

Agenda Item:	5.1
Site:	Land West of Ashbourne Road, Spath, Stramshall, Uttoxeter, ST14 5AD
Proposal:	Retrospective consent for change of Use to a Gypsy/Traveller site, proposed works to provide 3 no. family pitches including 1 x amenity building, level changes across the site, creation of a swale, package treatment plant, bin storage area, alterations to existing driveway, erection of stables and landscaping

Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by Penelope James

[Hyperlink to Application Details](#)

Application Number:	P/2021/00969	
Planning Officer:	Barbara Toy	
Type of Application:	Detailed Planning Application	
Applicant:	Mr S McDonagh	
Ward:	Stramshall & Weaver	
Ward Member (s):	Councillor Laura Beech	
	Councillor Steve Sankey	
Date Registered:	07/10/2021	
Date Expires:	30/11/2021 – Various time extensions agreed throughout the course of the application, most recent agreed till 28/03/2024	
Reason for being on Agenda	Significant Community Interest An 'in principle' objection from the Environment Agency Councillor Sankey also called the application in to Planning Committee asking that the application be determined as soon as possible as it had been under consideration for a long period of time.	

1. Executive Summary

- 1.1 The site comprises 0.79 hectares of land on the western side of Stramshall Road, opposite the junction with Ashbourne Road (B5030) that sits approx. 180m to the north of the traffic island on the Uttoxeter Bypass (A50).
- 1.2 The site sits outside of the settlement boundary within the Parish of Uttoxeter Rural in the hamlet of Spath. The settlement boundary for Uttoxeter sits approx. 280m to the south (The A50).
- 1.3 The site comprises part of a former paddock and comprises a roughly rectangular area of land bounded to the south by the River Tean that runs east/west. The site has an

existing gated vehicle access on the bend in Stramshall Road, with mature hedging to the eastern boundary with Uttoxeter Rural 87 public footpath.

- 1.4 This is a full planning application for retrospective consent for the change of use of the land to provide a gypsy/traveller site, proposed works to provide 3 family pitches, 3 static caravans, a proposed amenity building, proposed changes in levels across the site, the creation of a swale, package treatment plant, a proposed bin store, retention of alterations to the site access, proposed erection of stables and landscaping.
- 1.5 Whilst the site is situated outside of the settlement boundary, it sits adjacent to a residential dwelling on the edge of the hamlet of Spath, the site is not isolated from other development but forms the end stop to development within the hamlet. The small scale of the development for only 3 pitches does not dominate the hamlet and does not place undue pressure on the local infrastructure, in compliance with the PPT. The site sits within walking distance of the Uttoxeter settlement boundary, to schools, buses and services. The size and location of the site complies with the criteria identified in Policy SP19 of the Local Plan. It is therefore considered that the proposals would comply with both National and Local Policy in terms of the provision of Gypsy/Traveller accommodation.
- 1.6 The 2023 GTAA identifies a requirement to provide 8 Gypsy/Traveller pitches in the period 2020 – 2024 within ESBC. A recent approval P/2021/00373 granted consent for 2 pitches. ESBC currently have two privately owned gypsy/traveller sites that have been in situ for a number of years providing 24 pitches, all of which are occupied with no vacancies. There are currently three applications for gypsy/traveller pitches in Burton Upon Trent but these have not yet been determined and are being proposed by separate applicants. Therefore at the point of determining this application and based on the 2023 GTAA evidence, ESBC cannot currently demonstrate that it has a 5 year supply of pitches, with a shortfall of 6 pitches against the minimum pitch supply figure. The 3 pitches in the current application would leave a shortfall of three pitches in the period up until 2025.
- 1.7 The site sits within Flood Zone 3b and the NPPF classifies caravans, mobile homes and park homes intended for permanent residential use as 'Highly Vulnerable' and the Environment Agency (EA) have raised an 'in principle' objection to the development and it is recognised that the proposal is contrary to policy SP19 of the Local Plan in terms of Flood Risk. Whilst the EA have raised an objection 'in principle' to the development they have since worked with the applicant to seek a flood risk solution to overcome their detailed objections which has resulted in a final Flood Risk Assessment that includes a series of flood mitigation measures.
- 1.8 As the site sits within Flood Zone 3b the NPPF requires a sequential test to be undertaken. The applicant has confirmed that all three families at the site were living on the side of the road within the Uttoxeter area for 3 months prior to moving onto the site. The applicant has had a connection to the Uttoxeter area and has lived in and around Staffordshire for a number of years. The applicants work is based in the local area, with a work base situated within close proximity to the application site. ESBC have no private or Council sites available with gypsy/traveller consent. It is the view that there are no alternative sites, either available or with planning permission within this search area where the provision of 3 traveller pitches and associated facilities could be provided.
- 1.9 Where a sequential test has been met there is a need to apply the 'Exception Test'. The use of the site as a residential gypsy/traveller site would have sustainability benefits to the three families in question, providing a settled base for their children to attend school and for all family members to have access to services, including health

care. The three families on the site would be likely to have to relocate to a roadside should permission not be forthcoming which would not be in the public interest to have families with young children living on the road with no access to drainage or facilities to store waste, etc. and restricted access to schools and healthcare. It is also noted that one of the children on site is waiting for heart surgery and will require stable accommodation to recuperate following the surgery.

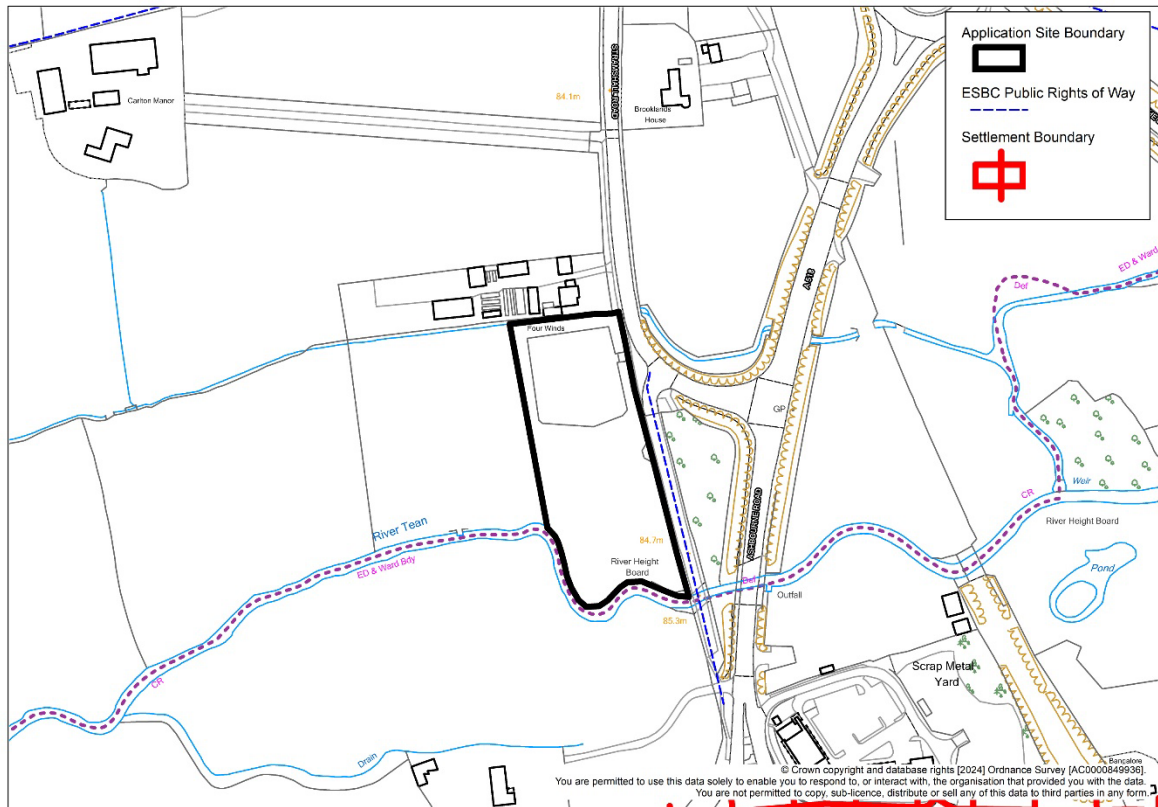
The EA are now content that the flood risk solution proposed in the latest FRA (31-01-2024) shows that the proposed development can be made safe and that there will be no impact on third parties from the development, once the proposed mitigation is implemented. The revised layout of the site ensures that the most vulnerable elements of the site, the 3 static caravans and the amenity building are located together in the most northerly raised part of the site, with an increased floor level to the statics. The less vulnerable uses, ie vehicle parking and touring caravan storage will be situated at a lower level, but where they can easily be moved from the site, with the site access situated within the higher level.

- 1.10 The Highway Authority have raised no objections to the proposals. The site would utilise the existing vehicle access and would provide parking in accordance with the SPD as well as manoeuvring space for vehicles, a condition is recommended to ensure the existing access is widened, appropriate visibility at the access and to ensure no business use at the site without prior consent.
- 1.11 Whilst the design and layout of the site does not now provide individual pitches as is the normal scenario for gypsy/traveller sites, the layout is what is required to provide appropriate flood mitigation and is accepted by the applicant. The layout provides 3 static caravans and a communal amenity building as well as space to park touring caravans for use when travelling and adequate vehicle parking and manoeuvring space. The existing boundary hedging and trees to the road frontage of the site would be retained providing screening of the accommodation from the road, reducing any adverse impact on the street scene or the surrounding landscape.
- 1.12 Whilst the site sits in close proximity to Four Winds, a two storey dwelling, the boundary fencing and a culvert sit between the two properties and mature trees and hedging form the southern boundary of Four Winds, ensuring no overlooking or loss of privacy. The caravans and amenity building would be single storey only and would be well screened from the road and Four Winds by the retention of the existing boundary hedging and proposed fencing. Given the small nature of the site for 3 families only it is considered that the impacts of noise and disturbance to the occupiers of Four Winds is likely to be low.
- 1.13 The submitted Ecological Report has been assessed by the County Ecologist. It is considered that subject to conditions the proposed development and flood mitigation works proposed would not have a significant adverse impact on habitat or protected species on the site or adjacent river and watercourse and additional native planting would be provided.
- 1.14 Objections from 298 residents, the Parish Council, Kate Griffiths MP and The Stramshall and Spath Action Committee (who represent up to 300 residents) have been received which are detailed and addressed in the main report.

In light of the above conclusions on the planning merits of the case, the application is recommended for **approval subject to conditions**.

Members are advised that the above is a brief summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

Map of site



2. The Site and Surroundings

- 2.1 The site comprises 0.79 hectares of land on the western side of the bend at beginning of Stramshall Road, opposite the junction of Stramshall Road with Ashbourne Road (B5030) that sits approx. 180m to the north of the traffic island on the Uttoxeter Bypass (A50).
- 2.2 The site sits outside of the settlement boundary within the Parish of Uttoxeter Rural in the hamlet of Spath as defined in Policy SP2 of the Local Plan. The settlement boundary for Uttoxeter sits approx. 280m to the south (The A50).
- 2.3 The site comprises part of a former paddock and comprises a roughly rectangular area of land bounded to the south by the River Tean that runs east/west. The site has an existing gated vehicle access on the bend in Stramshall Road.
- 2.4 To the west of the site is open countryside, to the north Four Winds, a two storey residential property with a series of outbuildings and vacant glasshouses set to the rear known as Heldon Nurseries. The eastern boundary of the site comprises a public footpath: Uttoxeter Rural 87, which runs south from the site access to the Ashbourne

Road/A50m junction. The footpath route runs along the former Ashbourne Road, with the original junction with Stramshall Road retained as a vehicle lay-by, set just to the south east of the site access.

- 2.5 The site is bounded to the east (along the public footpath and to the north of the access) by mature hedging and there is mature trees and hedging to the boundary of Four Winds to the north of the site, beyond a watercourse and culvert.
- 2.6 To the north east of the traffic island at the A50 lies a petrol filling station with convenience store and a McDonalds restaurant and takeaway.
- 2.6 The site sits within Flood Zone 3b – high probability of flooding.
- 2.7 There is no conservation areas or listed buildings in the vicinity.

3. Planning History

- 3.1 **CU/17999/001** – agricultural access (off the former Ashbourne Road) GSC 23-08-1988
- 3.2 **CU/17999/002** – change of use from agricultural land to recreation area (Class D2) (the application site and land to the west for grass sports only) GSC 29-03-2001. There is no evidence that this consent was ever implemented.
- 3.3 **Planning Enforcement** - First complaints to Planning Enforcement in June 2021 when work commenced on site, with continued and ongoing complaints continuing Injunction Order 8th November 2021:
 1. Unless authorised by a grant of planning permission (including the discharge of all conditions attached to a grant of planning permission), **or with the express written consent of the Council**, the Defendant shall not cause or permit:
 - [a] the bringing onto the Land any more than four caravans, mobile homes, motor homes or camper vans, and
 - [b] any more than four caravans, mobile homes, motor homes or camper vans to be or to remain on the Land, and
 - [c] the carrying out of any works to/on/under the Land, including but not limited to:
 - [i] the importation and spreading of hardcore or other material to surface the Land
 - [ii] the erection or installation of any gate or fence on the Land.
 - [iii] the erection of any building or structure on the Land.
 - [iv] the placing of any structure on the Land.
 - [v] the digging of any trenches or ditches or holes on the Land.

In accordance with the underlined sentence above written consent has been given by the Council to various works at the site including up to 7 caravans at the site, including the static caravan, touring caravans and a motorhome. However the proposal is for 3 no. family pitches including and 1 amenity building.

