposal complies with CP2 altogether.**

3.13 Whilst it is acknowledged that CP11 applies to development based on its location in the countryside alone, it should be noted none of the exceptions

in the policy account for GRT sites. CP2 purposefully accepts GRT pitches outside of settlements (where they are “close” to settlement limits and not within a settlement). Were the application of CP11 to apply to GRT sites then this would serve to undermine the efficacy of CP2 itself as it is the spatial policy of the core strategy for GRT development. CP11 is a policy that runs tandem with CP9, which CP2 expressly acknowledges (comprising the Spatial Strategy in the CS).

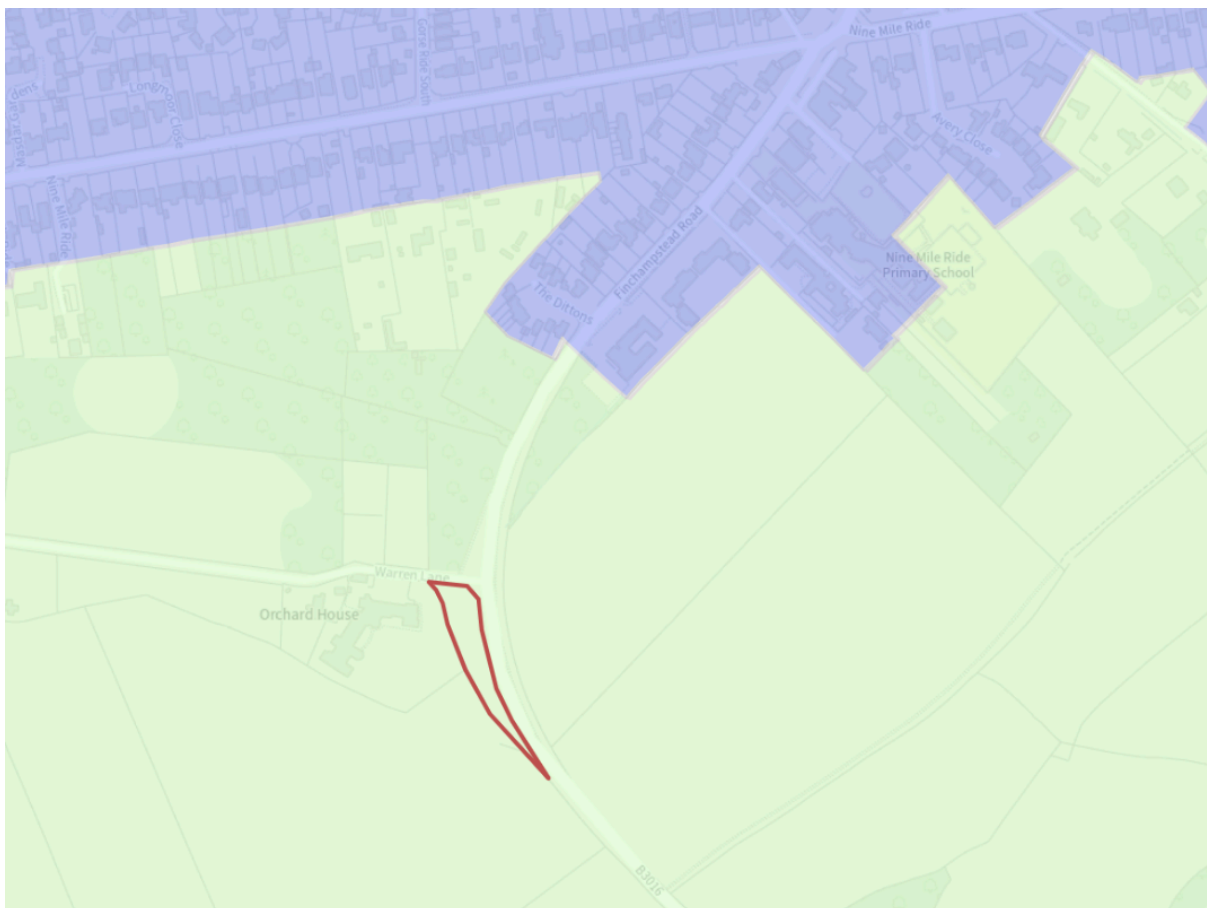


Figure 1. Location of Appeal Site (Red Outline) in the countryside (Green) and Settlement Limits of Finchampstead (Purple) (Figure 1. from Officer Report)

3.14 It is clear there is a tension with CP2 and CP11 in this regard with the latter not considering that CP2 accepts GRT sites in the countryside. As such, it is considered the LPA refusing the development on grounds of CP11 is inconsistent with the Spatial Strategy itself. It should be noted that CP11 was drafted under PPS7 which sought to 'protect the countryside for its own sake', whilst this statement will further comment on this – in this context (where it is accepted GRT sites will come forward in the countryside) the application of CP11 would undermine the ability CP2 to locate pitches in the countryside.

3.15 The above position is further supported by the fact **Policy TB10** of the MDD provides a criteria based policy for individual GRT sites that also accepts sites outside of settlements and includes the criteria to avoid impacting the separate identity of settlements (one of the objectives of CP11) and provides a different bar for environmental (landscape) impact to CP11. Were the LPAs approach correct this also creates a tension where a development may comply with TP10 but not CP11 (pitches only needing to *minimise* landscape impact vs *maintaining* the quality of the environment).

3.16 In relation to the individual criteria of TB10 the LPA consider the development to not comply with criterion a, c, e and h.

3.17 Criteria a of TB10, is similar to CP2 however, the wording of TB10 only accepts GRT sites “**adjacent** to an existing settlement” this is different to the CP2 test of being “**close to**” development limits.

3.18 On a literal reading of the policy, TB10 would appear to only permit development physically adjacent to settlement limits of CP9 (a more restrictive position than CP2).