4. The Proposal

- 4.1 This is a full planning application for change of use of the site to a gypsy/traveller site. The proposals have been amended during the course of the application and the site boundary extended to include the whole site in the ownership of the applicant. The amended proposals now include:

retrospective consent for the change of use of the land to provide a gypsy/traveller site, proposed works to provide 3 family pitches, 3 static caravans, a proposed amenity building, proposed changes in levels across the site, the creation of a swale, package treatment plant, a proposed bin store, retention of alterations to the site access, proposed erection of stables and landscaping.
- 4.2 Works were undertaken at the site starting in June 2021:

- the site access was amended, new access gates installed and fencing erected either side of the recessed gates,
 - erection of 1.8m high close board fencing to the north, south and western boundaries of the northern element of the site
 - a change in levels across the northern element of the site and the importation of gravel to surface the entire northern element of the site
 - creation of an earth bund to the western and southern boundaries outside of the fence line
- 4.3 The applicant and his family moved onto the site in October 2021, initially residing in 2 touring caravans. The number of touring caravans/motor homes on site has varied in the intervening period and in June 2022 a static caravan was brought onto site and remains in situ in addition to touring caravans.
- 4.4 The updated site layout plan proposes 3 static caravans and one communal day room building on raised ground in the most northerly element of the site with car parking and space to park associated touring caravans on lower level ground immediately to the south of the main accommodation, with a paddock to remain in the southern element of the site including a proposed stable building. The existing vehicle access would be amended to widen it to 4.1m wide and provide a 1.57 high brick wall with 1.78m high piers either side of the access bellmouth to replace the existing close board timber fencing.
- 4.5 The communal day room building would measure 15m x 8.22m with an eaves height of 2.5m and pitched roof height of 4.2m. The building would be timber clad and have a tiled grey roof and a small gable roofed canopy over the main entrance door. The building would provide a day room, dining area and kitchen, utility/laundry and storage, shower room, bathroom and disabled bathroom to be used by all 3 families on the site.
- 4.6 The agent has confirmed that the size of the three static caravans to be sited will conform to the definition of a caravan within Section 13 of the Caravan Sites Act 1968 and that any steps, skirting patio etc to the units will depend on the precise details of the mobile homes to be installed. The finished floor level (FFL) of all the static caravans would be 85.05mAOD, 600mm above the 1 in 100 year plus 31% Climate Change flood level of 84.45mAOD. The FFL of the amenity building would be 84.65mAOD which would be 200mm higher than the maximum flood level of 84.45mAOD.
- 4.7 Water supply was provided to the site by South Staffs Water in December 2021 following a period of a temporary supply from the adjacent property at Four Winds. The applicant is in negotiations to provide an electricity supply to the site, with the electricity supplier due to visit the site on 26/03/2024. Generators are currently used in lieu of a main supply. There is currently a septic tank used on site for the static caravan and the WC/shower block, the applicant is looking to change this to a sewage treatment plant which together with the construction of the amenity building will require Building Regulations approval.
- 4.8 The paddock to the south of the residential element of the site is to be retained as a paddock for horse grazing with a stable block proposed, for use by the residents. The paddock has its own gated access. The stables would measure 15.04m x 4m with a 3.63m canopy the length of the frontage. The eaves height would be 2.3m with a pitched roof height of 3.5m. The building would be timber clad with a felt tile roof and would provide 2 stables, a hay/storage area and a tack room.

- 4.9 One unit on the site would be occupied by the applicant, his wife and 5 children. together with 2 further family children in their care. A further unit would be occupied by the applicant's sister, partner and 5 children and the third unit would be occupied by applicant's wife's sister, partner and 3 children. Each of these families are already living on site, the applicant in the one static caravan on site and the other families in touring caravans. All school age children on site attend a local school. All residents on site are registered at a local doctors surgery. It is noted that all three families were living on the side of the road within the Uttoxeter area for 3 months prior to moving onto the site. The applicant has had a connection to the Uttoxeter area and has lived in and around Staffordshire for a number of years. The applicants work is based in the local area, with a work base situated within close proximity to the application site. The applicant does not operate his business from the site.
- 4.10 The applicant has not sort consent for any combined business use at the site and there is no evidence that a business has been operated from the site during the last 2 years that the families have been on site.
- 4.11 The proposals include works to change the levels on site to raise the level of the ground in the northern section where the 3 static caravans and amenity building would be sited (the residential elements of the site), with the car parking and tourer storage sited on lower ground. A ramped access would be provided from the existing vehicle access down to the proposed parking area on the lower ground level. The flood mitigation works also include the removal of the existing earth bund outside of the boundary fencing and the provision of a swale along the western and southern boundaries of the residential element of the site leading to the existing culvert. The existing close board boundary fencing would be replaced to provide double sided vertical open slat panels to allow for flood flow routes through the site whilst retaining a secure boundary and privacy.
- 4.12 Since the receipt of the final EA comments dated 06/03/2024 the applicant has provided an updated Detailed Block Plan for the site, has updated the Construction Method Statement and Programme of Works and provided details of a temporary storage compound during works on site, which take on board the comments raised by the EA.

List of supporting documentation

The following documents have been provided as part of the application:

- Drawings associated with the development
- Construction Method Statement and Programme of Works
- Flood Risk Assessment by Geosmart dated 31-01-2024 Ref 75312.00.02R3 – FRA January 2024 and Appendices
- Ecological Assessment by Camlad Ecology dated April 2022 and Associated Plan
- Sewage Treatment Plant Details
- Design and Access Statement

5. Consultation responses and representations

- 5.1 A summary of the consultation responses is set out below:

Statutory and non statutory consultee		Response
5.2	Uttoxeter Rural Parish Council	The development is outside of the settlement boundary and situated within the floodplain of the River Tean. The application

	(on original submission only)	<p>fails to demonstrate a local need. The content of the Flood Risk Assessment and Ecology Assessment are noted.</p> <p>The addition of the earth bunds around the site, means that when the river floods the water will be displaced across new ground possibly the adjacent property and the road, causing unwanted flooding. When the river floods, so does the culvert. The adjacent property is not currently affected as it is situated at higher ground with a concrete wall and a culvert as a defense.</p>
5.3	SCC Highways	27-10-21 No objections subject to conditions re hard surfacing of the access, parking and turning areas , minimum access gate width of 4.1m, demonstration of visibility splay at the access and no business use on site
5.4	SCC Flood Risk Team	No comments as not a major development. As the site sits within Flood Zone 3 the EA should be consulted to comment on the flood vulnerability and suitability of the proposal in flood risk terms.
5.5	SCC Ecology	The submitted Ecology Assessment is considered adequate although water voles were not covered. If minded to approve the development conditions recommended to ensure that lighting at the site does not adversely impact on bats, to ensure any works within 20m of the River Tean has a license under Regulation 53 of The Conservation of Habitats and Species Regulations 2010, any site works be undertaken outside of the bird nesting season, a construction Management Plan to protect the River Tean, ecologist to check for otters and water voles and landscaping.
5.6	Naturespace	No Great Crested Newt concerns. The site falls within the green impact risk zone and as such the habitat would be less suitable for great crested newts.
5.7	Environment Agency Comments dated 06-03-2024 based on the revised FRA dated 31-01-2024	<p>In line with the Flood Risk Assessment (FRA), and best available information at this time, the site is located within Flood Zone 3b (functional floodplain) the highest risk flood zone. Annex 3 of the NPPF classifies development types according to their vulnerability to flood risk. Caravans, mobile homes and park homes intended for permanent residential use are classed as 'Highly Vulnerable'.</p> <p>In accordance with Table 2 of the NPPG (Flood Risk and Coastal Change section), the proposed use ('highly vulnerable' caravans for permanent residential occupation) in Flood Zones 3a and 3b 'should not be permitted'. Only 'Essential Infrastructure' and 'Water Compatible' uses should be permissible within 3b. We raised an objection on these grounds previously which remains valid despite the updated FRA.</p> <p>The proposals is also contrary to Policy SP19 of the Local Plan that states that proposals will not be supported where the site is at risk of flooding. The EA would support a refusal on these grounds.</p> <p>The NPPF para 168 refers to Sequential Test: 'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding'. The EA make no bespoke comments on the Sequential Test, which is for the Council to consider, if the Council is satisfied on this and is minded to</p>

		<p>approve then the EA make the following comments in respect of flood risk impacts and safety elements of the proposals.</p> <p>The updated report has addressed (in full or in part) the concerns raised previously in December 2023. The report now recommends a finished floor level of the static caravans and amenity building is set no lower than 600mm above the design flood level at 85.05mAOD instead of the 300mm previously propose, the revised floor level is welcomed in line with EA previous comments and the finished floor levels issue previously raised has been addressed.</p> <p>It is now proposed that slatted fencing will be provided every 5m around the site. Every 5m is not considered to be enough opening area to allow flood conveyance and prevent an increase in flood risk. Similarly double-slat right round the development is also unlikely to provide enough flow area, given the depth of flooding across the development plateau is up to 0.85m. However as the fencing is circa 1.8m high we would accept, as compromise, that it can be double-slat on the top half of the panels to provide privacy which could be secured as part of the conditions.</p> <p>The soil bunds (existing) on the outside of the fencing are not formal flood defences and should be removed.</p> <p>A new drainage channel around the perimeter of the fencing is proposed and could be conditioned as part of the overall floodplain compensation scheme.</p> <p>In line with previous comments post and rail fencing is now proposed to the southwest boundary along river and an appropriate landscaping scheme associated with recontouring of the ground, to avoid significant impact upon flooding and protected species and offer potential enhancement could be conditioned, addressing previous concerns regarding watercourse treatment/landscaping.</p> <p>The Flood Warning and Evacuation Plan now includes the updated recommended finished floor levels, proposed warning system and document references. The EA do not comment on or approve the adequacy of flood emergency response and flood evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood, this is something for the Councils Emergency Planning team to comment on.</p> <p>Previous comments regarding the evacuation of animals have been addressed in part, but further details of the horse shelter could be conditioned.</p> <p>Appendix E of the updated FRA has not been updated to take account of the higher floor level now proposed and should be updated for completeness.</p> <p>The Construction Method Statement and Programme of Works requires to be updated.</p> <p>The EA have reviewed and offered some constructive comments and have provided draft conditions and informatives on flood risk and safety elements should the LPA be minded to approve the application.</p>
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		<p>Draft Conditions:</p> <ul style="list-style-type: none"> Carried out in accordance with the updated FRA (31-01-24) and listed mitigation measures. Evacuation Plan condition Scheme of Floodplain compensation No raising of ground levels or any buildings to obstruct flood flow Fencing design Construction method statement Detailed landscaping and fencing
5.8	Severn Trent Water	No objections, the proposals would have minimal impact on the public sewage system, no drainage condition required.
5.9	Architectural Liaison Officer	No objections providing that the 3 pitches are occupied by one extended family and that the 3 caravans belong to the same family group.

Internal Consultees		Response
5.10	Environmental Health	No objections, informative to ensure the applicant is aware of infilled land within 40m of the site and a caravan site licence will be required.
5.11	Emergency Planning Officer	Agree with the comments from the Environment Agency and the planning application should be refused. The application site sits within the highest risk flood zone and that the structures are seemed as vulnerable. If a flooding incident occurs the potential for Council and emergency service attendance required to support the residents in evacuation may be large taking away resources from other areas of the flood response.
5.12	Building Consultancy	No objections, building regulations approval would be required for the installation of a sewage treatment plant and the amenity building.

6. Neighbour Responses

- 6.1 The local community have been consulted on the planning application on 4 occasions, as and when additional/amended information has been received. Consultations of 21 days took place on 07/10/2021, 15/06/2022, 13/11/2023 and 06/02/2024. On each occasion letters were sent out and a site notice posted outside the site in Stramshall Road.
- 6.2 The Stramshall and Spath Action Committee (SSAC) made initial comments on the planning application and have since been notified of progress on the application. The Committee has no connection to the Uttoxeter Rural Parish Council. It is understood that the Committee came into being some years ago and they have advised that they represent a very significant number of residents and a wide section of the local population and obtained mandates from these people. The Committee have acted on behalf of their members and have coordinated comments from the local community and made comments on their behalf with regards to this application. Following the second consultation on the application the SSAC have submitted comments on behalf of residents, hence the reduction in the number of letters received (see below at 6.5 and 6.6). As well as formal consultation responses they have submitted extensive numbers of emails to multiple officers of the Council on a regular basis throughout the course of the application. These include but not limited to 29 notifications of flood alerts, flood events and photographs and drone shots of the flooding at the site.

A large number of the emails submitted relate to enforcement matters which sit outside of the planning application process, but a large number relate to the ongoing application.

Issues covered by the emails:

- The activity and actions/conduct of the occupants of the site
- Regular notification of unauthorised works at the site
- The comings and goings of the occupants of the site in school term time, leaving the site vacant
- The paddock being used for quad bikes
- Breaches of the Injunction
- Police activity at the site
- The number of caravans on site at different times
- Road safety concerns regarding a dog on the road
- Further information and surveys regarding birds and other protected species
- Criticism of the LPA for lack of progress and determination of the application
- Failure of the Council to properly communicate with the community
- Criticism of the consultation process with the local community and lack of time to comment
- Delays in the application as the LPA has allowed the applicant too much time to submit information
- Significant criticism of the submitted information by the applicant, in particular the FRA and missing information and appendices
- Historical photos of flood events 2012, 2016 & 2021
- Failure of the Council to publish the updated GTAA
- Notification of ongoing correspondence and meeting with the EA and MP

- 6.3 The original consultation resulted in the receipt of 298 objections in addition to comments from Kate Griffiths MP and SSAC.
The submitted letters included 236 copies of a standard letter, 52 individual non standard letters and 10 letter providing no names.