3.19 The LPAs assessment aligns with this approach, with Page 8 of the Officer Report stating (with ET Planning emphasis): “**Visually and spatially, the site is well separated from the settlement of Finchampstead by an area of dense woodland *that creates a stark visual/spatial contrast between the dense woodland and undeveloped nature of the Countryside to the south compared to the medium density suburban development to the north.* In this regard, the site does not share a **coherent spatial or visual relationship** with the settlement of Finchampstead. Therefore the site is not adjacent to an existing settlement and is contrary to TB10 a)**”.

3.20 The appellant considers that the wording ‘adjacent’ in TB10 is not to be interpreted literally as is the LPAs interpretation. Sub-paragraph 3.44 of the MDD acknowledges the policy is designed to be in alignment with the PPTS (2012). This is relevant as the suitability of locations for GRT pitches needs to be in recognition that the PPTS anticipates the likelihood of rural

sites which will not be in settlements in PPTS – Policy C (which states):

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community” (this has not changed from the 2012 iteration of the PPTS).

3.21 There is no requirement for rural GRT pitches to be in locations adjacent to settlements and in fact the PPTS only strictly limits pitches where they are both in the “open countryside” **and** “away” from existing settlements (as per Policy H – Paragraph 26 of the PPTS). The fact of the matter is if a site is not in either the “open countryside” nor “away from a settlement” it is not strictly limited by the PPTS at all (accepted in the countryside).

3.22 In the context of the PPTS and the wording of CP2 it is considered that TB10 cannot literally mean to be contiguously adjacent to a defined settlement limit (i.e a mapped policy designation). To do so would be contrary to both the national and local policies TB10 was adopted under at the time and under current policy. As such, the LPA emphasising the need for the site to have a “coherent” spatial and visual relationship is too stringent for the application of TB10.a.

3.23 In any case, whilst the appeal site is an undeveloped site, it is adjacent to the large care home building on the junction of Warren Lane and the B3016.

Both enclosing roads feature dwellings on the approach to Finchampstead (dwellings on Warren Lane to the west are not within CP9 Settlement Boundary but connects to Finchampstead). The road also features adopted public footpaths and street lighting running from the settlement to Warren Lane. As such, it is considered the site is in fact adjacent to the settlement regardless of the 180m separation from the policy boundary and would comply with TB10.a.

3.24 To further support the conclusion that the wording of TB10.a is not a more stringent test than CP2 (and ergo the PPTS), it should be noted a 'settlement', for the purposes of whether a dwelling would be physically separate from it, has been further explored in the judgement of **Braintree DC v SSCLG and others [2018] EWCA Civ 610** which states in paragraph 32:

*"What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definition of a "community", a "settlement", or a "village"...**It is not said** that a settlement or development boundary must have been fixed in an adopted or emerging local plan, **or that only the buildings within that settlement or development boundary will constitute the settlement.** In my view **a settlement would not necessarily exclude a hamlet or cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach**".*

3.25 It is acknowledged the *Braintree* judgement is in the context of 'isolated' homes in the countryside however, paragraph 1 of the PPTS is clear it should be read in conjunction with the Framework.

3.26 If it is held that a settlement for the application of TB10.a is not only fixed to a settlement boundary defined by policy CP9 then the appeal site would indeed be located in the settlement of Finchampstead itself, being on Warren Lane which features dwellings not within the policy boundary but could only be described as being part of Finchampstead (if not at the very least this further supports the assertion the site should be considered adjacent to it as it advocates for a looser definition of a settlement beyond policy boundaries). The woodland providing a break in the settlement envelope does not mean Warren Lane is not a part of the settlement of Finchampstead.

3.27 As such, it is considered the appeal proposal complies with CP2 and TB10.a and for the purposes of the adopted Development Plan the location of the development is acceptable in principle.

3.28 Should the Inspector disagree on how the matter of 'adjacent' is to be interpreted for TB10.a, then the test of the PPTS (2024) should be used which only very strictly limits pitches in the open countryside **and** where away from existing settlements.

3.29 The Inspector's attention is drawn to the fact the term "open countryside" in the PPTS is different to *all* locations in the countryside. **Appendix 3** provides a useful summary of this where an Inspector stated: "*The term 'open countryside' is not defined in the PPTS. Nevertheless, I share the view of the appellants that **there is a distinction between 'countryside' and 'open countryside'**. To my mind, the latter is unlikely to incorporate settlements and **would predominantly encompass land which is largely undeveloped and rural in character. The transition into open countryside could be abrupt or gradual***".

3.30 Whilst the Officer Report states the site is within the open countryside it is clear this assessment has considered this based on the change in density and assertion the countryside to the south is undeveloped. It is not considered a change in density would be appropriate for considering whether land is "open countryside" as by definition 'countryside' would be excluded from settlement limits (based on built form).

3.31 Figure 2 clearly demonstrates the countryside to the south is not undeveloped as alleged by the LPA and the fact the site is adjacent to the large built form of the care home supports the fact the site can in no way be considered to be the 'open countryside'. The development would therefore not be in a location that should be strictly limited by paragraph 26 (Policy H) of the PPTS and is acceptable in principle.



***Figure 2. Aerial Photograph of Countryside and Appeal Site
(Yellow Outline); Dwellings present to the South and West (Blue
Outlines - not within CP9 Development Boundaries)***

3.32 Whilst the above demonstrates that the location is supported by the Development Plan and material considerations in the form of the PPTS, without prejudice to the appellant's case (paragraph 3.7), should the Inspector consider the 'adjacent' test of TB10.a to not be as described by the appellant then this is clearly at odds with the PPTS 'open countryside' **and** 'away from settlements' tests. On this basis TB10 can only be considered out of date (having wider implications for the overall planning balance and the presumption in favour of sustainable development).

3.33 **Impact to the Landscape:** in relation to Landscape Impact the LPA has refused the application owing to conflict with **CP1**, **CP3** and **CP11** of the CS. All of which have a policy test seeking to "maintain" the quality of the environment or have "**no detrimental impact**" to the landscape.