Neighbour Responses to Original Consultation sent 07/10/2021	
Principle	<ul style="list-style-type: none"> • Spath is a small settlement with no settlement boundary • The site is in open countryside detached from the settlement • Site abuts the River Tean where development is only permitted in exceptional circumstances, and none identified • PPTS changes the weight given to any absence of a 5 year supply of permanent sites in land designated as Green belt or local Green Spaces • Contravenes policy SP18 of the Local Plan • Conflict with policy SP27 of Local Plan, as the site and road flood regularly • Caravans, mobile homes etc highly vulnerable category in flood plain, not permitted • 3 Family pitches, will mean 6 living units and day room blocks, first in the line of applications to expand the site • Appeal decision at Runnymede refers to intentional unauthorized works on a site in the Green Belt • No amenities in Spath • No need identified for a traveler site • Ongoing enforcement at the site, stop notice issued • Use should be on a brownfield site not a greenfield

	<ul style="list-style-type: none"> • Site would be better placed away from sensitive sites and small villages • PPTS criteria that sites should not be at risk of flooding, a sequential test required to find site outside of the flood plain, the NPPF also states no development on flood plain.
Flooding	<ul style="list-style-type: none"> • Site in FZ3 and abuts the River Tean • The submitted FRA is badly flawed, it underestimates the true situation regarding flooding and drainage • Historic photos/videos of 2012 – 2021 to show the site, culverts and road flooded • Highly vulnerable use not permitted in flood plain, the mitigation suggested is fanciful • Earth bunds around the site and raising of the ground levels would divert the natural flow of floodwater and increase risk of flooding elsewhere • The fencing worsens the situation • Site works have disrupted the floodplain and impacted on the local area • Access for essential maintenance of the watercourse blocked by the fencing • Large area of hardstanding will reduce natural drainage and increase flooding to the road • Flood orks to protect the caravans is likely to exacerbate flooding on adjacent land and road • Site not even suitable for grazing due to flooding • Flooding only started when the new B5030 was built • Flooding only going to get worse with climate change
Amenity	<ul style="list-style-type: none"> • Out of keeping with countryside location • Adverse impact on adjoining site and other local properties and residents • Noise and disturbance • Householders have the right to quiet enjoyment, contravention of Article 8 and 1 of First Protocol of the Human Rights Act • An eyesore on Green Belt land. • Sewage treatment plant not suitable in FZ3, risk to discharge into the River and public health risks made worse by lowering the ground to the south • Disposal of waste and sewage a concern
Ecology	<ul style="list-style-type: none"> • Past extensive wildlife surveys in Spath by West Midlands Bird Club, 87 species of bird present including endangered species on red list, such as Lapwings • Site particularly important for ground breeding birds in wet pasture, essential for feeding chicks • Evidence to avoid disturbance to wildlife • Government keen to establish wildlife corridors, Carlton Manor have implemented enhancements to biodiversity on land adjacent to the River Tean, all this care could be negated by the proposals • River Tean corridor integrating with lakes at Uttoxeter Quarry, additional species recorded • Other protected species in the area, water voles, badgers and otters. • Adverse impact on habitats

Highways	<ul style="list-style-type: none"> • The site exits onto a sharp bend in a busy road at peak times • 40mph road • Access is across Uttoxeter Rural 87 public right of way, the only pedestrian access to Uttoxeter • Increase in vehicle activity with 3 pitches, danger to pedestrians • Visibility at the access would be compromised by the hedging which is outside of the applicants control • Vehicle and pedestrian safety issues • Ashbourne Road is a very busy road • Significant traffic generation, multiple vehicles for each pitch and touring caravan.
General	<ul style="list-style-type: none"> • Disregard for the planning process and contempt for the local community • Unauthorised works: site clearance, importation of hardcore, construction of earth bund & erection of fencing, resulting in a stop notice • Gates erected • Complaints to the Police and South Staffs Water re interference with water supply at adjoining property, illegal pipe connection that had to be removed. • Applicant claims that caravans have been on the site in the past are untrue, there was illegal occupation of the adjacent old road, in previous years with the police involved when traveler's dog attacked a resident • Safety risk from storage of gas canisters on site to passersby and adjacent property • No provision for waste or rubbish disposal • Multiple caravans on site with no consent • Work undertaken at weekends when no Council officers available • Tarmacing of the whole site would be a breach of planning • Poor image for Uttoxeter, having such a development on a main route in • Property devaluation • Discrepancies within application form: trees and hedges, flood risk, habitats and species, removal of waste and drainage • Is the applicant related to another gypsy with same name on a site in Leicestershire? • Lack of clarity on plans • Discrepancies in Design and Access Statement: water and electricity supply, poor info on applicant, families not registered with local schools or doctors, Human rights, access and visibility, local facilities (none in Spath) Ecology and application retrospective • Discrepancies in FRA • Harassment to neighbor re illegal water supply • Council not taken sufficient action to prevent occupation of the site • Concerns re: fly tipping, un-roadworthy vehicles, burglary, increased litter and general untidiness • There are other derelict sites about that could be used instead of a greenfield site.

Kate Griffith MP	<p>Objection – received 80 representations from residents expressing concern about the application. The site is unsuitable for development and object on the following grounds: Flood Risk and Intentional Unauthorised Development.</p> <p><u>Flood Risk</u> The development is in conflict with Local Plan Policies SP27 (although the wrong number is quoted) & SP19, where traveller sites should not “be at risk of flooding....” The site is in FZFZ where flooding is regular and severe and the application and FRA are at odds with each other. The NPPF requires a sequential test on the location of the development and is the sequential test as passed the exception test be considered. It is not clear that the proposal would provide any wider sustainability benefits to the community that outweigh flood risk as required by the Exception Test The PTTS also advised that traveller sites should not be located in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.</p> <p><u>Intentional Unauthorised Development (IUD)</u> The Government is concerned about the harm that is caused where development of land has been undertaken in advance of obtaining planning permission and can involve extensive and time consuming enforcement action. A Ministerial Statement in December 2015 advised of changes to make IUD a material consideration. The applicant has engaged in ongoing IUD at this site including illegally connection pipework to the neighbours property. Two appeal cases are quoted where the inspectors have accorded significant weight to the IUD. ESBC should place great weight against the granting of planning permission in this case due to the IUD which has occurred.</p>
<p>SSAC Comments to Original Consultation sent 07/10/2021 The comments include 40 appendices providing: photos of the site (and works undertaken) and evidence of historic flooding, policy text/documents, EA guidance, EA flood maps, flood warnings, evidence re sewage treatment plants, public footpaths, Uttoxeter Quarry restoration map, evidence on breeding birds and communication with South Staffs Water</p>	
Policy	<ul style="list-style-type: none"> • Reference to both National and Local relevant policies including the NPPF in terms of Flood Risk, Sequential Test and Exception Test, PPS2, Local Plan para 2.25, policies SP2, SP18, SP19, Strategic Objective 10 and reference to the 2013 GTAA • Conflict with SP18 – residential development on exception site • Previous public enquiry to allocate the land for employment years ago, concludes site not suitable for development
Assessment of Need	<ul style="list-style-type: none"> • Refers to the 2013 GTAA that identifies that no traveller pitches are required • Concludes that there is no need for the site which would outweigh harm done to the countryside and other harm
SP19 and Flooding	<ul style="list-style-type: none"> • P/2021/00373 appears to comply more with SP19 than the Spath site • Site sits in Flood Zone(FZ) 3 highly vulnerable uses should not be permitted in this area • Historic evidence of flooding of the site, the road and surroundings 2012 – 2021 and flooding extending beyond that shown on the EA maps

	<ul style="list-style-type: none"> • Construction of A50 created a manmade barrier restricting water flow which made flooding in Spath worse • Spath has been repeatedly cut off during flood incidents as road flooded • Regular severe flooding after heavy rain when the River Tean swells and bursts its banks • Surface water flooding adds to this as land already at saturation • Very regular flood warnings • Flooding will increase in the future due to climate change • Earth bunds implanted will redirect water flow elsewhere, the road, adjoin properties, earth bunds likely to be unstable and collapse causing blockages to ditches and culverts • Submitted FRA flawed, based on desk research and has grossly underestimated severity and frequency of flooding • Site is not a 1 in a 100 year event, but more frequent events • Flood mitigation suggested in FRA will lead to other problems for other people, potential health hazards and devastation to wildlife habitat • Drainage and sewage require particular attention, package treatment plant not appropriate in flooding area and likely result in raw sewage contaminating the ground • Spath is a small undesignated village with no facilities sitting outside of the settlement boundary Stramshall is designated at Tier 3 village with no facilities.
Ecology	<ul style="list-style-type: none"> • Evidence to previous public enquiries re wildlife, extensive surveys undertaken, 87 bird species identifies including birds on the red list, other species water voles, bats, otters and badgers • Part of link between the River Tean and the lakes at Uttoxeter Quarry which is being restored as a wildlife area
Amenity	<ul style="list-style-type: none"> • Frontage of the site poor, proposed walls and gates not appropriate • Significant impact on the character and appearance of the area and particularly the occupiers of Four Winds taking away the entitlement under the Human Rights Act ... to the peaceful enjoyment of his possessions. • Loss of view from public right of way to the River Tean • Scale of the development will overwhelm Four Winds and the locality
Highways	<ul style="list-style-type: none"> • Acute bend in a very busy road, a rat run to avoid the A50 roundabout, floods badly, additional hardstanding on site will make road flooding worse • The site access crosses Uttoxeter Rural 87 public right of way, only walking route to Uttoxeter. • Children seen playing on the roadside, a danger to the children and motorists
Conduct of the Applicant	<ul style="list-style-type: none"> • The applicant has undertaken unauthorised works at the site: excavation, importation of hardcore, construction of bund and erection of fencing (June 2021). Work ceased after the serving of a Temporary Stop Notice. • Work continued on site, caravans moved on, and additional caravans • Illegal connection to water supply (South Staffs Water & police involved)

	<ul style="list-style-type: none"> • Ministerial Statement regarding Intentional Unauthorised Development (IUD), with an Inspector giving weight to this in Runneymede appeal case • No attempt to communicate with the local community
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6.4 The first re-consultation following the receipt of updated FRA (with additional documents) an Ecological Assessment and amended redline boundary of the site, resulted in the receipt of 191 objections in addition to two sets of comments from SSAC.

The submitted letters included 179 copies of a standard letter and 12 individual non standard letters

One further letter raising no objections – rather proper facilities are created than gypsies taking over public spaces.

Neighbour Responses to Re-Consultation sent 15/06/2022	
Flooding	<ul style="list-style-type: none"> • Claims that raising the ground level will move the site to a lower flood risk category is wrong, it will result in a raised dry island in a floodwater lake and a flooded access • The risks are evident by the recommendation the units be tethered to the ground to prevent movement in flood • FRA based on desk research and is flawed • Ignores the reality that the site floods on a regular basis with historical evidence • Proposals will divert flood water to third party land and property • The earth binds are unstable and wash away blocking the culverts and drainage ditches • Fencing prevents access for maintenance of the watercourse and culverts and the Ea comments confirm the fencing type will contribute to water diversion • Reference to SuDs but no detail • EA walk over the site on a single day contrasts the years of published studies • Revised FRA barley differs from the original, does not change the facts • No flood plain storage details available, deliberately not disclosed • No proper sequential test • No evidence of reasonable sites available in FZ1 or 2 • Why should the site be regarded as exceptional • The EA flood plan for Uttoxeter doesn't show residential properties in FZ 3 only old buildings. • To pass the exception test must demonstrate development will provide wider sustainable benefits to the community that outweigh flood risk and the FRA must demonstrate development will be safe for its lifetime, take account of users and increase in flood risk elsewhere and reduce food risk overall , no submission to evidence this • Site of highest vulnerability category • Flood eater has to go somewhere, any works will just divert the water elsewhere
Ecology	<ul style="list-style-type: none"> • The lower ground level in the south will devastate wildlife habitats • The Ecology Assessment has limited scope, factual errors and is flawed, it is untrue that no protected species will be affected

	<ul style="list-style-type: none"> • Evidence of water voles on river bank and otter present • Bats fly over the site, previous surveys show 7 species in the area • Impact of lighting left on all night will disorientate bats • Evidence and public enquiry re birds in the area, 87 varieties in Spath and 5 on red list • No surprise that the ecology report concludes no impact on protected species • Newts, lizards and crawfish seen in the area.
General	<ul style="list-style-type: none"> • Important information not available: Floodplain Storage Strategy & Evacuation Plan • Caravans and mobile home still in place • No changes to the package treatment plant, not suitable for FZ3 • SP19 – on flooding ground alone the site is not suitable as a traveler site, posing a risk to life • The site does not pass the exception test • Disregard for planning and no regard for the local residents, through unauthorized works and occupation • Why should they have special dispensation, they should be subject to the same regulations as everyone else • Property devaluation • Static caravan now on site, making unauthorized occupation more permanent • Planning Department letting them get away with it, not abiding by the law, and are afraid to enforce • If the occupants want to be accepted by the community they should abide by the law and nt ruin the countryside, creating greater hatred • Do they pay Council tax? • It will not stop at 3 caravans, more will creep on and more and more land • Buy the land cheap, put a few caravans on, then eventually sell as prime building land • Over 12 months since work began on site • 6 months wait for latest FRA, a delay tactic to stay on site longer • Still no details or section to show the site level change and in relation to the adjoining property • Site not suitable for any development not just travelers • How is the planning system so ineffectual?

SSAC Comments to Re-Consultation sent 15/06/2022

Two sets of comments submitted on the updated FRA and Ecological Assessment with the second set submitted following the publication of the Floodplain Storage Strategy(FSS) and the Flood Warning and Evacuation Plan (FWEP)

The first set of comments included 5 appendices providing: floodwalls and flood embankment guidance, sustainable drainage Systems guidance, Sewage treatment solution information, population trends and article on water voles.

The second set of comments included 5 appendices providing: further photos of flooding events at the site and in the vicinity.

The SSAC asked an expert company (approved contractor to the EA) to assess the updated FRA, FSS and FWEP on their behalf.

Flooding	<ul style="list-style-type: none"> • The Floodplain Storage Strategy (FSS) and the Flood Warning and Evacuation Plan (EP) referred to the updated FRA are not provided and despite reference to it the SuDs drainage system design is not present. • Comments from expert advises that the first stage of a FRA I sto establish a true base line position which should consist of an assessment of a topographic survey before works start. This is not possible in this case as unauthorised ground works have been undertaken. • The entire FRA is based on desk research and uses LIDAR data and can be inaccurate. • The FRA has not used latest and best evidence, evidence of historical flooding is not reflected in the data relied upon in the FRA • The flood compensation measures identified in the FRA would create a void in the south of the site to offset ground raising in the north, but it is also necessary to compensate for the bunds proposed, as the FRA shows the soil bunds would remain unchanged and are unstable due to the form of construction, not suitable for the use and will wash away into the ditch courses during a flood event causing further flooding to adjacent land and property. • The lack of SuDs detail is unacceptable given the high risk of run off pollution • The FRA fails to deal with the suitability of the package treatment plant at this location in FZ3b. • The aggregates use to provide the ground cover contravene the the SuDs design standards with the likelihood of dust from the aggregate migrating to other parts of the site and causing blockages • The proposals would create a raised dry island in a floodwater lake, with flooding across the road access which in reality would divert floodwater elsewhere posing a risk to third parties and land owners • NPPG identifies the development as in the highly vulnerable category which should not be permitted in this FZ, reinforced by the need for the mobile homes to be tethered/anchored to the ground. • The FRA acknowledges that the amenity building will be subject to flooding • Despite numerous flood warning at the site the occupants did not vacate the site • Reality is that mayor flood events are a frequent occurrence and not isolated. • The FRA fails to identify that the close board fencing erected will prevent access to the northern watercourse and culvert preventing maintenance. The type of fencing is unsuitable as will contribute to diverting water and preventing flow into the storm culvert and watercourse • As the site abuts the River Tean the water table is permanently high and the site is never dry • The flood mitigation of site deep lowering in close to the river would not create an additional void as it would be permanently
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	<p>flooded with ground water, rather it should be lower and over a larger area</p> <ul style="list-style-type: none"> • On flood risk alone the site contravenes policy SP19 of The Local Plan • The FSS and FWEP lack credibility due to fundamental flaws and errors. • The mitigation proposals in the FSS fail to meet the EAs response regarding risk to life and property, visualizing a dry island in a lake. • The proposals in the FWEP are extremely dangerous, being ill informed and are not viable.
Ecology	<ul style="list-style-type: none"> • The submitted Ecological assessment has been assessed by SSAC who consider it has limited scope when measured against the very detailed surveys of the area carried out in the past. • Survey limited to a walkover survey on one day, limited scope and important issues missed and historical data in the public domain not researched • The survey states apart from nesting birds and possible otter movement along the river there were no other signs indicating the presence of protected species, this is incorrect. • Evidence of water voles along the river to the northern side boundary identified in a survey undertaken for a planning application on an adjacent site, in close proximity to the application site and the survey notes the presence of signal crayfish. • There is also evidence of 7 species of bats foraging across the site • The routine nighttime lighting at the site will disorientate the bat population • Otters are present in varying forms & disturbance should be avoided • Previous surveys of birds undertaken for public enquiry into land use and identified 87 species of birds in the Spath area with a substantial proportion on the red list, no reference to this survey is made • Potential devastating consequences for ground breeding birds and protected species by the proposed plans to lower the ground