3.34 Policy **TB21** and **CC03** of the MDD are also cited in the LPAs refusal where all trees should be protected and retained and "*retain and enhance*" the condition, character and features that contribute to the landscape. TB21 requires demonstration of how proposals have addressed the Council's Landscape Character Assessment.

3.35 The above policy context for landscape impact is relevant as it is considered it provides a different policy context than TB10.e which states that GRT pitches may be granted where:

*"**unacceptable impacts** on the character and appearance of the surrounding landscape will be **minimised through the sensitive and appropriate design of the scheme**".*

3.36 As such, it is apparent that TB10 (the specific policy for GRT sites) allows for a higher bar of harm than general Development Plan policies which require landscape features to be maintained and have no detrimental impact. Explicitly TB10.e allows for unacceptable impacts to be **minimised** meaning some form of detrimental impact is permitted.

3.37 The Officer Report and indeed the second reason for refusal, explicitly take issue with the visual appearance of the site 'blurring' the transition between the settlement of Finchampstead and the countryside and the removal of vegetation to facilitate the development.

3.38 A landscape statement has been provided with the appeal which considers that the appeal site has a **low value** in the landscape (considering character areas). This conclusion is arrived at following the GLVIA 3 methodology and the Landscape Institute's Technical Guidance Note 02/21 'Assessing landscape value outside of national designations'.

3.39 The Landscape Statement conclusion is supported via the assessment of the factors in the Technical Note, namely in terms of Landscape Quality (condition), it should be noted that whilst the site is a greenfield site it is

in a generally poor condition and is largely a “tangle of bramble thickets and ivy” and features debris (plastics and waste).

3.40 The assessment does acknowledge that the site does in fact have some scenic quality however, this diminishes when seen at localised and close vantages as its unmanaged appearance becomes apparent. It also acknowledges that the site has some representiveness of the wider character area owing to containing some woodland. However, when considering the parcel condition and the fact the site has no other factors of note the positive features would still only result in the appeal site having a low value. Particularly the Landscape Statement highlights that the appeal site is not a particularly tranquil location owing to its proximity on the approach to Finchampstead and Warren Lane being used to access dwellings and the adjacent care home.

3.41 Figure 3. comprises site photographs from the Arboricultural Impact Assessment which details the ‘debris’ referenced in the Landscape Statement.



Figure 3. Site Photographs from Arboricultural Impact Assessment detailing the untidy condition of the site

3.42 The initial assessment is particularly important to emphasise as the harm alleged by the LPA arises from not retaining landscape features (regardless of their contribution) and that because the development would be visible in the countryside this is harmful in itself. Therefore, the Landscape Statement agrees that the **unmitigated** removal of large established trees would result in a detrimental impact to the landscape owing to the impact to long views of the site – it is disputed the localised vantages would be harm owing to the untidy and low quality nature of the site.

3.43 The appellant's case on this matter is that the removed trees are low quality and only have a localised contribution and what is proposed is not an unmitigated scheme. An additional 24 trees are proposed to be planted in appropriate locations maintaining the contribution of the sites long views in the landscape.

3.44 The retention of the largest trees would overall retain the 'woodland' appearance of the site (its strongest attribute), and indeed the landscape statement states in paragraph 4.32 the retention of these trees along with the additional tree planting will help to maintain appropriate tree coverage of the site.

3.45 The proposal also coincides with significant hedgerow provision which will further help to screen the single storey touring and static units. However, it is emphasised that the touring and static units are single storey and set

back from the site boundaries, whilst it is important to acknowledge the retention of the trees that contribute to the landscape and the provision of additional landscape features, the LPAs concerns about the actual introduction of development are over exaggerated as there would be limited visual intrusion from the residential use itself (which would also secure the removal of debris in the future bettering its local impact).

3.46 The proposed landscaping plan introduced with the appeal, details that the 24 new trees will be planted comprising: 11 Acer Campestre; 5 Alnus Glutinosa and 8 Quercus Robur – all appropriate species.

3.47 The additional trees along the eastern and northern boundaries would provide additional screening beyond what was initially proposed and notably would provide more appropriate siting of trees better than the category U and C trees removed on the most prominent boundaries.

3.48 When considering the additional planting and siting of the mobile home units within the site, the Landscape Statement concludes that the development would initially have an adverse impact in its first year however, the landscaping by year 5 would be developed to be sufficiently neutral and by year 15 would eventually provide a beneficial contribution to the character of the area (paragraph 4.36 of the Landscape Statement).

3.49 In any event, whilst the development has sought to maintain its wooded context, when approaching Finchampstead, the settlement and development within the area are also visible from this part of the countryside. It is not incongruous to see development in the locality amongst the rural tree characteristics of the countryside, including residential uses.

3.50 Pictures of Viewpoints in the Landscape Statement detail that the settlement of Finchampstead can be viewed when approaching the appeal site, therefore any glimpses of the development through the landscape buffers (trees and hedgerows) would not be incongruous to the area.

3.51 As such, the appellant contends that the net visual impact of the development is one that despite the introduction of the pitches maintains the quality of the environment via the provision of appropriate tree and hedge planting, appropriate siting of the mobile homes away from site boundaries and retention of large trees of importance.



Figure 4. Extract of Proposed Landscaping Plan Detailing Retained and Proposed Trees

3.52 Finally, it should be noted that the LPAs objection also arises from the development “***blurring the transition between the settlement southern edge and the rural landscape to the south***” (page 15 of the Officer Report). Were the development to truly have an effect that ‘blurs’ this transition then the LPA cannot hold that the site is not in fact adjacent to the settlement of Finchampstead itself (which pertains to the first reason for refusal) – if it blurs the transition between the southern ‘settlement edge’ and the countryside then it is adjacent to the settlement. This is a conflicting position held by the LPA.