6.5 Further comments received from SSAC

SSAC Comments received 10/10/2023

The comments include appendices of 3 Appeal decisions and articles relating to these. The three appeals provided relate to: 10 gypsy/traveller pitches, 7 gypsy/traveller pitches (with 7 day rooms) and 1 static caravan (one of 17 appeals concerning the development at the same site)

Traveller Appeals	<ul style="list-style-type: none"> • SSAC have undertaken a study of recent appeal decisions relating to Travellers. • It is recognized that each planning application is a specific case and should be judged accordingly, but appeal decisions provide valuable guidance. • The overriding theme in all three appeals provided (that were dismissed) is the harm found to the character and appearance to the countryside, damage to wildlife and to biodiversity.
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	<ul style="list-style-type: none"> • The inspector also attached significant weight to the intentional unauthorised development that had taken place, and that it was indisputable that the appellant sought to gain a major advantage by moving onto the site in breach of planning control. • Reference also was made to drainage matters.
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6.6 The second re-consultation following the receipt of amended plans and updated FRA and an amended description of the development, resulted in the receipt of 8 individual non standard letters

Neighbour Responses to Re-Consultation sent 13/11/2023	
Flooding	<ul style="list-style-type: none"> • This is still a high risk flooding area, which will not change • Caravans at a greater risk of flooding • The creation of a swale and raising the ground level at one end of the site will not benefit as the site is a flood plain • Climate change means more water in the future • The site has flooded and been evacuation 3 times in the last year • The site has flooded continuously historically • A change in ground levels will just send the water elsewhere • This is a flood plain, a water catchment for the whole area and should not be built on
General	<ul style="list-style-type: none"> • Development in any form should not take place in a high risk flood area • Site regularly has 6 touring caravans in excess of the 3 applied for, how will this be monitored in the future • The amenity block shows facilities for 4 families not the 3 applied for • Inaccuracies in the PA forms • Previous comments/objections still stand • Stables now introduced, what about stables waste, potential noise and mess • Noise and disturbance and light pollution at night • Hedge along PRW not maintained • Rubbish left around the area • Fencing prevents access to adjacent land for maintenance to the stream and hedging, could result in additional flooding • Two years on site now, all laws broken, so no trust from the community • Amenity block and stables will eventually become houses • Access to site on bend in a busy road and cars often parked outside of the site • Vehicle repairs in the road.

6.7 Further comments received from SSAC dated January 2024 and distributed by SSAC to all members of the Planning Committee

SSAC Comments received 09/01/2024	
The comments include appendices providing photos, plans and advice and an executive summary detailed below	
	EXECUTIVE SUMMARY

For the ESBC Planning Committee Meeting January 30th 2024
Submitted by the Stramshall & Spath action Committee (SSAC)

The application site lies in open countryside and is completely within a Flood Zone 3b. A number of prospective purchasers considered the land for grazing but were put off by the waterlogged nature of the site and frequent flooding which has occurred for many years past. This habitat, however, is essential for a wide range of wildlife.

The site had never been occupied before the unauthorised occupation by the applicant in October 2021. Following this ESBC issued a STOP notice, which was disregarded, and eventually the Council had to obtain a Restraining Injunction.

National Planning & Policy Guidance (NPPG) states that caravans, mobile homes and park homes should not be permitted in Flood Zone 3b as they are categorised as “Highly Vulnerable”.

In its letter to the Case Officer of 21 December 2023 the Environment Agency (EA) maintains its “In Principle” objection to the application.

Between October 1 2023 and 2nd January 2024, the EA issued 15 Flood Alerts or Warnings for the area including the site. The occupants had to carry out emergency evacuations on October 20th 2023 and January 2nd 2024. Another evacuation would have been necessary on November 2/3 but the site, on this occasion, was unoccupied as it was a school holiday period.

The EA was not aware of the detail of these flood events until notified by SSAC.

In the well over 2 years it has taken to bring this application to the Planning Committee the applicant has put forward a number of schemes to try to overcome objections by the EA. In the last Flood Risk Assessment (FRA), 4 proposals were put forward. 3 of these essentially proposed raising the park homes on stilts or allowing land owned by Staffordshire County Council, and carrying the only footpath to Uttoxeter from Spath, to flood. These were all rejected by the EA.

Additionally, raising the whole of the currently occupied section of the site was deemed impossible by the applicant’s consultant as Flood Plain Compensation (FPC) could not be achieved.

This latest proposal is to raise just a small proportion of the northerly part of the site. The applicant states (P3 of the FRA) “in an attempt to elevate the highly Vulnerable development out of Flood Zone 3b ground raising will be undertaken in the north of the site. A Floodplain Storage Analysis report has been prepared separately to ensure any flooding which is displaced is compensated for.”

It is accepted that the rest of the site (around 80%) will flood. The proposal is to site 3 park homes on the elevated section as well as an amenity room. Touring vans will have to be stored in the flood area, obviously requiring evacuation in flooding, and no overnight visiting would be possible for people using touring vans.

The core of the applicant’s proposal is stated on P5 of the FRA. It states:

“Ground levels in the north of the site will be raised on a podium level to 84.25 mAOD, which is above the 100 year flood level”.

By so doing the applicant claims that the elevated part of the site will be raised up out of Flood Zone 3b.

The Flood Plain Compensation scheme to offset this is in three parts

- Construction of a swale (ditch) around the western and southern part of the site
- Major ground lowering in the south west, causing a near sheer face next to the highly used public footpath into Uttoxeter
- Lowering of the river bank of the River Tean

All of the above is based on theoretical desk top studies. Please note that the applicant’s FRA was written before the flood events resulting in emergency evacuations of the site.

Following Flood Alerts SSAC commissioned a Professional Consulting Surveying Engineer, who is highly experienced in working with the EA and Local Authorities. The Engineer was able to carry out a real time analysis of the flooding of October 20th 2023. This is the ONLY real time analysis ever carried out on the site. The EA has never done such a survey.

In this document are shown the Engineer's findings. What happened in actuality was that flood water reached a verified level of 84.354 mAOD and rose further still towards peak flood. This meant that the applicant's 1 in 100 year level of 84.25 mAOD proposed for ground raising would have been totally under water. The ground cannot be raised further as it would compromise the FPC suggested.

Following this, the Engineer analysed the past photographs and video sent to the Case Officer, showing the extensive and frequent flooding of the site over the past 12 years. The Engineer's conclusion, using all the verified reference points measured, was that all these past events were likely to have been 1 in 100 year floods and the 2016 event was possibly a 1 in 1000 year event.

This, then, is not a site which floods occasionally, but rather one which is subject to extreme flood events and others year on year.

The EA was not aware that a real time analysis had been carried out before SSAC informed it on 28th December 2023.

In planning, the EA, sensibly, requires applicants to use its current data PLUS 31%, to account for future climate change.

However, as shown above, and in many places throughout the UK, Climate Change has accelerated the situation, with predicted 2050 rainfalls already happening. In short, for this site, like others, using EA data, the future has already arrived.

In this document it is shown that the proposed FPC proposals will not work and would have devastating impacts on protected wildlife such as 87 species of wet meadow breeding birds, many on the Red list, otters, bats and water voles. Inspectors to 2 Public Inquiries, specifically about Spath, having heard evidence from acknowledged UK expert witnesses, commented that the wildlife habitat there was of great importance and development should not be permitted.

The applicant has submitted an "artist's impression" of the layout proposed for the raised northern part of the site. However, this carries a disclaimer on measurements and scaling. SSAC commissioned detailed scale drawings, shown in this document, and these tell a very different story. Put simply, the park homes will not actually fit onto the much reduced site. The layout proposed does not meet Fire Regulations.

The Fire Regulations requirements have been verified with an experienced Fire Officer, Home Office, other authorised Traveller sites, 23 Local District Councils, Canterbury Gypsy Support Group, Communities and Local Government, Highways Agency and a range of Park Home sites. They are also defined in the updated Gypsy and Traveller Accommodation Assessment – July 2023 (GTAA).

There are more details in this Briefing Document.

Accordingly, approval of this application would be to approve a scheme in contravention of Fire Regulations with danger to life.

The applicant proposes primary and secondary evacuation routes from the site. Shown in the report are the realities of the extreme danger of these proposals and which the current proposal for land raising worsens.

The EA, in its letter to the Case Officer 21 December 2023, and previously, has drawn attention to pollution risks from the buried sewerage package plant. SSAC expands on this in this report as the package plant proposed is not fit for purpose in a flood zone.

This application introduces, for the first time, the concept of a Pony Paddock and stables. Staffordshire County Council lawyers have ruled that there is no vehicular entrance/ exit to this part of the site and the EA has warned of the dangers to horses in flood conditions. The FWEP makes no mention of evacuation procedures.

Government Inspectors, when refusing Appeals, (where Local Authorities have refused applications), have attached significant negative weightings to intentional unauthorised development, as has happened here. The report cites examples and the Case Officer has the detailed Inspector's reports.

This report concludes that the application:

- Does not pass the Exception Test

<ul style="list-style-type: none"> • Fails to satisfy EA objections, as the elevated section of the site is not taken out of Flood Zone 3b and the FPC will not work • Contravenes Fire Regulations • Contravenes NPPG • Fails to meet the selection criteria laid down in SP19 of the ESBC Local Plan • Is dangerous to life and property • Would devastate the habitat of endangered and protected wildlife • Could cause pollution due to the package plant not being fit for purpose in a flood zone

6.8 The third and final re-consultation following the receipt of an updated FRA and amended block plan, resulted in the receipt of 5 individual non standard letters and comments from SSAC

Neighbour Responses to Re-Consultation sent 06/02/2024	
Flood Risk	<ul style="list-style-type: none"> • Swale and raising of ground level at one end of the site will not benefit the site as it is all flood plain • More water with climate change, it needs to go somewhere • Site has been evacuated and flooded 3 times in the last year and historical flooding events over years • Package treatment plant will not solve the waste water situation, flood water will push the tank up of the ground, spilling its contents and it will end up in the river. • The site is a flood plain and should not be developed, will just push flood water elsewhere • The measures proposed to mitigate the risk but will not prevent flooding • The occupiers of the touring caravans on site know about the emergency procedures?
General	<ul style="list-style-type: none"> • Not a great idea for stables on the site as insufficient room for exercising which may result in horses on the road causing a danger to motorists • 3 caravans shown on the lower level area as well as 3 on the upper level and a static home, how will the numbers be monitored • All retrospective, already done the work and moved onto the site • Occupants flouting the law • The site should be vacated and put back to how it was • Anger in the village growing as the site still occupied after all this time • Development will ruin the countryside • A puppy loose is a danger to highway users, the gates should be kept shut to prevent this • Better screening of the site would be preferable • The static home gives a poor appearance to the site.

SSAC Comments to Re-Consultation sent 06/02/2024	
The comments include a diagram, photo and copy of the submitted plan	
	<ul style="list-style-type: none"> • Comments should be considered in context of the detailed objection submitted January 2024

- The site lies in open countryside and sits in FZ3b.
- Previous prospective purchasers of the site for grazing purposes were put off by the waterlogged nature of the site and frequent severe flooding over many years.
- The wet habitat is however essential for wildlife
- The site was not occupied prior to the occupation by the applicant in October 2021
- Following unauthorised works at the site the Council issued a Temporary Stop Notice and later an Injunction to prevent further works on site.
- The NPPG advises that caravans, mobile homes etc are categorised as Highly Vulnerable development that should not be permitted in FZ3b
- Policy SP19 identifies that Gypsy & Traveller sites must not be at risk of flooding
- The EA maintain their 'in principle' objection
- Between 01/10/2023 and 21/12/2023 the EA issued 18 flood alerts or warnings for the area
- The occupants had to carry out emergency evacuation on 20/10/2023 and 02/01/2024 and a further evacuation would have been necessary on 02/03/2024 but the site was not occupied at the time.
- Following Flood alerts/warnings, the site has suffered either extensive flooding
- Historic evidence of regular flooding at the site
- The EA were not aware of the flood events until notified by SSAC in December 2023
- Approaching 3 years since work started on the site, in this time the applicant has put forward a number of schemes to try and overcome the EA objections, but have been rejected by the EA
- The latest scheme proposes to raise a small portion of the northern part of the site for the 3 park homes and amenity building with the acceptance of the applicant that the rest of the site will flood, where touring vans will be parked, so will require evacuation in flooding.
- The EA do not support additional touring caravans for occupation or overnight accommodation.
- It is hard to reconcile the number of occupants of the site and the size of the park homes proposed, the home on site currently is larger than shown.
- There are currently 7 units on site, 1 x park home and up to 6 touring caravans, there appears a mismatch between the number of occupants and the size of the accommodation proposed
- The ground level will be raised at the northern end and the flood compensation for this include:
 - Construction of a swale, but the ditches in the vicinity are already full in heavy rain
 - Major ground lowering in the south west causing a near sheer face next to the highly used public footpath
 - Lowering of the river bank of the River Tean
 - All this is based on theoretical desk top studies
- The FRA contains wide ranging caveats

	<ul style="list-style-type: none">• Real time analysis of flooding took place 20/10/2023 a when the site had to be evacuated, a real time analysis has nt been done by the EA• Raising the FFLs of the static caravans to 85.05mAOD will mean that flood water will surround and pass under the units leaving them cut off, recognized by the requirement for them to be tethered to the ground.• Raising the units 'on stilts. Goes against the advice of the EA in previous comments, that such techniques should not normally be relied on for compensating for any loss of floodplain storage.• The road level will be higher than the planned height of raised ground and the road floods badly in heavy rain, resulting in water entering the site. The site is subject of flooding from the road and raised river levels.• Flooding over the last 12 years has been analysed and past events are likely to be 1 in 100year floods whilst the 2016 event was possibly 1 in 1000 year event.• The EA requires applicants to use current data plus 31% to account for future climate change, but we are already at predicted 2050 rainfall levels with climate change getting worse.• The size of the units proposed will fail to meet the required separation distances for Fire Regulations, with a danger to life• PAs P/2023/00491 & P/2023/00492 look to provide 6 traveller pitches on each site in place of approved houses, these would satisfy the 5 year supply required by the GTAA• The floodplain compensation proposals would not work and would have devastating impacts on protected wildlife, as identified in previous comments re birds, water voles, otters and bats• Whilst it is recognized that the application was submitted prior to Feb 2024, its clear that the proposals would fail the new BNG legislation as the proposals would destroy habitat on a massive scale.• The proposals include the placing of a fence inset from the River but ignores the devastation to wildlife of lowering the river bank• The evacuation routes proposed would not work and the amended proposals would divert rainwater down a ramp within the site to the very point of exit in an emergency and there would be no room to move the touring caravans to the higher part of the site so off site evacuation would be required.• A trigger pint of 84.0mAOD is recommended but the real time analysis shows that this would be too late as the exit would already be under water.• The EAs letter of 21/12/ 2023 identifies that the occupants will have to walk through flood water to reach land above the design flood level.• The EA have previously raised the issue of pollution risks• The latest plan now introduces a pony paddock, there is no vehicle access to this part pf the site and the EA warned of dangers to horses and stables in flood conditions. The FWEP ignores horse evacuation.• The EA advise that a Flood Risk Activity permit will be required for fencing other than post and rail/wore fencing
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| | <ul style="list-style-type: none"> • In recent appeals inspectors have given weight to intentional unauthorised development, which has happened in this case |
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7. Policy Framework

National Policy

National Planning Policy Framework

National Planning Policy Guidance

Planning Policy for Traveller Sites (PPTS) (DCLG August 2015)

Local Plan

SP1: East Staffordshire Approach to Sustainable Development

SP2: Settlement Hierarchy

SP8: Development Outside Settlement Boundaries

SP18: Residential Development on Exception Sites

SP19: Sites for Gypsies, Travellers and Travelling Showpeople

SP24: High Quality Design

SP27: Climate Change, Water Body Management and Flooding

SP29: Biodiversity and Geodiversity

SP35: Accessibility and Sustainable Transport

DP1: Design of New Development

DP3: Design of New Residential Development, Extensions and Curtilage Buildings

Supplementary Planning Documents

East Staffordshire Design Guide

Car Parking Standards

Other Legislation

Caravan Sites & Control of Development Act 1960, Section 29;

This provides that a ‘caravan’ means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.

Caravan Sites Act 1968, Section 13;

This expands the definition of a caravan stating that it must be composed of not more than two sections separately constructed and assembled on site by bolts, clamps or other devices; and when assembled, physically capable of being moved by road from one place to another, and not to exceed any of the following limits-

(a) length (exclusive of any drawbar): [65.616] feet ([20] metres);

(b) width: [22.309] feet ([6.8] metres);

(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): [10.006] feet ([3.05] metres).

Derby, Derbyshire, Peak District National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment Report July 2023

Following endorsement by the relevant Councils, this document will be published in the coming weeks. References in this report relate to the section relevant and specific to East Staffordshire Borough Council as these have been adopted on 18/09/2023 by the Council.

8. Principle of Development

- 8.1 The site sits outside of the settlement boundary where Policy SP8 of the Local Plan will apply. The policy identifies 9 exceptions where development may be acceptable in principle outside of the settlement, Gypsy and Traveller sites are not identified as one

of the exceptions, but the policy does support development 'otherwise appropriate in the countryside'.

- 8.2 Policy SP19 of the Local Plan relates specifically to sites for Gypsies, Travellers and Travelling Showpeople and supports proposals for Gypsy and Traveller sites subject to 8 criteria being met:
1. *The site affords good access to local services including schools;*
 - There are 6 primary schools within 1.8km of the site and all school age children on the site now attend one of the 6 local schools.
 - The closest bus stop to the site is approx. 270m to the south of the site on the opposite side of the A50 roundabout which provides routes to Uttoxeter.
 - The closest GP surgery sits approx. 1.7km from the site and the residents at the site are now registered at this surgery.
 2. *The site is not at risk of flooding or adjacent to uses likely to endanger the health of occupants such as a refuse tip, sewage treatment works or contaminated land;*
 - The site sits within Flood Zone 3b where there is the highest risk of flooding and the proposed use for caravans intended for permanent residential use are classed as 'Highly Vulnerable'. A Flood Risk Assessment has been submitted and assessed by the Environment Agency and this issue is discussed under Section 9 Flood Risk below.
 - The surrounding land does not appear to be contaminated or appear likely to endanger the health of the occupants
 3. *The development is appropriate in scale compared to the size of the existing settlement;*
 - The proposals would allow three families to continue living at the site, with 6 adults and 15 children, given these numbers it is considered that the scale of the development would not dominate the nearest community (the hamlet of Spath) or the closest settlement of Uttoxeter or place undue pressure on local infrastructure
 4. *The development will be able to achieve a reasonable level of visual and acoustic privacy both for people living on the site and for those living nearby;*
 - Given that the site is for three residential pitches only and the separation distance to surrounding residential properties, the occupation of the site is unlikely to have any significant adverse impact on the amenities of surrounding occupiers in relation to noise or disturbance.
 - There is existing trees and hedging to the northern boundary with Four Winds that ensure minimal views and protect the privacy of the occupiers of the site and the occupiers of Four Winds.
 - The existing boundary hedging and trees would be retained, ensuring minimal views of the site from the public realm.
 5. *The development will provide a high quality frontage onto the street which maintains or enhances the street scene and which integrates the site into the community;*
 - Given the existing boundary hedging and trees to the road frontage and to the northern boundary with Four Winds are to be retained, the accommodation would be well screened from the road and the adjoining property therefore the proposals are unlikely to have any significant adverse impact on the visual amenity of the area and the street scene.
 6. *The development will be well-laid out to provide adequate space and privacy for residents;*
 - The proposed amended layout would provide all 3 static caravans and the shared amenity block at the northern end of the site, with vehicle parking and touring caravan storage on the southern area of the main site allowing sufficient space for the residents and for parking and manoeuvring.

- The front boundary hedging would provide continued screening of the site allowing continued privacy for the future occupants.
7. *The development complies with relevant national planning policies;*
- It is considered that the relevant national planning policies for the development proposed are set out in paragraphs 22 – 28 of the PPTS which states that Local Planning Authorities should consider or attach weight to the following matters:
 - *Very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan (paragraph 25).*
Whilst the site sits outside of settlement boundary it sits within the hamlet of Spath and in walking distance to local services and facilities within Uttoxeter town. (see 1. above);
 - *Sites should respect the scale of, and not dominate the nearest settled community, and should avoid placing an undue pressure on the local infrastructure (paragraph 25) – (see 3. Above);*
 - *Weight should be attached to effective re-use of brownfield land, untidy or derelict land (paragraph 26);*
The proposals fail to comply with this, the site was green field, but with a previous planning consent for use as a recreation area.
 - *Weight should be attached to sites which positively enhance the environment for example by soft planting (paragraph 26); (see 5. above)*
 - *Weight should be attached to promoting opportunities for healthy lifestyles, such as provision of adequate landscaping and play areas for children (paragraph 26);*
The site includes a paddock to the south of the main site and the provision of stables within the paddock for the keeping of horses.
 - *Weight should be attached to not over enclosing or isolating a site with hard landscaping, walls and fences (paragraph 26).*
All the existing boundary hedging, trees and fencing would be retained. Whilst hardstanding has been provided to the main site the paddock to the south will be retained and additional tree planting and landscaping provided.
8. *The development complies with the other relevant policies in this Plan.*
- These include Policies SP2, SP8, SP24, SP29, SP35, DP1 & DP3 which are discussed later on this report.

The proposals fail to comply with points 2 and 7 of SP19 relating to flooding and compliance with the NPPF specifically in terms of flood risk. Flood Risk is considered in full under Section 9 of this report below.

- 8.3 At the national level, both the National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS) (2015) are relevant. Paragraph 4 of the framework states it should be read in conjunction with the Government's PPTS and that decisions on Traveller sites should also have regard to the Framework, where relevant.
- 8.4 The PPTS sets out the Government's overarching aim 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. The PPTS includes policies on plan-making and on decision-taking.
- 8.5 Paragraph 23 states that local planning authorities should determine applications in accordance with the presumption in favour of sustainable development and the policies in the NPPF and PPTS.

- 8.6 Paragraph 24 states that when considering planning applications local authorities should consider the following:
- a) The existing level of local provision and need for sites
 - b) The availability (or lack) of alternative accommodation for the applicants
 - c) Other personal circumstances of the applicant
 - d) The locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
 - e) That they should determine applications for sites from any Travellers and not just those with local connections.
- 8.7 Paragraph 25 states that local planning authorities should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Sites should respect the scale of, and not dominate the nearest settled community, and should avoid placing an undue pressure on the local infrastructure.
- 8.8 Paragraph 26 requires weight to be attached to factors such as:
- a) Effective re-use of brownfield land, untidy or derelict land;
 - b) Sites which positively enhance the environment for example by soft planting;
 - c) Promoting opportunities for healthy lifestyles, such as provision of adequate landscaping and play areas for children
 - d) Not over enclosing or isolating a site with hard landscaping, walls and fences
- 8.9 Paragraph 27 of the PPTS sets out that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable Traveller sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permissions. Exceptions to this include proposals on land designated as Green Belt, SSSI's, Local Green Space and AONB's.
- 8.10 In terms of the need for Gypsy and Traveller pitches. Paragraph 9 of the PPTS states local planning authorities should set pitch targets which address the likely permanent and transit needs of Travellers in their area and Paragraph 10 states that when producing their Local Plan, local planning authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Local planning authorities should also identify a supply of specific developable sites, or broad locations for growth, for years 6 to 10 and, where possible for years 11 to 15. The PPTS states that the existing level of local provision and the need for sites are relevant in the consideration of planning applications.
- 8.11 East Staffordshire Borough Council (together with Derbyshire County Council, Amber Valley Borough Council, Bolsover District Council, Chesterfield Borough Council, Derby City Council, Derbyshire Dales District Council, High Peak Borough Council, North East Derbyshire District Council, the Peak District National Park Authority, and South Derbyshire District Council) commissioned a Gypsy and Traveller Accommodation Assessment (GTAA) which, following endorsement by the relevant Councils, will be published in the coming weeks. ESBC Cabinet agreed the content of the Assessment in relation to ESBC at their meeting on 18th September 2023. The GTAA assesses the need for Traveller pitches between January 2020 and December 2040.
- 8.12 The GTAA provides two need figures - one based on the ethnic identity definition, the other based on the needs of families who have not permanently ceased to travel (i.e. based on the PPTS 2015 definition). In the five years from January 2020 to December

2024, the GTAA identifies a need in East Staffordshire for either 8 Traveller pitches (based on the ethnic identity definition) or 7 pitches (using the PPTS definition). In the period 2025 – 2030 the identified need is for a further 3 pitches (both definitions). In the period 2030 – 2035 the need increases by a further 3 pitches (both definitions), and between 2035 – 2040 the need increases by a further 4 pitches (ethnic definition) or 3 pitches (PPTS definition).

In light of the Lisa Smith Court of Appeal judgement, it is considered that the accommodation needs for those who meet the ethnic definition should be used to inform decision making.

Under the GTAA there is therefore a requirement to provide 8 Gypsy/Traveller pitches in the period 2020 – 2024 within ESBC.

- 8.13 A recent planning approval of application P/2021/00373 granted consent for 2 pitches on a family site in Craythorne Road in Rolleston. This consent therefore reduces the identified need by 2 pitches. ESBC currently have two privately owned gypsy/traveller sites that have been in situ for a number of years providing 24 pitches, all of which are occupied with no vacancies. There are currently three applications for gypsy/traveller pitches in Burton Upon Trent but these have not yet been determined and are being proposed by separate applicants. Therefore at the point of determining this application and based on the 2023 GTAA evidence, ESBC cannot currently demonstrate that it has a 5 year supply of pitches, with a shortfall of 6 pitches against the minimum pitch supply figure. The 3 pitches in the current application would leave a shortfall of three pitches in the period up until 2025.
- 8.14 The PPTS states that new traveller sites in open countryside should be strictly limited when they are situated away from existing settlements. In this case whilst the site is situated outside of the settlement boundary, its sits adjacent to a residential dwelling on the edge of the hamlet of Spath, the site is not isolated from other development but forms the end stop to development within the hamlet. The small scale of the development for only 3 pitches does not dominate the hamlet and does not place undue pressure on the local infrastructure, in compliance with the PPTS. The size and location of the site complies with the criteria identified in Policy SP19 of the Local Plan. It is therefore considered that the proposals would comply with both National and Local Policy in terms of the provision of Gypsy/Traveller accommodation.
- 8.15 The SSAC have cited 3 recent appeal decisions on Gypsy/traveller sites where the Inspector has dismissed the appeals. Each case is however determined on its own merits but it should be noted that each of the cases cited are for much larger general gypsy/traveller sites (7, 10 and 1 of 17 pitches respectively) in open countryside. The current proposals are for a much smaller family site of 3 pitches on a site on the edge of a hamlet. The GTAA offers guidance on the appropriate location for Gypsy and Traveller sites and concludes that smaller sites are preferred by Gypsy and Travellers due to better management and maintenance of provision and security. This is supported by Staffordshire Police who have raised no objections providing that the 3 pitches are occupied by one extended family and that the 3 caravans belong to the same family group.
- 8.16 Objectors consider that the development fails to comply with Local Plan policy SP18. This refers to residential development on exception sites and indicates that if there is evidence of need for new affordable housing or Traveller pitches which will not otherwise be met, permission may be granted for a small development to specifically meet that need, on a site outside of settlement boundary, subject to certain criteria. In this case the updated GTAA provides evidence of a need for further gypsy/traveller pitches within the Borough, the site is close to the Uttoxeter settlement boundary and on the edge of a hamlet, the scale of the development at only 3 pitches is appropriate

given the size of the settlement and a condition is recommended to ensure that the site shall only be occupied by gypsies and travellers, in compliance with Policy SP18.