3.53 It is further difficult to see why the site would not be an appropriate transition when leaving the settlement travelling south along the B3016, as the pedestrian infrastructure, signage and care home would be apparent from the limited views on the corner of the site and when further travelling in this direction residential development will be visible. The additional planting has specifically sought to introduce trees on the corner of the site to further mitigate this.

3.54 As such, it is considered that the proposal complies with policies CP1, CP3 and (notwithstanding the appellant’s case that it is not relevant) CP11 of the CS (it should be noted it is common ground the development does not undermine the separation of settlements).

3.55 It should also be noted that the development would also be supported by the landscape policies of the Finchampstead Neighbourhood Plan ('FNP'), which provides seeks for proposals to deliver appropriate enhancements (not maintain or preserve existing features).

3.56 Namely Policy D2 of the FNP seeks for structures to be located against existing built form, deliver enhancements to the landscape character and use of appropriate plant species in landscape schemes. The proposed siting of the units and the proposed landscaping all achieve this.

3.57 Policy IRS4 of the FNP also seeks to preserve the "**semi-rural**" look and feel of the parish, having regard to views, specify tree and hedgerow planting – however, all of these are where appropriate to the scale, nature and location of the development.

3.58 However, as existing trees are being removed it is not possible for the development to comply with policies CC03 and TB21 of the MDD (which retains all trees and features regardless of contribution). It is considered however; the development complies with the first stick of TB21 as it addresses the Council's Landscape Character Assessment.

3.59 In any event the policy test for GRT sites (TB10.e) is that it seeks to **minimise** unacceptable landscape impacts which the proposed development achieves. This is a different policy test to *maintaining* the

quality of the environment. As such, the development complies with TB10.e, being a specific test for GRT pitches non-compliance with CC03 and TB21 would not be a barrier to finding the development has an acceptable landscape impact (complying with the development plan as a whole subject to other considerations).

3.60 Notwithstanding the above, CC03 and TB21 are in fact inconsistent with the Framework. Paragraph 187.b of the Framework only seeking to 'recognise' the intrinsic character and beauty of the countryside. The tests of TB21 and CC03 are more akin to 187.a of the Framework which applies to 'valued landscapes' which are to be protected and enhanced.

3.61 Further paragraph 135.c of the Framework is clear that development proposals should be: ***"sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)"***.

3.62 Therefore, policies CC03 and TB21 which seek to retain all landscape features cannot be considered consistent with national policy.

3.63 The PPTS accepts that pitches will come forward in the countryside, and therefore implicitly accepts that the landscape impact of pitches and the

element of change that comes with this is accepted to some degree (as evidenced by TB10.e).

3.64 This is also reflected in paragraph 27 of the PPTS which requires LPAs to attach weight to specific landscape matters which emphasis the appearance of the site as opposed to having regard to wider landscape considerations (there is no specific landscape consideration in the first instance):

- Effective use of previously developed (brownfield), **untidy** or derelict land;
- Sites being well planned or **soft landscaped in such a way as to positively enhance the environment and increase its openness;**
- Promoting opportunities for healthy lifestyles, such as **ensuring adequate landscaping** and play areas for children;
- Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

3.65 These points emphasise differing points for landscape impacts all of which apply to the appeal site. The use of 'untidy' land is an alternative to the use of PDL, it is considered that owing to the debris and 'tangle' of brambles and ivy the site would be considered untidy – the pitches would serve to ensure that debris is removed from the site and safeguards this from occurring in the future. The clearance of the site and provision of soft

landscaping would increase its openness and provide landscaping enhancement. The site does not appear deliberately isolated replacing the existing fencing with 1.2m high post and rail fencing with the hedgerows forming part of this. The site has an appropriate landscape impact expected of pitches by the PPTS.

3.66 In conclusion the appeal development would have an acceptable impact to the landscape character of the area and the countryside.

3.67 **Highway Safety and Access:** in relation to highway safety the LPAs objection on this ground pertains to the provision of turning space (ability to turn) for not only cars but caravans.

3.68 Updated vehicle tracking has been provided to demonstrate suitable turning for a car pulling a touring caravan from the eastern access. It is not disputed that a car without a caravan would have adequate turning. Touring units would only access and egress the site via the proposed eastern access which has acceptable tracking.

3.69 It is acknowledged that the touring units (both pitches) cannot be placed whilst all parking spaces are occupied. However, as per the transport statement ensuring that adequate turning can be provided by moving other parked cars would be standard procedure for the occupiers of the site and would not be uncommon for any residential use.

3.70 However, the fact remains that if unoccupied then a touring caravan would not be present and neither would parked cars. Touring caravans are towed to sites by gypsies and travellers and taken with them when they leave.

3.71 This means there will not be parked cars on site until a touring unit has been placed (as it will not be occupied).

3.72 Owing to the travelling nature of the occupants the site may even be occupied by one pitch at any one time further reducing the conflict envisioned by the LPA in this regard.

3.73 The updated site plan submitted with the appeal seeks to omit the (existing) northern access from the proposal, sole usage of the eastern access provides adequate parking and turning facilities. However, this existing access still provides pedestrian permeability for occupiers to egress the site. Should the Inspector wish to grant permission a condition should be attached to the permission requiring that vehicles only access and egress the site via the eastern access.

3.74 The visibility splays provided in the appendix of the Transport Statement show that acceptable splays drawn from the tangent of the kerb can be achieved. The landscaping plan details that the proposed hedges would have a max. height of 0.6m and this ensures it does not block visibility.

Overall, the site and the splay is sited on the bend of the main road and would have very good visibility of oncoming traffic when accessing and egressing the site – this overcomes the objection from the LPA which raised concern regarding the ‘nearside’ edges of the carriageway.

3.75 As such, it is considered the proposal complies with CP1, CP3, CP6 and CC07 of the Development Plan.

3.76 **Accessibility (Locational Sustainability):** the LPA has also raised an issue in relation to sustainable transport considerations particularly the walking environment.

3.77 The Officer Report explicitly states: *“The lack of objection from WBC Highways is noted but upon further consideration of the site’s spatial and physical constraints, the Council consider the application site to be **poorly located in terms of its accessibility to sustainable forms of transport** by reason of a poor quality walking environment, lack of crossing facilities for pedestrians, proximity to a busy 40mph B-road, poor quality bus services and lack of cycle routes. These factors cannot be considered to result in a positive assessment regarding accessibility”.*

3.78 The summary of the consideration in the report then states: *“The occupants of the pitches **would be overly reliant on private motor vehicles to access basic amenities and services**”.*

3.79 The LPAs objection is not one that services and facilities are too far, in fact the Officer Report confirms they are within walking distance, but that potential occupiers will only use a private motor vehicle to access them.

3.80 It should be noted that Policy TB10.c of the MDD does not require 'sustainable forms of transport' to access services and facilities it just requires **access** to a range of services and facilities. CP2 explicitly states the 'close to' test is designed to maximise possibilities for social inclusion and sustainable patterns of living. The policies for the spatial locations of GRT sites accepts there is always a degree of car dependence (largely in countryside locations) and this is consistent with the PPTS – **the travelling lifestyle of Gypsies and Travellers means car journeys are always used.**

3.81 It should be noted sustainable location criteria is absent from the PPTS and paragraph 13 of the PPTS states that in order to achieve sustainable development policies should ensure (amongst other things): **access** to health services, ensuring that children can attend school, and provide a settled base which:

"reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampments".

3.82 The above should also be read in the context of paragraph 14 and 25 of the PPTS that only seeks for sites in countryside locations to:

- Not dominate the nearest settled community and;
- only restricting sites in ‘*open countryside that is **away from existing settlements***’.

3.83 Appendix 4 contains an appeal decision that best describes the difference in GRT policies to sustainable transport policies (applied to all development without accounting for its type). Explicitly paragraphs 44 and 45 state (with ET Planning emphasis):

*“...The sustainability of the appeal site is accepted by the Council. In general terms, I concur with that assessment although **the PPTS does not specifically refer to accessibility to services and facilities by foot and public transport as an aim.** I therefore consider the that the term ‘accessibility’ is more appropriate in this context.*

*Paragraphs 14 and 25 **the PPTS implicitly accept that traveller sites may be located in rural areas when this will lessen opportunities for sustainable travel.** The accessibility criteria set out for traveller sites in paragraph 13 of **the PPTS do not include distance from or means of transport to shops and services**, but do refer to considerations which are unique to traveller site applications: for example, the provision of a settled base can reduce the need for long distance travelling and that*

traditional lifestyles, whereby some travellers live and work from the same location, can omit travel to work journeys and contribute to sustainability”.

3.84 Finchampstead itself features a number of services and facilities including a GP surgery, schools, small supermarket, pharmacy, post office and hot food takeaways in close proximity to the site. Notably, these are largely in a cluster (parade like fashion) on the B3016 (500m from the appeal site for the furthest point).

3.85 However, the fact of the matter is that the LPA confirms the site is only 180 away from the settlement of Finchampstead, that it does in fact have a walking path to access the settlement and has access to a bus stop. Paragraphs 110 and 115 of the Framework explicitly acknowledge that sustainable transport opportunities will vary between urban and rural areas and account for not only the location but the type of development in this regard.

3.86 Paragraph 110 explicitly only seeks to direct “significant development” to locations which are or can be made sustainable, two gypsy pitches would in no way be considered to be significant development.

3.87 In any event, there is pedestrian infrastructure which serves residents of the adjoining care home and the approach to Finchampstead features a

triangular 'elderly people' warning sign – evidencing the pedestrian usage of the road.

3.88 The Officer Report also confirms that a bus stop is circa. 64m from the site although it has an infrequent service, however, it should be noted that Nine Mile Ride features numerous bus stops, two of which are within 800m from the site which feature 'good' bus services as defined by CP6 (namely the 3 leopard bus service which also provides access to Arborfield Green, Wokingham and Reading).

3.89 In conclusion, whilst the appellant considers that 'accessibility' is only required for the type of development proposed (in line with CP2, TB10 and the PPTS) – the site in any case has very good sustainable transport options via walking and public transport particularly when considered against its 'rural' context (a lower bar than an urban site in national policy).

3.90 As such, it is considered the fifth reason for refusal cannot be sustained.

3.91 **Impact to Trees:** this has been dealt with as a separate consideration to the impact to the landscape. The sixth reason for refusal references the removal of and encroachment into the RPAs of "several visually valuable and prominent trees" – as has already been stated the trees proposed to be removed are not considered to be of high value and the proposed replacement planting overall maintains the quality of the environment.

3.92 The seventh reason for refusal explicitly states there would be conflict with multiple veteran trees which are irreplaceable habitats. The LPA states that these are trees T1, T13, T14 and T30. However, the tree survey submitted with the application made clear that only T13 exhibits characteristics of being a veteran tree.

3.93 An updated Arboricultural Impact Assessment and an Arboricultural Statement of Case ('ASOC') has been provided with this appeal with the changes to the former listed in 2.8 of the ASOC.

3.94 The ASOC states it is likely that the LPA has only undertaken a desktop review and that a physical on site inspection confirms these are not considered to be veteran trees.

3.95 The ASOC acknowledges that the identification of veteran trees is a specialist area and the tree consultant (author of ASOC) has commissioned a bespoke 'Ancient and Veteran Tree Assessment' (Appendix 5 of the ASOC) from a qualified professional. This assessment did not extend to T30 at the south of the site as the RPA of this tree (even if it were a veteran tree) is unaffected by the development. The ASOC confirms in any case T30 did not appear to exhibit veteran characteristics.