9. Flood Risk

- 9.1 In line with the Flood Risk Assessment (FRA), and best available information at this time, the site is located within Flood Zone 3b (functional floodplain). As defined by Table 1 of the Flood Risk and Coastal Change section of the National Planning Policy Guidance (NPPG) 3b is the highest risk flood zone, which comprises of 'land where water from rivers or the sea has to flow or be stored in times of flood' and generally defined as 'land having a 3.3% or greater annual probability of flooding.
- 9.2 Annex 3 of the NPPF classifies development types according to their vulnerability to flood risk. Caravans, mobile homes and park homes intended for permanent residential use are classed as 'Highly Vulnerable'.
- 9.3 The Environment Agency have raised an 'in principle' objection to the development in accordance with Table 2 of the NPPG (Flood Risk and Coastal Change section), the proposed use ('highly vulnerable' caravans for permanent residential occupation) in Flood Zones 3a and 3b 'should not be permitted'. Only 'Essential Infrastructure' and 'Water Compatible' uses should be permissible within 3b. It is also considered that the proposal is contrary to policy SP19 – Sites for Gypsies, Travellers and Travelling Showpeople in the East Staffordshire Local Plan. This states that proposals will be supported where the site is not at risk of flooding.
- 9.4 Whilst the Environment Agency have raised an 'in principle' objection to the proposals, their original comments (November 2021) also included details of how the applicant could overcome their initial detailed objections. They have since worked with the applicant to seek a flood risk solution to overcome their detailed objections (including a site meeting) and this has resulted in the submission of a final Flood Risk Assessment dated 31-01-2024 and further consultation responses from the EA who have maintained their in principle objection.
- 9.5 As the site sits within Flood Zone 3b the NPPF requires a sequential test to be undertaken.
The purpose of the sequential test is to steer new development towards areas with the lowest risk of flooding (NPPF, 2023). Reasonably available sites located in Flood Zone 1 should be considered before those in Flood Zone 2 and only when there are no reasonably available sites in Flood Zones 1 and 2 should development in Flood Zone 3 be considered. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. The Strategic Flood Risk Assessment for the Local Plan does not make any specific reference or assessment of this site.
- 9.6 The FRA concludes that ESBC have no private or Council sites available with gypsy/traveller consent

In terms of a search area, given tht there are a number of children on site that attend school, it is useful to consider the Staffordshire County Council '**Under 16 Education Travel Policy**' which advises that the walking distance for the purposes of the home to school travel policy is:

- up to 2 miles for children in year 6 and below
- up to 3 miles for children in year 7 to year 11

- 9.7 It is the view that there are no alternative sites, either available or with planning permission within this search area where the provision of 3 traveller pitches and associated facilities could be provided. It is also noted that the applicants work is

based in the local area with a work base situated in close proximity to the application site. It is therefore considered that the sequential test has been met.

- 9.8 Where a sequential test has been met there is a need to apply the 'Exception Test'. For the Exception Test to be passed it must be demonstrated that the development would provide wider sustainability benefits to the community that outweigh flood risk and a site-specific FRA must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 9.9 Granting permission for the use of the site as a gypsy and traveller site would have sustainability benefits to the three families in question, providing a settled base for their children to attend school and for all family members to have access to services, including health care. The three families on the site would be likely to have to relocate to a roadside should permission not be forthcoming which would not be in the public interest to have families with young children living on the road with no access to drainage or facilities to store waste, etc. and restricted access to schools and healthcare. It must also be recognised that the Council have no gypsy/traveller pitches available to offer to the applicant and his family.

However the specific requirements of the exception site are covered below.

- 9.10 The application of the Exception Test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:
- (a) the development would provide wider sustainability benefits to the community that outweigh the flood risk;*
- The use of the site as a residential gypsy/traveller site would have sustainability benefits to the three families in question, providing a settled base for their children to attend school and for all family members to have access to services, including health care. The three families on the site would be likely to have to relocate to a roadside should permission not be forthcoming which would not be in the public interest to have families with young children living on the road with no access to drainage or facilities to store waste, etc. and restricted access to schools and healthcare. It is also noted that one of the children on site is waiting for heart surgery and will require stable accommodation to recuperate following the surgery.

(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The Environment Agency are now content that the flood risk solution proposed in the latest FRA (31-01-2024) shows that the proposed development can be made safe (increase in floor levels) and that there will be no impact on third parties from the development, once the proposed mitigation is implemented. The revised layout of the site ensures that the most vulnerable elements of the site, the 3 static caravans and the amenity building are located together in the most northerly raised part of the site, with an increased floor level. The less vulnerable uses, ie vehicle parking and touring caravan storage will be situated at a lower level, but where they can easily be moved from the site, with the site access situated within the higher level.

Both elements of the exception test should be satisfied for development to be allocated or permitted.

- 9.11 When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be

allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- (b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed; and
- (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

9.12 The updated and most recent FRA provides the following proposed flood risk mitigation measures:

- The revised layout and levels of the site to ensure that the static caravans and amenity building (the most vulnerable part of the development) are situated on the highest land and less vulnerable uses set at a lower level ie vehicle parking and touring caravan storage. This element of the site would remain at its current level of 83.6 – 83.8mAOD, whilst the most northerly element for the static caravans would be raised to a level of 84.25mAOD
- The site access would be situated within the higher level
- The finished floor levels of the static caravans will be raised to 600mm above the design flood level at 85.05mAOD the amenity building FFL will sit at 84.65mAOD 200mm above the design flood level as the building will be constructed with resilience measures.
- The existing earth bunds to the west and south of the fenced site will be removed and replaced with a new swale which will connect the northern watercourse and culvert to the culvert that sits towards the centre of the site and runs east under the footpath and old road.
- The existing close board fencing will be replaced with double sided vertical slat fencing to allow water flow
- Updated floodplain storage areas which are based on a Floodplain Storage Strategy that provides full calculations to confirm existing and proposed land forms. This will result in regrading of the land to the south, south east and south west of the paddock area
- Regrading of the landscape closest to the river bank to enhance the ecological and biodiversity of the area, with open post and wire fencing to prevent any grazing horses from entering this area
- Repositioning of the horse stables to the highest ground level, constructed in an open design to allow water flow and tethered to the ground. Horse evacuation included in the updated Flood Warning and Evacuation Plan
- Construction Method Statement
- Temporary compound to be provided during construction stage
- Flood Warning and Evacuation Plan
- Recommendations to ensure that the culverts/swale are maintained throughout the lifetime of the development

9.13 The EA in their final comments are content that the development can be made safe and there will be no impact on third parties from the development once the proposed mitigation measures are implemented. The applicant is fully aware of their requirement to implement the mitigation measures and has agreed to a condition to ensure the submission of a Construction Method Statement and Programme of Works.

9.14 The ESBC's Emergency Planner agrees with the EAs 'in principle' objection as the site sits within the highest risk flood zone and that the structures are deemed as highly

vulnerable and has concerns about the potential support the site/occupiers may require from the Council and emergency services if a flood incident occurs. It should however be noted that the EA is content that the flood mitigation measures proposed would reduce the threat of flooding to the site. It is noted that although the site was evacuated during storm Babet in October 2023, the occupants were self-sufficient and did not rely on the emergency services or the Council for any assistance.

- 9.15 Since the site has been occupied the site has flooded on more than 1 occasion, but only once to the extent that the occupiers evacuated the site for a few hours. Despite the level of water on the site during this flood event the static caravan and the shower/WC unit on site remained in situ and there is no evidence of any water ingress into these units due to the height at which they sit. It should also be emphasised that the site flooded whilst there were no appropriate mitigation measures in place, as now proposed. Indeed the flood event highlighted to the applicant that the earth bund and close board fencing did in fact prevent water flow across the site to the culverts and has emphasised the need for the proposed mitigation works.
- 9.16 Whilst it is recognised that the site flooded there is no evidence that this caused any additional flooding to surrounding land or properties. Whilst photos of flood events in the past have been submitted, which include flooding of the site and Stramshall Road, the EA are content that the provided the flood mitigation measures proposed are fully implemented the occupants of the site will be safe and that the occupation of the site will not impact on third parties.
- 9.17 In response to comments made by objectors and SSAC, it must be recognised that all comments made prior to 31/01/2024 do not take into consideration the latest plans, FRA and mitigation measures. It is noted that the SSAC and the MP have had direct correspondence with the EA and have shared their research so that the EA were fully informed.

10. Design and Impact on the Character and Appearance of the Area

- 10.1 The proposals would provide 3 residential pitches comprising 3 static caravans and a single shared amenity block, together with a bin store on the northern element of the site with storage for associated touring caravans and car parking space on the lower southern element of the main site. Facilities for the storage of associated touring caravans and an amenity building are recognised nationally as appropriate ancillary provision for residential gypsy pitches. This allows for storage of a touring caravan, to be used by the residents when they go on the road and the amenity building provides bathroom, utility for washing etc, a communal kitchen, dining area and day room.
- 10.2 The agent has confirmed that the size of the static caravans would comply with the Caravan Sites Act 1968 and a condition is recommended to restrict the size of the units as such. The size of the proposed amenity building at 15m x 8.22m (123.3sqm) and 4.2m maximum height and the proposed materials are considered appropriate for the site and to provide the appropriate shared facility and level of accommodation required.
- 10.3 The static caravans and amenity block would be provided on the raised ground at the northern end of the site in close proximity to the site access with the majority of the site screened from full views by the existing mature boundary hedging to the road frontage and the 1.8m high boundary fencing (existing to be modified). The only full views of the site would be limited to the site access, which is the only break in the boundary hedging.

- 10.4 The revised site layout allows for the land at the northern end of the site to be raised for the siting of the caravans and amenity building and lowering of the remainder of the main site including the provision of a ramped access to allow for access and storage of vehicles and touring caravans.
- 10.5 The existing mature hedging to the eastern boundary of the site would be retained and would continue to screen the site from Stramshall Road and its junction with Ashbourne Road. The close board boundary fencing already in situ will be replaced with double sided vertical slat panels as part of the flood risk mitigation works and will continue to provide screening of the site from the land to the south and west. It is therefore considered that the proposals would have no significant adverse impact on the visual amenity of the area. It is recognised that whilst the site does sit outside of the settlement boundary, it forms the end stop of the hamlet of Spath, with a residential property and series of outbuildings of the former nurseries set immediately to the north of the site, the site cannot therefore be regarded as an isolated site in the countryside, but rather sits within an existing hamlet.
- 10.6 Tree planting is proposed to the south of the new swale on the northern boundary of the paddock, which will in time screen the boundary fencing and the site from the land and river to the south.
- 10.7 The Government's "Designing Gypsy and Traveller Sites Good Practice" (2008) which was cancelled when the Government published "Planning Policy for Traveller Sites" was based upon extensive research with the Gypsy and Traveller communities and contained considerable detail relating to site specific considerations, including extent of hardstanding, parking spaces, amenity block and amenity/garden area. January 2021 saw the publication of "Places to be proud of" by the National Policy Advisory Panel on Gypsy and Traveller Housing which provides guidance on site design and facilities. Whilst the site layout has been amended during the course of the application to remove individual pitches and amenity buildings, to the current proposed layout with all the static caravans and one amenity building in the northern element of the site, the site layout, hardstanding and amenity block proposed are in line with this guidance.
- 10.8 Whilst the design and layout of the site does not now provide individual pitches as is the normal scenario for gypsy/traveller sites, the layout is what is required to provide appropriate flood mitigation and is accepted by the applicant. Comments have been made regarding separation distances and fire regulations, it is considered that there is sufficient room on site to ensure the 6m separation requirement is met. It should be noted that the size of the caravans on the plans is indicative only, as mentioned at 4.6 above, the size of the caravans to be sited will conform to the definition of a caravan within Section 13 of the Caravan Sites Act 1968. Comments have also been made about the number of caravans on site at various times in breach of the injunction, as indicated in the history section above at 3.3 the Injunction included **or with the express written consent of the Council**. The planning department have been kept informed of changes on site by the applicant/agent and have given consent for additional caravans and work on site as and when considered appropriate. There is no requirement for the planning department to notify neighbours of all changes approved. The design and layout of the site is considered acceptable and the use of materials and retention of existing boundary hedging is considered appropriate and in line with policy SP24 of the Local Plan.
- 10.9 Landscaping and ecology enhancements are required within the pasture area and conditions are recommended to ensure implementation. Further details provided in Section 13 below.

10.10 Objectors have raised concerns regarding the safety implications of having gas bottles on site. Many properties in rural areas and large caravan sites utilise gas bottles with the same low risk involved provided that the bottles are stored upright in a well ventilated position and away from sources of heat or ignition they are considered to be safe.

11. Residential Amenity

- 11.1 The closest residential property to the site is set adjacent to the northern boundary of the site, Four Winds, a two storey dwelling set on the frontage with a series of associated outbuildings set to the rear, formerly a nursery. Whilst the site sits in close proximity to the dwelling, the boundary fencing and a culvert sit between the two properties. The site access sits approx. 20m from the site boundary with Four Winds, ensuring that any coming and going of vehicles to the site would have no significant adverse impact on the amenities of the occupiers of Four Winds.
- 11.2 Given the position of the dwelling at Four Winds, facing the road the occupiers would not have any direct views of the site and there would be no loss of privacy to the occupiers.
- 11.3 There is mature trees and landscaping along the southern boundary of Four Winds, which ensure no views of the site from the property or any loss of privacy.
- 11.4 The proposed static caravans and amenity building would be single storey only and would be well screened from the road and from Four Winds by the existing boundary hedging and proposed fencing.
- 11.5 Given the small nature of the site for 3 families only and the position of the house in relation to the site, it is considered that the impacts of noise and disturbance to the occupiers of Four Winds is likely to be low and no greater than that of a large family home. It is recognised that objectors have raised the issue of light nuisance throughout the night, a condition is recommended to ensure that any external lighting details are submitted for approval prior to installation.
- 11.6 Brooklands House is set to the north east of the site on the opposite side of Stramshall Road and sits approx. 120m from the application site access. The property is completely screened from Stramshall Road by existing mature hedging and trees at the back of the highway, with only a narrow vehicular access allowing glimpsed views of the property from the road. It is considered that the development would therefore have no significant adverse impact on the amenities of the occupiers of Brooklands House.
- 11.7 The access to Carlton Manor sits approx. 100m to the north of the site access with the dwelling and farm buildings set approx. 230m back from the road to the west. Given the separation distance and the intervening dwelling and buildings at Four Winds the development would have no significant adverse impact on the amenities of the occupiers of Carlton Manor.
- 11.8 There are further residential properties within Stramshall Road further north of the site within the Spath hamlet (approx. 20 properties in total within Spath) and whilst the residents utilise Stramshall Road for access onto Ashbourne Road, it is considered that the proposed development would have no significant adverse impact on the amenities of the existing occupiers.
- 11.9 It is recognised that when the applicant started work and first moved onto the site in 2021 there was a number of complaints and the police did visit the site. The police have confirmed that the call outs were not associated with any allegations of criminal

offences. They have also confirmed that there have been no recent call outs to the site. The initial illegal water supply was removed and the applicant had a formal water supply installed in association with South Staffs Water.