3.96 For absolute clarity the specialist report provides definitions of 'veteran trees' in paragraph 1.3.5 and highlights that a tree may be classed as

veteran for differing reasons/characteristics. Paragraph 1.3.6 acknowledges that when translating this into planning decisions this can result in significant issues as a decision of, is a tree veteran or not has to be reached in a binary answer. Notably paragraph 1.3.7 states:

“Providing a descriptive justification for ancient or veteran trees is appropriate because simply listing or counting attributes or features can easily lead to young, not uncommon, damaged trees being erroneously classified as veteran with equal provision for protection as that offered for ancient trees. Similarly, relying on girth or size alone has the potential to lead to small diameter old trees, or less chronologically old trees with extensive micro habitat features, being denied protection where this would, in fact, be appropriate”.

3.97 As such, the ASOC raises a valid point in that the Officer Report does not discuss any relevant characteristics of the trees and this lends credibility to the assertion that the LPA has only relied on a desk based assessment (using the Wokingham Veteran Tree Assessment map).

3.98 The specialist report is unequivocal in its assessment that *“T1 and T14 do not possess any attributes that would suggest they are anything other than mature trees”* (paragraph 3.1.2). Paragraph 3.1.6 further confirms they do not appear to support any irreplaceable habitat.

3.99 Turning to T13 the report acknowledges that this is more difficult as it has not experienced a typical pathway but identifies various micro habitat features, potential age, low crown with crown dieback, but also that decay is likely to have been present for a limited period of time and lacks extensive hollowing.

3.100 Ultimately the report concludes on T13 in paragraph 3.1.14:

"I would consider T13 to have some valuable habitat features and a crown form that provides some level of confidence that these features will have longevity and develop further over time. The tree might be described as a non-ancient veteran. However, I would not be confident that the habitat supported requires a buffer zone. The tree itself would be adequately protected if the root protection area is respected within the proposed development. The additional buffer zone would only be required if it were considered to be a risk that the associate fauna and flora, hosted by the tree, would be detrimentally impacted by the proposals".

3.101 Regardless of whether the tree is a veteran tree or not, it should be noted that owing to its features the specialist report confirms that the specific characteristics that are sought to be protected by veteran tree status (formation of irreplaceable habitat) can be preserved if the root protection area is respected, omitting the need for a buffer zone.

3.102 However, the update AIA and ASOC have provided T13 with this buffer and treated it as a veteran tree in any event. The ASOC states in paragraph 4.18 the only potential impact of this tree arises from part of the northern gravel:

"There is a very minor area where the edge of the proposed developable land area drawing line touches the edge of the buffer zone for T13, but it is very clear that new development can and would be located outside of the veteran zone".

3.103 The submitted Tree Protection Plan details that BS5837:2012 protection measures and the prescription of a 'no dig' method is able to completely protect the RPA of the T13 and a construction management plan and further method statement would be able to be conditioned to secure this. As such, it is not considered that the development would result in the loss in any veteran trees and ergo irreplaceable habitat.

3.104 The proposed landscaping plan seeks to provide a hedgerow to additional tree planting and post and rail fencing away from the 'developable site area' and create an additional buffer zone from this tree (discouraging the use of the green space around the tree).

3.105 The report also provides protection methods for the other retained trees as part of the appeal (section 6 of updated AIA). No trees are proposed to be removed which form part of the TPO on the site. This includes where

services are required to be introduced to the site (report confirms this can be done without impacting RPAs).

3.106 As such, it is considered the appeal submission provides adequate information to confirm the development would not remove any veteran trees and is able to retain the other trees on site which are the source of the sites landscape value.

3.107 **Residential Amenities of Occupiers:** the LPAs reason for refusal on this issue only pertains to the amenities of the potential occupiers and not any neighbouring land uses. Therefore, there is no conflict with any of the amenity considerations of Policy TB10. This aligns with the PPTS where 'opportunities for healthy lifestyle' includes the example of adequate landscaping and play areas for children (it is not prescriptive for the provision of private amenity space – considers this to be an additional benefit where provided and not a reason for resisting development).

3.108 The LPA has raised policy CP1 and CP3 however, only CP1 has any relevance to the amenities of future occupiers. The rest of the LPAs reasoning pertains to the Borough Design Guide SPD.

3.109 It should be noted the LPA considers the site to be overdevelopment as it does not provide any 'day buildings' and no private space. However, day buildings are not always required for GRT pitches. The site seeks to provide

static units which in conjunction with the touring units provide all of the day to day amenities for everyday occupation (with services also being installed as part of the proposals).

3.110 Whilst the Officer Report lists considerations in the SPD these are not requirements, the actual guidance of R24 states: *"The layout and design of gypsy sites should provide a safe living environment that meets the needs of residents, while respecting the character of the local area"*.

3.111 It is considered that the development does in fact provide a safe living environment and it should be noted the considerations in R24 do not prescribe any minimum space standards for amenity areas.

3.112 The grassed area enclosing the touring caravan to the south of the site and the area between the northern static and touring unit provides adequate private space for the occupiers of each pitch to utilise.

3.113 When measuring the grassed areas referred to, this provides private space for each unit in excess of 90m². These areas are well landscaped areas which would be enclosed by the additional tree planting and hedgerows providing appropriate screening from the road. This results in a verdant and pleasant environment for occupiers in accordance with paragraph 27 of the PPTS.

3.114 Whilst the LPA has raised concern about the proximity of the site to the road, this could be said for any residential use adjacent to a road, including the dwellings to the south of the site along the B3016 which have gardens adjacent the road. In any event the site is located on the approach to the settlement with 'SLOW' road markings and signage making drivers aware of elderly residents who may be crossing the road. The B-road is therefore not considered to be detrimental to the everyday amenities of the potential future occupiers.

3.115 In any event, it should be noted that the northern side of Warren Lane is Warren Wood Country Park. The FNP has designated this site as a Local Green Space under policy IRS1 which is designated for its historical, recreational and ecological value. The FNP LGS Topic Paper states that part of this sites local significance is that: *"The site is popular with residents for informal recreation and dog walking using access points from the settlement based around California Crossroads and the Finchampstead Road. It is advertised and promoted for recreation by WBC as a Country Park"*.

3.116 As such, it is considered that the LPAs objection in relation to the amenities of occupiers is not well founded owing to the proposed green space within the site being significant in area for occupiers, but also the site is within 200m of a local green space designated for its recreational value.

3.117 **Impact to Thames Basin Heath SPA:** the application site is within 5km of the Thames Basin Heath SPA and would result in increased residential activity by two units.

3.118 As such, an appropriate assessment is required (Regulation 63 of The Conservation of Habitats and Species Regulations 2017).

3.119 Any increase in residential units within the 5-7km zone of the SPA will result in pressure to the European Site upon occupation (in accordance with the Thames Basin Heath SPA Framework). However, mitigation measures that are avoidance measures are to be considered within the Appropriate Assessment stage.

3.120 In this instance the provision of SANG and SAMM avoid adverse impacts altogether to the SPA, it is common ground with the LPA that the provision of SANG and SAMM would mitigate the impact of the development on the SPA.

3.121 A draft S106 agreement has been provided to secure the allocation of SANG land and provide appropriate SAMM payments to WBC. It is not clear if WBC would be willing to provide SANG allocation and therefore, alternative private providers of strategic SANG have also been sought in case the LPA does not wish to provide a public SANG allocation.

3.122 In either case the LPA will need to enter into an agreement in relation to SAMM payments.

3.123 It should be noted that as the land is not within the appellant's control and the development would be at risk without such a legal agreement, that a Grampian condition restricting development from commencing until an appropriate obligation has been secured is also an acceptable arrangement.

3.124 As such, subject to appropriate legal agreement(s) the appeal development would pass the Appropriate Assessment and comply with policies CP4 and CP8 of the CS and Saved Policy NRM6 of the South East Plan.

3.125 **Compliance with Development Plan:** as per S38(6) of the PCPA if regard is to be had to the development plan for the purpose of any determination made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

3.126 Subject to a legal agreement to secure SANG and SAMM contributions, the above statement considers that appeal development accords with the Development Plan as a whole. This is owing to the fact that a number of the policies cited in the reasons for refusal by the LPA 'pull in different directions'.

3.127 When considering the policies that apply specifically to GRT sites (CP2 and TB10) it is not considered the general 'cross cutting' policies that do not account for the type of development are relevant for the determination of the application (as per the *Rochdale* judgement). Regardless, the appellant's statement has demonstrated that the development still complies with the general considerations of CP1, CP3, CP6, CP7, CP9, CC02, CC03 and TB21 of the CS and MDD. Similarly, there is no conflict with the FNP.

3.128 For the sake of completeness, the appellant asserts in any event that policies CP1, CP3, CP11, CC03 and TB21 are 'out of date' owing to landscape and character considerations no longer complying with the Framework (seeking to maintain it as a minimum). Appendix 5 comprises an appeal decision which explicitly outlines in paragraph 86:

*"Turning to whether the most important policies are out of date, as I read it I consider Core Strategy Policy CP11 does not appear to offer a basis to resist development in the countryside that would neither fail to protect the separate identity of settlements nor maintain the quality of the environment, as any such development would not conflict with its purpose. Although that brings some flexibility, **it is nonetheless more proscriptive than the Framework in regard to proposals outside of settlements**, and so the weight I attach to the development plan conflict is reduced somewhat. **MDD Policy TB21 though seems less flexible,***

especially in relation to its second point, and to my mind goes beyond the more nuanced position in the Framework concerning development in the countryside...".

3.129 It should also be noted that if the Inspector considers TB10.a to require sites to be 'adjacent' in the manner stated by the LPA then TB10 also needs to be considered 'out of date' as it would be more prescriptive than PPTS Policy H – Paragraph 26.

3.130 Should the Inspector look to undertake a planning balance on the basis of policies being out of date and the non-GRT policies still considered relevant to the determination, then **CC01 of the MDD** also needs to be considered. With CC01 being part of the Development Plan itself this would mean any conclusion that permission should be granted would be approving the development as it accords with the Development Plan.

3.131 **Material Considerations:** Should the Inspector require material considerations beyond the Development Plan to be considered then there are a number of benefits to consider.

3.132 The first pertains consideration pertains to the need for GRT pitches within the Borough. The 2023 GTAA (updated to support the Local Plan Update) requires the borough to **deliver 86 pitches** up to 2039/40 and require an immediate short term (5 year supply) need of **35 pitches**.

3.133 The Officer Report acknowledges that the adopted Development Plan does not include a locally set requirement and accepts the LPA is unable to demonstrate a 5 year supply of pitches. No exact figure of the LPAs supply has been provided in terms of speculative pitches however, when considering alternative sites it appears that the LPA has granted 7 pitches equating to a 1.0 year supply.

3.134 It is noted the Officer Report also seeks to highlight the forthcoming allocations in the LPU. However, the definition of a deliverable site in the PPTS is that sites should be available now and therefore until the LPU is adopted none of these sites can be counted in the LPAs supply. The LPU is not likely to be adopted in the near future and the lack of supply is acute.

3.135 Therefore, the benefit of 2 pitches to the LPAs supply is considered to have **substantial weight in favour of the development.**

3.136 Whilst it has already been stated a number of policies are out of date, the lack of a 5 year supply of pitches engages the presumption in favour of sustainable development (paragraph 11 of the Framework). It is considered the presumption would not be disengaged by footnote 7 (as there is no harm to any veteran trees) and it complies with all paragraphs listed in footnote 9. The presumption would afford **significant weight in favour of the development.**

3.137 Paragraph 27 of the PPTS also needs to be considered and it is considered that all of the following would weigh in favour of the development:

- The effective use of untidy land would carry **moderate weight**;
- Positive soft landscape enhancement carrying **significant weight**;
- Provision of large private amenity space (able to be used as play areas for children) carrying **moderate weight**;
- Not enclosing the site with hard landscaping carrying **moderate weight**

3.138 A 10% BNG contribution, whilst this would deliver a 10% increase which has to be considered a benefit, this would be the mandatory minimum and could only be afforded **limited weight** in favour of the development.