12. Highway Matters

- 12.1 The Highway Authority have raised no objections to the proposals subject to conditions to ensure that the site is appropriately hardsurfaced and drained, the access is an appropriate width, has an acceptable visibility splay and that there is no business use at the site.
- 12.2 The development would utilise the existing vehicle access, previously a gated field access with the gate set at back of the road. Highways have indicated that the access should be widened from the existing 3.6m to 4.1m to allow two vehicles to pass each other, ensuring no vehicle would need to wait on the highway whilst another vehicle leaves the site. The proposals include a new bellmouth wall and gates set back 5m, to replace the temporary set back gates and fencing either side of the access. It should be noted that Brooklands House and other residential properties set to the north of the application site have gated access drives, so a gated access is not out of character with the area. The set back position of the gates ensure that a vehicle can sit clear of the highway whilst the gates are opened
- 12.3 In terms of sustainability the site sits within what is considered to be a reasonable walking and cycling distance to various facilities and there are segregated cycle and pedestrian routes to a good number of facilities providing safe and attractive alternative options for travel other than by car.
- 12.4 It is noted that Stramshall Road has a 40mph speed limit outside of the site, but that the sharp bend in the road does reduce the speed of vehicles.
- 12.5 Three residential units could generate 24-30 vehicular movements a day, but it is unlikely that the use will have a severe impact on the capacity of the local highway network. Given the existing traffic from Spath that already uses the road and the junction with Ashbourne Road, the proposals are unlikely to have any severe impact on the highway network.
- 12.6 The site layout provides sufficient space for the parking and manoeuvring of vehicles associated with the residential units and for the parking and storage of touring caravans to support the development and in compliance with the Parking Standards SPD.

13. Landscaping and Ecology

- 13.1 Given the small nature of the site and the development and the retention of the existing hedging and trees to the boundaries, it is considered that the proposals would not have a negative impact on the openness of the surrounding landscape and would not adversely impact on the landscape character of the area. Whilst hardstanding has been provided to the main area of the site and fencing provided (to be amended) the existing boundary hedging to the northern and eastern boundaries provide screening of the site from the road and adjoining property.
- 13.2 The submitted Ecological Assessment identifies that the site as former agricultural grassland with approx. 2100msq in the north now surfaced in stone with remnant grassland, scrub and hedgerow extending to approx. 4800msq to the south of the site between the River Tean (which forms the southern boundary of the site) and the surfaced area. An existing mature Hawthorn hedge sits along the eastern boundary and this together with any existing trees around the site would be retained.

- 13.3 Historical images indicate that the site was last in agricultural use as part of a large field in 2013 and shown fenced off since 2017. The grass sward is species poor. Habitat and species survey were undertaken and an assessment of the land in the wider area.
For reasons of project scale, distance, topography and hydrology, there are no likely impacts on statutory protected sites or priority habitats.
- 13.4 The Assessment indicates that the creation of the stone surfaced yard has resulted in the removal of about 0.25ha of low diversity grassland, Google Earth images provide strong evidence that this was formerly fertilised and cut for silage, and this land use is very typical of the locality. The resulting biodiversity loss is minimal.
- 13.5 Excavation to lower the ground surface over most or part of the field would damage or remove low diversity grassland, Google Earth images provide strong evidence that this was also formerly fertilised and cut for silage. The resulting biodiversity loss would be minimal, short term, and readily mitigated; diversity could increase with management after one or two years.
- 13.6 Removal of most of the raised bank would result in the loss of rank grass and tall herb growth, resulting from enrichment. The resulting biodiversity loss is would be minimal, short term, and readily mitigated; it would be replaced with less fertile grassland and diversity could increase with management after one or two years.
- 13.7 There is potential for damage to the river banks, riverside vegetation, and the river channel. This is not a definite or likely consequence of the development and can be avoided by careful site management.
- 13.8 There is potential for damage to the hedge from excavation work near to its roots. This should be avoided by establishing an exclusion zone.
Impacts on other habitats around the site are unlikely,
- 13.9 The Assessment advises that impacts on protected species are unlikely, regardless of potential local presence, because the proposed development is very small scale and affects ground that until recently was managed as improved grassland.
- 13.10 The survey found no evidence of badger activity and whilst bats have a presence in the area there were no likely bat roosting habitat within the site and the proposals should not result in any significant decrease in foraging habitat.
- 13.11 A presence of otters is recognised along the River Tean and impact on potential shelter habitat should be avoided. In terms of water voles, whilst there are records or presence in the area no water vole activity was found but general precautions would be sufficient.
There are hedgehog records for the area and to avoid any harm any potential hibernation sites should be removed from the working area before late autumn, or left until spring.
The site is too small and open to be suitable for hares.
In terms of frogs these may be present around the wetland habitat and a precautionary approach is required. The site does not contain any habitat likely to support populations of protected or rare invertebrates.
- 13.12 Protected bird species are recorded in the area, a normal level of precaution plus careful protection of the riverside area should be sufficient to avoid any impact on protected birds. In terms of breeding birds, the hedgerows and trees that border the site may be used by a number of species, but these should not be affected by the development, provided that any hedge trimming takes place in autumn to early spring.

Ground nesting birds such as lapwing and curlew that select open grassland for nesting would be very unlikely to select this site because it is disturbed by regular human activity and is closely overlooked by trees; no part of the development site is over 50m from tall trees.

- 13.13 There are no reptile records for the area. In terms of Great Crested Newts the site falls within the green impact risk zone and as such the habitat would be less suitable for great crested newts. The site is bordered by a river and roads. The nearest waterbody to the site, is within 250m but is isolated in the landscape by the presence of the roads. Whilst the nature of the site itself may have provided habitat for commuting and foraging, the absence of suitable waterbodies and connectivity, make the site unlikely to support great crested newts.
- 13.14 The report makes precautionary recommendations in terms of habitats, protected species trees and hedges and makes suggestions for habitat gain in creating more diverse grassland in the wider field, new tree planting and provision of bat and bird boxes.
- 13.15 The County Ecologist has assessed the Ecological Assessment submitted and considers that the report is adequate but has recommended a number of conditions regarding lighting, safeguarding conditions re bird nesting etc, construction management plan to protect the River Tean and a report from an ecologist to confirm checks for otter and water vole have been undertaken.
- 13.16 Objectors have made reference to the inadequacy of the Ecological Assessment and specific comments about existing established data and surveys relating to birds that has not been used for the assessment. The County Ecologist advises that the report is adequate subject to the conditions recommended and that the bird data referred to will be several years old and getting out of date. It should also be noted that the previous surveys were for the Spath area generally and not just the application site, but the wider area.
- 13.17 Whilst the objectors have raised the issue of the unsuitability of a sewage treatment plant in a flood plain and in close proximity to a river, the EA have advised that given the scale and nature of the development they would not provide comment on non-mains drainage elements of the application but suggest consideration of the General binding rules for small sewage discharge (Government Guidance Oct 2023). An informative is therefore recommended. In addition it should be noted that Building Regulations will be required for the installation of the sewage treatment plant and the amenity building and a further informative is added in this connection.
- 13.18 In line with the Ecology Assessment the revised detailed block plan indicates new tree planting (approx. 15 in number of native species) to be planted to the south of the proposed swale within the paddock area the details for which form part of the landscaping condition recommended. This condition also requires details of the additional native planting to be provided in the south western corner of the site along the river bank and details of new grassland to be provided on the areas that are to be regraded.
- 13.19 It is recognised that part of the existing hawthorn hedge along the eastern boundary will need to be removed to implement the regrading in the south eastern corner of the site, this this will be replanted upon completion of the ground works. A condition is recommended to ensure that this is completed in a satisfactory manner and any failure of the hedge following the replanting is replaced with a suitable alternative.

13.20 In conclusion it is considered that subject to conditions the proposed development and flood mitigation works proposed would not have a significant adverse impact on habitat or protected species on the site or adjacent river and watercourse and additional native planting would be provided. The development therefore would be in compliance with Policy SP29 of the Local Plan.

14. Unauthorised Works

14.1 Representations have been received referencing a Written Ministerial Statement (WMS) dating from August 2015 which establishes that Intentional Unauthorised Development (IUD) is a material consideration to be weighed in the determination of planning applications and appeals. The WMS relates to all forms of development not just that relating to Gypsy and Traveller Sites. It places particular emphasis on IUD in the Green Belt. It should be noted that as worded the WMD was intended to later form part of a subsequent version of the NPPF, or planning guidance, however this has not occurred.

14.2 It is not disputed by the applicant that the development occurred without planning permission. Part of the underlying reason for seeking to deter IUD is to avoid prejudicing the opportunity to mitigate the impact of the development through the use of planning conditions. In this case an application for planning permission has been made and this report has set out a number of conditions which could be imposed to mitigate the development. The planning system allows for retrospective planning permission to be sought with that view that planning enforcement is remedial and proportionate rather than punitive.

15. Conclusion

15.1 The site sits outside of the settlement boundary, Policy SP8 of the Local Plan does support development in an out of settlement location if it would be 'otherwise appropriate in the countryside'.

15.2 Whilst the site is situated outside of the settlement boundary, it sits adjacent to a residential dwelling on the edge of the hamlet of Spath, the site is not isolated from other development but forms the end stop to development within the hamlet. The small scale of the development for only 3 pitches does not dominate the hamlet and does not place undue pressure on the local infrastructure, in compliance with the PPTe. The site sits within walking distance of the Uttoxeter settlement boundary, to schools, buses and services. The size and location of the site complies with the criteria identified in Policy SP19 of the Local Plan. It is therefore considered that the proposals would comply with both National and Local Policy in terms of the provision of Gypsy/Traveller accommodation.

15.3 The 2023 GTAA identifies a requirement to provide 8 Gypsy/Traveller pitches in the period 2020 – 2024 within ESBC. A recent approval P/2021/00373 granted consent for 2 pitches. ESBC currently have two privately owned gypsy/traveller sites that have been in situ for a number of years providing 24 pitches, all of which are occupied with no vacancies. There are currently three applications for gypsy/traveller pitches in Burton Upon Trent but these have not yet been determined and are being proposed by separate applicants. Therefore at the point of determining this application and based on the 2023 GTAA evidence, ESBC cannot currently demonstrate that it has a 5 year supply of pitches, with a shortfall of 6 pitches against the minimum pitch supply figure. The 3 pitches in the current application would leave a shortfall of three pitches in the period up until 2025.

15.4 The site sits within Flood Zone 3b and the NPPF classifies caravans, mobile homes and park homes intended for permanent residential use as 'Highly Vulnerable' and the

Environment Agency (EA) have raised an ‘in principle’ objection to the development and it is recognised that the proposal is contrary to policy SP19 of the Local Plan in terms of Flood Risk. Whilst the EA have raised an objection ‘in principle’ to the development they have since worked with the applicant to seek a flood risk solution to overcome their detailed objections which has resulted in a final Flood Risk Assessment that includes a series of flood mitigation measures.

- 15.5 As the site sits within Flood Zone 3b the NPPF requires a sequential test to be undertaken. The applicant has confirmed that all three families at the site were living on the side of the road within the Uttoxeter area for 3 months prior to moving onto the site. The applicant has had a connection to the Uttoxeter area and has lived in and around Staffordshire for a number of years. The applicants work is based in the local area, with a work base situated within close proximity to the application site. ESBC have no private or Council sites available with gypsy/traveller consent. It is the view that there are no alternative sites, either available or with planning permission within this search area where the provision of 3 traveller pitches and associated facilities could be provided.
- 15.6 Where a sequential test has been met there is a need to apply the ‘Exception Test’. The use of the site as a residential gypsy/traveller site would have sustainability benefits to the three families in question, providing a settled base for their children to attend school and for all family members to have access to services, including health care. The three families on the site would be likely to have to relocate to a roadside should permission not be forthcoming which would not be in the public interest to have families with young children living on the road with no access to drainage or facilities to store waste, etc. and restricted access to schools and healthcare. It is also noted that one of the children on site is waiting for heart surgery and will require stable accommodation to recuperate following the surgery. The EA are now content that the flood risk solution proposed in the latest FRA (31-01-2024) shows that the proposed development can be made safe and that there will be no impact on third parties from the development, once the proposed mitigation is implemented. The revised layout of the site ensures that the most vulnerable elements of the site, the 3 static caravans and the amenity building are located together in the most northerly raised part of the site, with an increased floor level to the statics. The less vulnerable uses, ie vehicle parking and touring caravan storage will be situated at a lower level, but where they can easily be moved from the site, with the site access situated within the higher level.
- 15.7 Whilst it is recognised that the site has flooded there is no evidence that this caused any additional flooding to surrounding land or properties. Since their occupation of the site in October 2021 the occupants have had to evacuate the site in October 2023 during storm Babet, but this is the only time that evacuation was necessary and the occupants were self-sufficient and did not rely on the emergency services or the Council for assistance.
- 15.8 Whilst the design and layout of the site does not now provide individual pitches as is the normal scenario for gypsy/traveller sites, the layout is what is required to provide appropriate flood mitigation and is accepted by the applicant. The layout provides 3 static caravans and a communal amenity building as well as space to park touring caravans for use when travelling and adequate vehicle parking and manoeuvring space. The existing boundary hedging and trees to the road frontage of the site would be retained providing screening of the accommodation from the road, reducing any adverse impact on the street scene or the surrounding landscape.

- 15.9 The site would utilise the existing vehicle access and would provide parking in accordance with the SPD and manoeuvring space for vehicles, a condition is recommended to ensure the existing access is widened, appropriate visibility at the access and to ensure no business use at the site without prior consent.
- 15.10 Whilst the site sits in close proximity to Four Winds, a two storey dwelling, the boundary fencing and a culvert sit between the two properties and mature trees and hedging form the southern boundary of Four Winds, ensuring no overlooking or loss of privacy. The caravans and amenity building would be single storey only and would be well screened from the road and Four Winds by the retention of the existing boundary hedging and proposed fencing. Given the small nature of the site for 3 families only it is considered that the impacts of noise and disturbance to the occupiers of Four Winds is likely to be low.
- 15.11 The submitted Ecological Report has been assessed by the County Ecologist. It is considered that subject to conditions the proposed development and flood mitigation works proposed would not have a significant adverse impact on habitat or protected species on the site or adjacent river and watercourse and additional native planting would be provided.