3.139 Additional biodiversity enhancements, confirmed in the officer report to be secured by condition, and the additional hedgerow provision creating wildlife corridors would carry **moderate weight** in favour of the development (separate to soft landscaping provision).

3.140 Should the Inspector consider all of the above would constitute material considerations of a weight able to grant planning permission then a condition ensuring that occupants meet the Annex 1 definition of the PPTS should be applied.

3.141 Finally, personal circumstances are to be advanced by the appellant. These were submitted with the initial application, for the sake of confidentiality these will not be repeated here and it is expected these circumstances can be confirmed in the hearing.

3.142 Should the Inspector consider the personal circumstances to justify the grant of permission then a personal permission condition will be required.

04 Conclusion

4.1 For reasons set out in this statement it is considered that the appeal proposal adheres to relevant development plan policies, and gains further support from national guidance in the form of the Framework and the PPTS.

4.2 It is considered in the first instance that the development complies with the Development Plan as a whole, however, should a planning balance be required then owing to the age of policies and their inconsistency with the Framework (any non-compliance could only be given limited weight). The benefits of the scheme are ubiquitous particularly in the context of the LPAs 1.0 year supply and overall landscape enhancement that is to be provided.

4.3 Personal Circumstances are also present which would be relevant for the Inspector to consider that would outweigh any harm should any be considered to exist.

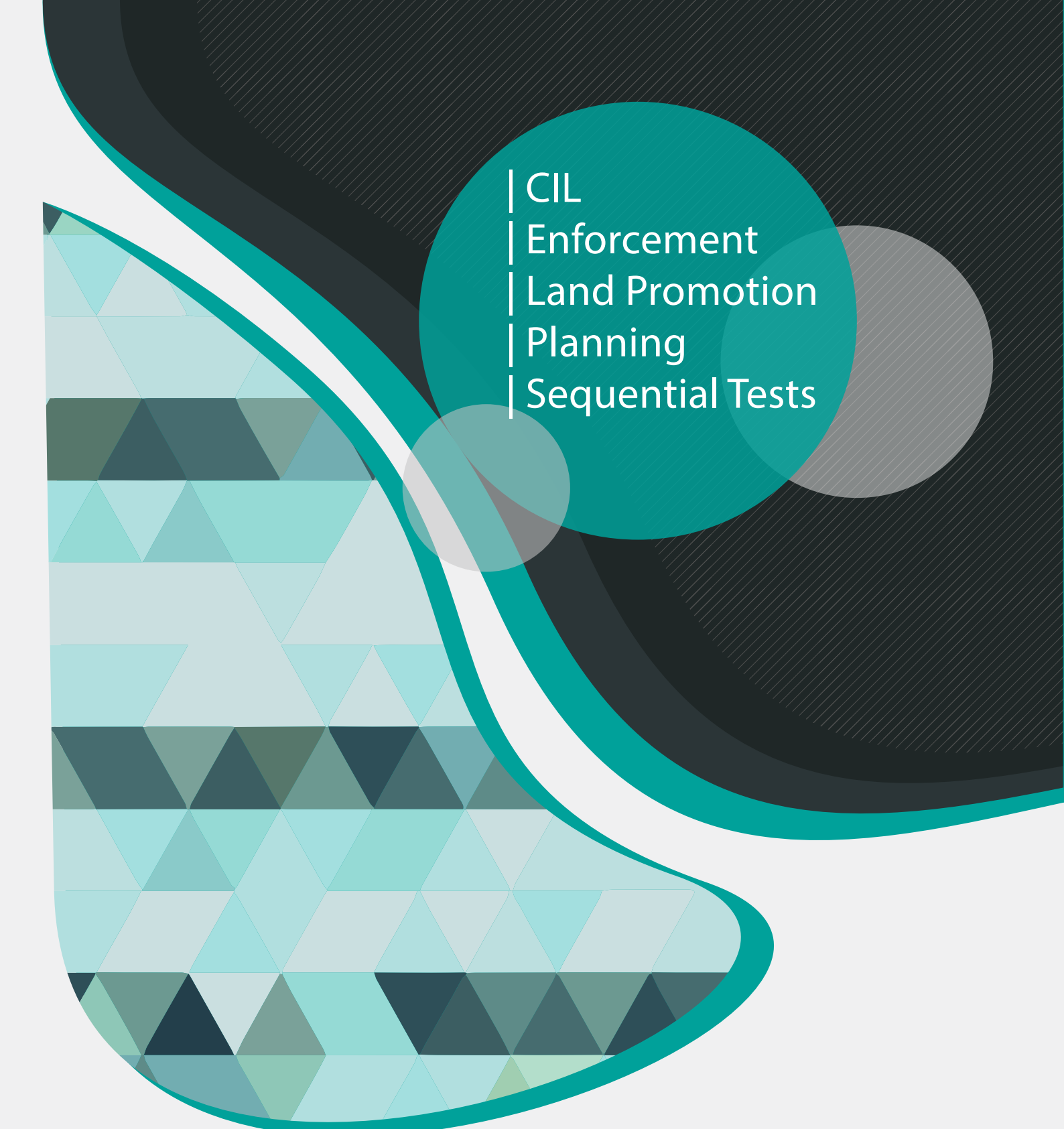
4.4 Therefore, the Council's reason for refusing the proposed development is unjustified, and it is respectfully requested that the appeal be allowed.

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