16. RECOMMENDATION: Grant Permission Subject to Conditions

Recommended Conditions:

1. Time Limit

The development hereby permitted shall be begun before the expiration of six months from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans and documents subject to compliance with other conditions of this permission:

Site Location Plan 71306 dated as received on 16-05-2022

Detailed Block Plan with Drainage and Landscaping with proposed Levels Drawing 71306:1002 Rev D dated as received on 15-03-2024

Proposed Entrance plans and Elevations Drawing 71306:1003 Rev A dated as received on 05-10-2023

Single Amenity Block Floor Plans and Elevations Drawing 71306:1007 dated as received on 05-10-2023

Proposed Stable Block Drawing 71306:1008 dated as received on 05-10-2024

Kingspan Klargestor BioDisk Waste Water Solutions Specification dated as received on 01-10-2021

Flood Risk Assessment By GeoSmart Ref 75312.00.02R3 – FRA January 2024 dated 31-01-2024 dated as received 07-02-2024

Ecological Assessment by Camlad Ecology Ltd dated April 2022 dated as received on 13-05-2022

Ecological Habitat Feature Plan by Camlad Ecology Ltd dated as received on 13-05-2022

Design and Access Statement dated as received on 05-10-2024

Reason: For the avoidance of doubt to ensure the development will not adversely affect the appearance of the locality, the amenities of neighbouring properties, or the safe and efficient use of the adjoining highway(s) in accordance with East Staffordshire Local Plan Policies SP1, SP2, SP8, SP19, SP24, SP27, SP29, SP35, DP1 and DP3,

the East Staffordshire Design Guide, the Parking Standards SPD and the National Planning Policy Framework.

3. Details of Materials

No development shall take place above damp proof course level on the proposed amenity building hereby approved until samples and details of all materials to be used externally ensuring the product name and manufacturer is provided (including details of timber and roof tiles) have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the building and its surroundings in accordance with East Staffordshire Local Plan Policies SP8 and SP24 the East Staffordshire Design Guide and the National Planning Policy Framework.

4. External Lighting

Within 3 months of the date of this approval all existing external lighting at the site shall be removed and an external lighting design strategy for biodiversity for all areas to be lit shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used to access key areas of their territory, for example, for foraging; and
- b. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To safeguard the visual amenity of the area and protected species in accordance with East Staffordshire Local Plan policies SP1, SP24, SP29, DP1 and DP7 and the National Planning Policy Framework

5. Protected Species

No works shall commence on any flood mitigation works to connect to or within 20m of the River Tean under any circumstances until the Local Planning Authority has been provided with either:

- a. a licence issued by [the relevant licensing body] pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity/development to go ahead; or
- b. a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To safeguard protected species and their habitats in accordance with East Staffordshire Local Plan Policy SP29 and the National Planning Policy Framework.

6. Birds

All site works shall be undertaken outside of bird nesting season (1st March to end August.) If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-

building birds are present. If any nesting birds are present, then works must not take place within 5 metres until the fledglings have left the nest.

Reason: To safeguard birds and their habitats in accordance with East Staffordshire Local Plan Policy SP29 and the National Planning Policy Framework.

7. Otter & Water Vole

Prior to the commencement of any works in the southern element of the site a sign off report from a suitably qualified ecologist shall be submitted confirming that checks for otter and water vole have been completed.

Reason: To safeguard protected species in accordance with East Staffordshire Local Plan Policy SP29 and the National Planning Policy Framework.

8. Landscaping

Within 3 months of the date of this approval a detailed landscaping scheme shall be provided to include details of the species and size of the new tree planting, planting to the river bank in the south western corner of the site and details of grassland planting to the regraded area in the southern section of the site.

Reason: To ensure that a landscaping scheme to enhance the development is provided in accordance with East Staffordshire Local Plan Policies SP1, SP24 and DP1, the East Staffordshire Design Guide and the National Planning Policy Framework.

9. Implementation of Landscaping

All planting and seeding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and in accordance with East Staffordshire Local Plan Policies SP1, SP24 and DP1, the East Staffordshire Design Guide and the National Planning Policy Framework.

10. In Compliance with Flood Risk Assessment

The development shall be carried out in accordance with the submitted Flood Risk Assessment (dated 31 January 2024 Ref: 75312.00.02R3) and the following mitigation measures it details:

The development platform for the static caravans and day room shall be set at 84.25 metres above Ordnance Datum (AOD), as shown on drawing No. 71306:1002 Revision D.

- The development platform for the touring caravans and parking shall be set no higher than currently existing ground levels (varies between 83.6 to 83.8 metres AOD), as shown on drawing No. 71306:1002 Revision C
- Internal finished floor levels shall be set no lower than: -
 - Static caravans, 85.05 metres AOD (600mm above the design flood event, which includes an allowance for climate change)
 - Day room building, 84.65 metres AOD, with flood resilient construction methods used up to 85.05 metres AOD.

- The surface water/flood flow route across the site to the culvert under the old road shall be reinstated by way of the proposed swale, as shown on Drawing No. 71306:1002 Revision D.
- Any landscaping and/or fencing on or within the Red and Blue line boundaries of the site/floodplain shall be as shown on Drawing No. 71306:1002 Revision D/of post and rail/wire construction, except where explicitly approved by Condition 16 below.

These mitigation measures shall be fully implemented within **3 months** of grant of permission and/or a scheme timing/ phasing arrangement approved by the Local Planning Authority (in consultation with the Environment Agency). The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring the satisfactory conveyance of pluvial and fluvial flood water across the site in accordance with Policy SP19 and SP27 of the Local Plan and the National Planning Policy Framework.

11. Flood Evacuation

Prior to the first occupation of the new static caravans and amenity building hereby approved, a Flood Warning and Evacuation Plan shall be submitted, implemented and approved in writing by the Local Planning Authority. The Plan shall include full details of proposed awareness training and procedure for evacuation of persons and property (including vehicles), training of residents; and method and procedures for timed evacuation. It shall also include a commitment to retain and update the Plan and include a timescale for revision of the Plan.

Reason: To minimise the flood related danger to people in the flood risk area in accordance with the National Planning Policy Framework.

12. Floodplain Storage

The development hereby permitted shall not be commenced until such time as a scheme to ensure adequate compensation for the loss of flood plain to the development up to the design flood event (1 in 100 year plus allowance for climate change), as outlined by the Floodplain Storage report (ref: 75312.00.03R4 – January 2024), has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency.

The scheme to be submitted shall demonstrate that the area of floodplain to be created exceeds the loss of floodplain upon completion of the overall development and include detailed designs of any retaining structure/s and the flood plain compensation area/s through the submission of plans and cross-sectional drawings extending from the site boundaries and/or watercourse into the site, and a table showing the loss and gain in each 200mm horizontal slice through the cut and fill works; Starting from the design flood level down to the pre-existing ground levels. The scheme shall be fully implemented within **3 months** of the grant of permission and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure flood plain lost to the development is adequately compensated for upon completion of the overall development, and thereby prevent flooding elsewhere and to reduce the risk of flooding to the proposed development and future occupants in accordance with Policy SP19 and SP27 of the Local Plan and the National Planning Policy Framework..

13. As Built Topographical Survey

Upon completion of the floodplain compensation scheme (cut and fill works) and prior to re-occupation, an 'as built' topographical survey of the area/s of floodplain compensation shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure that the floodplain compensation area is constructed in accordance with the approved scheme in accordance with SP27 of the Local Plan and the National Planning Policy Framework..

14. No Raising of Ground or Obstruction of Flood Flows

There shall be no raising of ground levels or erection of any building, structure or any other such obstruction to flood flows within the area of floodplain compensation created as part of the development of this site and hereby approved under Condition 12 above, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: To safeguard the efficient workings of the area of floodplain compensation from inappropriate development in accordance with SP27 of the Local Plan and the National Planning Policy Framework

15. Fencing

Within 3 months from the date of this approval the fencing details included in Drawing 71306:1002 Rev D approved under condition 2 above shall be implemented in full and thereafter retained and maintained for the life of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring the satisfactory conveyance of pluvial and fluvial flood water across the site in accordance with Policy SP19 and SP27 of the Local Plan and the National Planning Policy Framework.

16. Construction Method Statement

Prior to the commencement of any works affecting the flood plain, a detailed Construction Method Statement and Programme of Works for the flood plain compensation scheme and measures to protect the River Tean from pollution shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:

- programme of works
- methods used for all flood plain works including temporary and permanent works
- machinery to be used
- location and storage of plant, materials and fuel
- access routes to the works
- method of protection of the site and any areas of ecological sensitivity and importance
- impact on public right of way Uttoxeter Rural 87
- site supervision
- location of site office, compounds and welfare facilities

Reason: To safeguard the River Tean, protected species and their habitats from pollution during floodplain compensation construction works in accordance with East Staffordshire Local Plan Policy SP29 and the National Planning Policy Framework.

17. SuDs

Within 3 months of the date of this approval details of a Sustainable Drainage Strategy for the site to include maintenance in perpetuity shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme implemented within 6 months and thereafter maintained for the life of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring the satisfactory conveyance of pluvial and fluvial flood water across the site in accordance with Policy SP19 and SP27 of the Local Plan and the National Planning Policy Framework.

18. Enhancement of Watercourse and Provision of Habitat Zone

Prior to the commencement of the above flood plain compensation scheme (Condition 12), a scheme of detailed landscaping and fencing plans for the 40m wide southern area adjacent to the River Tean watercourse, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency.

The scheme shall include:

- plans showing the extent and layout of the buffer zone (area fenced off from the pony paddock)
- details of any proposed planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development and managed over the longer term.
- details of any proposed footpaths, fencing, lighting, etc. as this could impact the ecological connectivity.

The scheme shall be fully implemented on completion of the flood plain compensation area and/or within the first planting season, and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

Reason: The permanent provision/retention of this area of land alongside the River Tean is an essential requirement for the preservation of the watercourse corridor, wildlife habitat maintenance or improvement, and it is essential this is protected. Development that encroaches on watercourses can have a potentially severe impact on their ecological value. Networks of undeveloped buffer zones might also help wildlife adapt to climate change and will help restore watercourses to a more natural state as required by the river basin management plan.

19. Visibility Splays

Notwithstanding the details approved on Drawing 71306:1003 Rev A under Condition 2 above, prior to the first occupation of the 3 static caravans hereby approved the site access gates shall be provided at a minimum width of 4.1m and set back a minimum of 5m from the carriageway edge and visibility splays of a minimum of 2.4m x 43.0m that will be kept clear of all obstructions to visibility greater than 0.9m above the level of the carriageway and once the site has been occupied shall be maintained as such thereafter.

Reason: As recommended by the Highway Authority in the interests of highway safety and in accordance with East Staffordshire Local Plan Policies SP1 and SP35.

20. Retention of Hedges and Trees

All existing hedging and trees to the eastern boundary of the site shall be retained for the lifetime of the development and replaced if damaged or die.

Reason: To ensure the retention of the hedging and trees to screen the site from full views to protect the visual amenity and character of the area in accordance with East Staffordshire Local Plan Policies SP1, SP8 and SP24.

21. Size of the Mobile Homes

The size of the three mobile homes to be provided on the site shall conform with the definition of a caravan within Section 13 of the Caravan Sites Act 1968.

Reason: In order to define the permission and ensure the accommodation is of an appropriate size to prevent any adverse impact on the character of the area, in accordance with East Staffordshire Local Plan Policies SP8 and SP19.

22 Occupation of the Site

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy) but including those gypsies and travellers who have ceased to travel permanently.

Reason: In order to define the permission and ensure the continued use of the site as a residential gypsy caravan site.

23. Use restricted to that applied for

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or any order revoking and re-enacting that Order, this permission shall relate to the use of the premises as a residential gypsy caravan site only as described in your application and for no other purpose.

Reason: To ensure any future use of the premises does not adversely affect the character of the area and the amenities of occupiers of adjoining properties in accordance with the National Planning Policy Framework and East Staffordshire Local Plan Policies SP1 and SP8.

24. No Touring Van Overnight Accommodation

There shall be no overnight accommodation in touring caravans on the lower section of the site.

Reason: To minimise the flood related danger to people in the flood risk area in accordance with the National Planning Policy Framework.

Informatives

1. Details of Proposed Materials

The applicant is advised that in complying with Condition 3 above regarding the submission of samples and details of all external materials, ensuring the product name and manufacturer is provided and must be submitted in writing to the Local Planning Authority as part of the relevant Discharge of Condition application along with correspondence confirming that date on which samples will be made available on-site and where they will be located.

2. During Development Conditions

The condition(s) identified below require details to be approved during the development/works.

Condition No(s) 3, 4, 5, 7, 8, 11, 12, 13, 16, 17 & 18

This means that a development may not be lawful unless the particular requirements of these conditions have been met.

Confirmation of compliance with planning conditions requires a payment of a fee to the Local Planning Authority. The fee chargeable by the authority is £145 per request. The fee must be paid when the request is made. Any number of conditions can be included for each request.

Payment can be made by cheque or card only. Please telephone 01283 508606.

Although we will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows the Local Planning Authority a period of 8 weeks, and therefore this timescale should be borne in mind when programming development.

3. Engagement

During the course of consideration of this proposal the Local Planning Authority has negotiated with the applicant to ensure the development complies with relevant development plan policies and material planning considerations including the National Planning Policy Framework. It is therefore considered that the Local Planning Authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.

4. Ecological Responsibilities

The applicant(s) is/are advised that this permission does not absolve them from their responsibilities in relation to protected species. If evidence of bats is found during demolition all work should cease and the services of a licensed ecologist procured to ensure an offence is not committed.

5. Building Regulations

The applicant(s) is/are advised that Building Regulations approval will be required for the proposed works to create a residential caravan site and installation of a sewage treatment plant.

6. Flood Warning System and Flood Warning & Evacuation Plan

The Applicant/future occupiers should contact 08708 506506 to be set up on our flood warning system. In preparing the evacuation plan the applicant should have note to the FRA. Contact with the Environment Agency would enable the provision of the most up to date, best available, flood information, to assist trigger levels and plan implementation.

7. As Built Topographical Survey

The Environment Agency require 'as-builts' to be provided electronically, in Adobe PDF format (.pdf).

8. Environmental Permitting

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a flood defence structure or culverted main river
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity for additional guidance on this proposal via SWWMfloodconsent@environment-agency.gov.uk .

9. Sewage Discharge

For development of this scale, and any foul drainage permitting requirements, consideration should be given to the General Binding rules for small sewage discharges.

General binding rules for small sewage discharges (SSDs) with effect from 2 October 2023 - GOV.UK (www.gov.uk)

10. Public Footpaths

The applicant(s) is advised that Public Footpath Uttoxeter Rural 87 which sits immediately to the east of the site should not be obstructed or extinguished as a result of this development either during or after works on site.

17. Background Papers

- 17.1 The following papers were used in the preparation of this report:
National & Local Policies identified in Section 7 above

18. Human Rights Act 1998

- 18.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

19. Crime and Disorder Implications

- 19.1 It is considered that the proposal does not raise any crime and disorder implications.

20. Equalities Act 2010

- 20.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

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